

CHAPTER 16
CODE OF CONDUCT FOR MEMBERS OF THE COUNCIL OF THE CORPORATION OF THE CITY OF BRANTFORD AND OF ITS LOCAL BOARDS

Article 1
INTERPRETATION

16.1.1 Authority

This Code of Conduct is established under the authority of Part V.1 – Accountability and Transparency of the *Municipal Act, 2001*, as amended.

16.1.2 Code – Review

This Code shall be reviewed by Council during the first year of each term of Council.

16.1.3 Application

This Code of Conduct applies to all Members of City Council and Members of the Local Boards of the City.

16.1.4 Compliance

Members shall observe and comply with the principles of this Code of Conduct and every provision of this Code of Conduct, as well as all other policies, procedures, rules, guidelines and by-laws affecting the Member at all times, including in the discharge of the Member's Official Duties.

Members shall respect the enforcement process and any inquiries or investigations conducted under this Code of Conduct, and shall cooperate in every way to ensure compliance with the application and enforcement of this Code of Conduct.

16.1.5 Purpose

A Code of Conduct helps to ensure that Members of Council and Members of Local Boards share a common basis and understanding of what constitutes acceptable conduct of Members both generally and in the discharge of their Official Duties.

A Code of Conduct also promotes public confidence that Members will operate from a foundation of integrity, transparency, justice, truth, courtesy and accountability. Enforcement of the Code of Conduct by an independent Integrity Commissioner further promotes public confidence in the process.

16.1.6 Statutory Provisions Regulating Conduct

This Code of Conduct operates together with, is informed by, and acts as a supplement to, the legislative framework governing Members and other existing City by-laws, rules, policies, procedures, guidelines and agreements including, without limitation, the:

- a) *Municipal Act, 2001*, S.O. 2001, c. 25
- b) *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50
- c) *Municipal Elections Act, 1996*, S.O. 1996, c. 32, Sched.
- d) *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56
- e) (Ontario) *Human Rights Code*, R.S.O. 1990, c. H.19
- f) *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1
- g) *Criminal Code of Canada*, R.S.C. 1985, c. C-46

16.1.7 City By-laws and Procedures Regulating Conduct

Chapter 15 of the City of Brantford Municipal Code (Procedure), as amended or replaced from time to time, governs the conduct of Council Members during meetings of Council and its committees.

Other City by-laws, rules, procedures, policies, and guidelines also govern the ethical behavior of Members and supplement this Code of Conduct including, without limitation, the City's Respectful Workplace Policy (Corporate-030), as amended or replaced from time to time, and which shall be read with necessary changes to apply to Members.

16.1.8 Statement of Principle

Members recognize that ethics and integrity are at the core of public confidence in government and in the political process, and that Members are expected to perform their Official Duties and arrange their private affairs in a manner that promotes public confidence and avoids the improper use of the influence of their office, as well as conflicts of interests.

16.1.9 Clarification and Training

Members seeking clarification of any part of this Code of Conduct should consult with the Integrity Commissioner.

Members who seek clarification and who are provided with general advice by the Integrity Commissioner cannot rely upon that advice to the same extent as advice that is given based upon specific facts. Advice that is general in nature is

subject to change when applied to specific facts that may not have been known at the time that the general advice was provided.

Members of Council and Members of Local Boards shall receive regular training on the Code of Conduct, which shall be arranged by the City Clerk's Department.

16.1.10 Time - Computation

References to days in this Code of Conduct shall be computed using the regular working days of the City, being Monday to Friday, and excluding Saturday, Sunday and all municipal and statutory holidays.

16.1.11 Definitions

For the purposes of this Code of Conduct, the following terms shall have the following meanings:

- a) "Application Form" means the form issued by the Integrity Commissioner for the purposes of making an MCIA Application, which form is attached hereto as Appendix "B".
- b) "City" means The Corporation of the City of Brantford.
- c) "Clerk" means the person appointed to the office of the Clerk for the City.
- d) "Code of Conduct" means this Code of Conduct passed pursuant to part V.1 of the *Municipal Act, 2001*, as amended.
- e) "Code of Conduct Complaint" means a request for an inquiry within the meaning of section 223.4 of the *Municipal Act, 2001* about whether a Member has contravened the Code of Conduct applicable to the Member.
- f) "Complainant" means a person who has initiated a Code of Conduct complaint.
- g) "Complaint Form" means the form issued by the Integrity Commissioner for the purposes of making a Code of Conduct Complaint and attached hereto at Appendix "A".
- h) "Council" means the municipal council of The Corporation of the City of Brantford.
- i) "Discrimination" or "Discriminating" means practicing a form of discrimination prohibited under the (Ontario) *Human Rights Code*, as amended.

- j) “Doxing” means revealing private or personal information about a particular individual online, typically with malicious intent.
- k) “Family Member” means the spouse (married or common-law), child (including step-child), parent (including step-parent), brother, sister, father-in-law, mother-in-law, sister-in-law or brother-in-law of the Member.
- l) “Flaming” means engaging in an online argument which includes personal attacks by one or more parties involved in the online discussion.
- m) “Gift” means any money, fee, payment, commission, donation, advance, gift, reward, advantage, gift certificate, promise to pay, or benefit of any kind, and includes the provision of any of the following to a Member at less than the market value: any property, travel, accommodation, entertainment, hospitality.
- n) “Gift Registry” means a public registry of Gifts received by Members, which Gift Registry shall be maintained by the City Clerk’s Department.
- o) “Harassment” or “Harassing” means practicing a form of harassment as defined in and prohibited under the (Ontario) *Human Rights Code*, as amended, or the *Occupational Health and Safety Act*, as amended.
- p) “Intake Officer” means the individual assigned by the Integrity Commissioner to process complaints pursuant to the Code of Conduct.
- q) “Integrity Commissioner” means the Integrity Commissioner appointed by the City in accordance with the provisions of section 223.3 of the *Municipal Act, 2001*, as amended, or any delegate thereof.
- r) “Local Board” means a Local Board of the City as further defined by Section 223.1 of the *Municipal Act, 2001*, as amended.
- s) “MCIA” means the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50, as amended.
- t) “MCIA Application” means an application to the Integrity Commissioner for an inquiry, within the meaning of section 223.4.1 of the *Municipal Act, 2001*, about whether a Member has contravened the MCIA.
- u) “Members” or “Member” means any member of Council and any person appointed to a Local Board of the City.
- v) “MFIPPA” means the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.50, as amended.
- w) “Nominal” means having a value of \$100.00 (Canadian) or less.

- x) "Official Duties" means the public duties of a Member, being those duties, actions, activities, rights, privileges and responsibilities, that are directly related to or incidental to the office the Member holds with the City and includes functions performed by the Member on behalf of the City with respect to matters within the jurisdiction of Council or the Local Board, as the case may be.
- y) "Publications" means communication to the offices of a Member, including subscriptions to newspapers, and periodicals.
- z) "Respondent" means a Member who is the subject of a Code of Conduct Complaint or an MCI Application.
- aa) "Staff" means anyone employed by the City or Local Board, including full-time, part-time, temporary, casual, or seasonal employees, contract employees, students and volunteers in accordance with the *Municipal Act, 2001*, but does not include Members, who are not considered employees of the City or Local Board for the purposes of this Code of Conduct, and "Worker" shall have the same meaning as "Staff".
- bb) "Social Media" means any freely accessible, third-party hosted, interactive Internet tools and technologies used to produce, post and interact through text, images, video, or audio to inform, share, promote, collaborate or network including, without limitation, Twitter, Facebook, Instagram, Snapchat, YouTube, TikTok and LinkedIn.
- cc) "Workplace" means any land, premises, location or thing at, upon, in or near which a Worker works.
- dd) "Workplace Harassment" means engaging in a course of vexatious comment or conduct against a Worker in a workplace that is known or ought reasonably to be known to be unwelcome and contrary to the *Occupational Health and Safety Act R.S.O. 1990, c. O.1*, and includes workplace sexual harassment as defined under that Act.
- ee) "Workplace Violence" means the exercise of physical force by a person against a Worker, in a Workplace, that causes or could cause physical injury to the Worker, an attempt to exercise physical force against a Worker, in a Workplace, that could cause physical injury to the Worker, or a statement or behaviour that it is reasonable for a Worker to interpret as a threat to exercise physical force against the Worker, in a Workplace, that could cause physical injury to the Worker.

Article 2

AVOIDANCE OF CONFLICTS OF INTEREST

16.2.1 ***Municipal Conflict of Interest Act – Application***

Members of Council shall conduct themselves in accordance with the MCIA, as amended from time to time.

16.2.2 **No Advantage**

Members shall not participate in activities that grant, or appear to grant, any special consideration, treatment or advantage to any person that is not available in general to other persons. For example, Members shall remain at arm's length when Staff or Council is asked to consider a matter involving a Family Member or a person or organization with whom the Member has a conflict of interest as defined within the MCIA.

16.2.3 **Political Appointments and Charitable Work Permitted**

Nothing in this Code of Conduct shall limit the ability of a Member to hold office or directorship in an agency, board, commission or corporation where the Member has been appointed by Council or by the Federal or Provincial Government.

A Member may hold office or directorship in a charitable, service or other not-for-profit corporation subject to the Member disclosing all material facts to the Integrity Commissioner and obtaining a written opinion from the Integrity Commissioner approving the activity, as carried out in the specified manner, which concludes that the Member does not have a conflict between his/her private interest and Official Duties. In circumstances where the Integrity Commissioner has given the Member a qualified opinion, the Member may remedy the situation in the manner specified by the Integrity Commissioner.

16.2.4 **Integrity Commissioner – Inquiry**

The Integrity Commissioner has the right to respond to requests for inquiry into contraventions of sections 5, 5.1, and 5.2 of the *Municipal Conflict of Interest Act* in accordance to the provisions of this Code of Conduct and that Act.

In carrying out his or her responsibilities regarding this Code of Conduct, the Integrity Commissioner is limited to looking at conflicts of interest of the Member as defined pursuant to the MCIA.

Article 3

GIFTS, BENEFITS AND HOSPITALITY

16.3.1 Gifts – Acceptance and Refusal

The stipend paid to each Member is intended to fully remunerate Members for service to the City. Members shall not solicit, accept, offer or agree to accept any Gift, either personally or through a Family Member or friend, which is connected in any way, either directly or indirectly, with their Official Duties.

For clarity, a Gift provided with the Member's knowledge to a Family Member or to any person in the employ of the Member, that is connected in any way, either directly or indirectly, to the Member's Official Duties, is deemed to be a Gift to that Member. Willful blindness shall be deemed to the "knowledge" for the purposes of this Article.

Members shall not accept any Gifts other than in the following circumstances:

- a) compensation authorized by law;
- b) such Gifts 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, in the case of Members running for office;
- d) services provided without compensation by persons volunteering their time which services are not in any way provided as compensation or incentive for the Member to use his or her office for the benefit of the person volunteering or any other person or organization associated with the volunteer;
- e) a suitable memento of a function honouring the Member;
- f) food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the Federal Government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the member is either speaking or attending in an official capacity;
- g) food and beverages consumed at banquets, receptions, meetings or similar events, if:
 - i. attendance by the Member serves a legitimate business or charitable purpose,
 - ii. the person extending the invitation or a representative of the organization is in attendance,
 - iii. the value is Nominal, and

- iv. the invitations from a single source are rare;
- h) Publications provided to the offices of a Member;
- i) Gifts of Nominal value (for example, a keychain, baseball cap, t-shirt, flash drive, etc.); and
- j) any Gift if the Integrity Commissioner is of the opinion, before the Gift has been accepted, that it is unlikely that receipt of the Gift gives rise to a reasonable presumption that the Gift was given in order to influence the Member in the performance of his or her Official Duties.

16.3.2 Gift Disclosure Statement – Gift Registry

To enhance transparency and accountability with respect to the receipt of Gifts, Members will file a quarterly disclosure statement that will be added to the Gift Registry.

Members shall disclose all Gifts received where the value of the individual Gift exceeds the Nominal value and where the collective value of all Gifts received from one source in a calendar exceeds the Nominal value. The disclosure statement must indicate:

- a) the nature of the Gift;
- b) the source and date of receipt of the Gift;
- c) the circumstances under which the Gift was given or received;
- d) the reasonable, estimated value of the Gift;
- e) what the Member intends to do with the Gift; and
- f) whether the Gift will at any point be left with the City.

The Gift Registry shall be maintained by the City Clerk's Department, updated on a quarterly basis, and posted on the City's website for public viewing.

16.3.3 Gifts for Benefit of City

Gifts received by Members that have significance or historical value to the City shall be left with the Record's Division of the City Clerk's Department when the Member ceases to hold office.

16.3.4 Gifts – Above Nominal Value

Unless otherwise permitted pursuant to this Article, Gifts above a Nominal value shall not be accepted without the Integrity Commissioner's specific approval.

In providing advice to a Member about their obligations respecting Gifts, or in considering any inquiry with respect to the acceptance of any such Gift or an assertion that this Article has been breached, or in providing consent, where required, that a Gift may be accepted, the Integrity Commissioner shall determine whether the receipt of the Gift does or may, in the opinion of the Integrity Commissioner, create a conflict between a private interest and the Official Duties of the Member. In the event that the Integrity Commissioner makes that preliminary determination, he or she shall call upon the Member to justify receipt of the Gift by the Member.

Should the Integrity Commissioner determine the receipt of a Gift was inappropriate, the Integrity Commissioner may direct the Member to return the Gift, reimburse the donor for the value of any Gift already consumed, or the Integrity Commissioner may order the Member to forfeit the Gift or remit the value of any Gift already consumed to the City or Local Board. Any such direction ordered by the Integrity Commissioner shall be a matter of public record.

ARTICLE 4

MEMBER EXPENSES

16.4.1 Compliance with Remuneration By-law

Members shall comply with the provisions of the Council Remuneration By-law, as amended from time to time, for the reimbursement of expenses.

16.4.2 Support for Charitable or Community Causes

As community leaders, Members routinely perform important work in supporting charitable causes and in so doing there is a need for transparency respecting the Member's involvement. The following guidelines shall apply in these situations:

- a) Members may lend their support to and encourage community donations to registered charitable, not-for-profit and other community-based groups.
- b) Monies raised through fundraising efforts shall go directly to the groups or volunteers or chapters acting as local organizers of the group and Members should not handle any funds on behalf of such organizations.
- c) Members or persons acting on behalf of Members shall not solicit or accept support in any form from any person with any pending planning,

conversion or demolition variance application (except where such application is considered minor pursuant to the City's planning policies or practices) or procurement proposal before Council or Local Board, which the Member knows or ought to know about.

- d) Where a Member sponsors and/or lends support to a community or charitable event, this Code of Conduct recognizes that all donations are subject to the relevant City or Local Board policy.
- e) No donation cheques should be made payable directly to a Member or to the City or Local Board unless it is for a City or Local Board fundraiser. Members may only accept donation cheques made payable to a not-for-profit, charity or community group and only for the purpose of passing the cheques on to such group.
- f) Members shall refrain from using their positions to pressure or coerce Staff into participating in or contributing towards charitable or other events or causes unrelated to the business of the City or Local Board. Notwithstanding the foregoing, in no event shall a general invitation to Staff to participate in or contribute towards any charitable or other event or cause unrelated to the business of the City or Local Boards be construed to be a violation of this Article.

16.4.3 Member Expenses – Permitted Activity

Nothing in this Article affects the entitlement of a Member to:

- a) use the Member's office expense budget to champion or support community events, subject to the terms of any relevant policies or by-laws;
- b) urge constituents, businesses or other groups to support community events and advance the needs of a not-for-profit, charity, or community group put on by others in the City;
- c) be a general member of, or play an advisory, ex officio, or honorary role in, any charitable or not-for-profit organization that holds community events in the community;
- d) collaborate with the City, Local Board, or any City agency, task force, board or commission to hold community events including, without limitation, the Mayor's Gala.

ARTICLE 5

CONFIDENTIAL INFORMATION

16.5.1 Confidential Information – Disclosure Prohibited

Through the course of their official duties, Members may have access to Confidential Information. Generally, *MFIPPA* restricts or prohibits disclosure of information received in confidence from third parties that is of a corporate, financial, commercial, scientific or technical nature, information that is personal, and information that is subject to solicitor-client privilege.

Members will keep Confidential Information confidential. This is a continuing obligation even after the Member ceases to be a Member.

Members will refrain from disclosing or distributing Confidential Information whether such Confidential Information is received at *in camera* meetings, through confidential reports, or through other means, except where authorized by Council or until Council or committee discusses the Confidential Information at a meeting that is open to the public or otherwise releases the Confidential Information to the public. Council may not authorize the disclosure of Confidential Information which the City is prohibited from disclosing under *MFIPPA*.

Members shall not:

- a) disclose or distribute legal opinions or other confidential communications over which the City or Local Board has or may claim solicitor-client or litigation privilege.
- b) misuse Confidential Information such that it may cause detriment to the City, Council or Local Board.
- c) use Confidential Information acquired by virtue of their office for personal or private gain, or for the gain of any other person, corporation, or organization including, without limitation, to gain a benefit in any procurement or other sale process involving City property or assets.
- d) access or attempt to gain access to Confidential Information in the custody and control of the City unless it is necessary for the performance of their Official Duties, the information would normally be disclosed to the Member, and such access is not prohibited by law (including any by-law or regulation) or any policy of the City.
- e) permit any person, other than those who are entitled thereto, to have access to Confidential Information.

16.5.2 Confidential Information – defined

For this purposes of this Article, “Confidential Information” includes information in the custody and control of the City that the City is either prohibited from disclosing, or is required to refuse to disclose, under *MFIPPA* or any other legislation and specifically includes:

- a) information received in confidence from third parties of a corporate, commercial, scientific or technical nature;
- b) personal information as defined by *MFIPPA*;
- c) information circulated to Members and marked “confidential”;
- d) information that is subject to solicitor-client or litigation privilege;
- e) information that was discussed during an *in camera* meeting of Council or of the Local Board or provided to the Member in preparation for such a meeting;
- f) information that infringes on the rights of others (i.e. sources of complaints where the identity of a complainant is given in confidence);
- g) price schedules in contract tender or request for proposal submissions if so specified; and
- h) statistical data required by law not to be released (i.e. certain census or assessment data),

but does not include information received or generated by Members communicating with their constituents in their capacity as elected representatives, or a Member’s personal records, generated or received by them as private citizens.

ARTICLE 6

USE OF CITY RESOURCES

16.6.1 Personal Use – Prohibited

No Member shall use any Staff services or City or Local Board property, equipment, services, supplies, websites, web-boards, or other City or Local-Board owned materials, other than for purposes connected with the discharge of the Member’s Official Duties.

No Member shall obtain any personal benefit or financial gain from the use or sale of City or Local Board property or resources, as the case may be, whether licensed, leased, or owned by the City or Local Board, including land, facilities, equipment, supplies, services, Staff, City or Local Board-developed intellectual property (for example, inventions, creative writings, graphic designs, computer programs and technical drawings), technical innovations, City or Local Board owned images, logos, or coat of arms. All such property or resources remains exclusively that of the City or the Local Board, as the case may be.

For greater clarity, “personal benefit” shall include any benefit provided with the Member’s knowledge to a Family Member.

16.6.2 Limitation – General Public – Benefit

Nothing in this Article shall in any way be construed so as to restrict the ability of a Member to lease, license, rent or otherwise use City or Local Board property in the same manner afforded to the general public.

ARTICLE 7

ELECTION CAMPAIGNS

16.7.1 Compliance – Municipal Elections Act, 1996 and City Policy

Members are required to follow the provisions of the *Municipal Elections Act, 1996* and Members are accountable under the provisions of that Act.

Members shall abide by the City’s Policy on the Use of Corporate Resources for Election Purposes (Council – 004), as amended from time to time.

ARTICLE 8

IMPROPER INFLUENCE

16.8.1 Improper Influence – Prohibited

No Member shall use the influence of his or her office for any purpose other than the exercise of his or her Official Duties.

16.8.2 Tribunals – Interference Prohibited

Members shall not contact members of any tribunal regarding any matter before it, such as the Committee of Adjustment which is charged with making independent decisions and whose members have been appointed by Council.

Members may, with prior written notice to the Committee of Adjustment Secretary/Treasurer, infrequently attend meetings to provide the Committee of Adjustment with the history and context of an application before the Committee. Members may send a letter or e-mail addressed to the Secretary of such tribunal expressing the views of the member on behalf of the community.

If Council has taken a position in a Local Planning Appeal Tribunal (“LPAT”) matter and the City Solicitor (or legal counsel) is instructed or otherwise required by virtue of his or her office to appear at a hearing in support of such position, no Member who disagrees with the position of Council shall give evidence at the hearing or otherwise work against the will or decision of Council in such matter.

With the consent of the lawyer assigned to represent the City at an LPAT hearing, a Member who is in support of Council’s decision or instructions to such lawyer may give evidence at the LPAT hearing. Notwithstanding the above, if the LPAT has decided to mediate a dispute between parties in a matter, any Member may offer his or her services to assist with such mediation regardless of his or her position in the matter and participate, if approved by the LPAT mediator.

16.8.3 Respect for Decisions of Council

Members shall not actively undermine the implementation of Council or Local Board decisions. Once a Council decision is made, the role of Members is to support the implementation of that decision, not to work against its implementation either publicly or behind the scenes. Council decisions are arrived at following discussion and debate, reflecting the democratic process. Members are expected to engage in debate with their fellow Members through the democratic process of government. However, once Council or a Local Board has made its decision, Members must recognize that decision as the duly-considered decision of the body of Council or Local Board, as the case may be. As Members of Council or of a Local Board, individual Members are not to engage in activities that seek to challenge or undermine the decisions of that body.

Members can express disagreement with Council’s decisions, but it is contrary to the ethical behaviour of members of Council to actively seek to undermine, challenge or work against Council’s decisions.

16.8.4 Encouraging Litigation – Prohibited

Members shall refrain from encouraging others to bring legal challenges against the City, Local Boards, other Members, or Staff with respect to any action or decision of the City or Local Board (which includes those decisions made by Staff acting within a delegation of authority of Council).

16.8.5 Prosecutorial Independence – Respected

Members acknowledge the role that the City plays in the administration of the Provincial Offences Court on behalf of the Province of Ontario, and understand and agree that no Member shall or attempt to interfere with or exert influence upon the prosecution of any matter before that Court or on appeal from that Court. Members acknowledge the importance of prosecutorial independence with respect to the administration of justice and shall at all times refrain from any activity that interferes with that independence.

ARTICLE 9

BUSINESS RELATIONS

16.9.1 No Additional Remuneration

No Member shall act as a paid agent before or any agency, task force, board or committee of the City.

ARTICLE 10

MEMBER CONDUCT

16.10.1 Conduct Generally

At all times, including in the course of their Official Duties, Members shall:

- a) truly, faithfully, and impartially exercise his or her office to the best of his or her knowledge and ability;
- b) exercise care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances;
- c) perform his or her Official Duties and arrange his or her public affairs with integrity and accountability, in a manner that promotes public confidence and respect, and is open and honest;
- d) not impugn or malign a debate or decision or otherwise erode the authority of Council or the Local Board;
- e) make honest statements and not make statements known to be false or make statements with the intent to mislead Council, a Local Board, other Members, Staff or the public;

- f) refrain from making disparaging comments about another Member or speculate on or make unfounded accusations about the motives of another Member;
- g) abide by all applicable legislation, policies and procedures pertaining to his or her position as a Member.

16.10.2 Conduct at Council, Local Board and Committee Meetings

Members shall conduct themselves at Council, committee, and Local Board meetings, as the case may be, with decorum in accordance with the provisions of Chapter 15 – Procedure of the City of Brantford Municipal Code or other approved procedure for such meeting.

Members shall endeavour to conduct and convey Council and Local Board business in an open and transparent manner (other than for those decisions which by virtue of legislation are authorized to be dealt with in a confidential manner, *in camera*).

Nothing in this Article shall prohibit Members from discussing or otherwise communicating City or Local Board business amongst themselves or with others, provided that the Members act lawfully, appropriately, and in a manner consistent with the *Municipal Act, 2001*, this Code of Conduct, applicable by-laws, policies, procedures, rules, guidelines and other relevant legislation.

16.10.3 Media Communications

Members will accurately communicate the decisions of Council and Local Boards, even if they disagree with the majority decision of Council or the Local Board, as the case may be. In so doing, the Member will demonstrate respect and will affirm the integrity of the decision-making processes of Council and its Local Boards.

A Member may state that he/she did not support a decision, or voted against the decision; however, in doing so, a Member shall refrain from making disparaging comments about other Members, Staff, or the processes and decisions of Council or the Local Board.

16.10.4 Social Media

In all media communications, including on Social Media, Members will treat each other, Staff, and members of the public with decorum, dignity and respect, and shall avoid messaging that amounts to abuse, bullying or intimidation.

Without limiting the foregoing, in no event shall any Member use Social Media to engage in or encourage bullying, Doxing, Flaming, or shaming of any member of the public, other Members, or Staff. This behaviour is inconsistent with the Code of Conduct and unbecoming of the office that Members hold.

Members shall refrain from encouraging or promoting the Social Media posts of others whose views may be disparaging of Council or Local Board decisions, other Members, or of Staff.

16.10.5 Respect for City By-laws and Policies

Members shall encourage public respect for the City and its by-laws.

Members shall adhere to such by-laws, policies and procedures adopted by Council or the Local Board, as the case may be, that are applicable to them and must not encourage disobedience of a City by-law in responding to a member of the public, as this undermines confidence in the City and calls into question the validity of its by-laws, policies and procedures.

16.10.6 Respectful Workplace

Members shall adhere to the provisions of the City's Respectful Workplace Policy (Corporate – 030), as may be amended or replaced from time to time, and which shall be read with necessary changes to apply to Members of Council and Local Boards.

All Members have a duty to treat members of the public, one another and Staff with dignity, respect, equality, and without abuse, bullying or intimidation and to ensure that the work environment of Staff is free from Discrimination and Harassment.

Without limiting the generality of the foregoing, Members shall not:

- a) engage in a course of conduct consisting of patronizing or condescending comments or behaviour;
- b) make written or verbal abuse or threats;
- c) make or publish statements about other Members, Staff, or members of the public which would, whether or not they might have a defence of absolute or qualified privilege, constitute libel or slander;
- d) engage in Discrimination, Workplace Harassment or Workplace Violence;
or
- e) engage in any behaviour that contravenes the requirements of the (Ontario) *Human Rights Code*.

All complaints received involving Members under the Respectful Workplace Policy (Corporate – 030) shall be referred to the Integrity Commissioner.

16.10.7 Respecting the Role of Staff

No Member shall use or attempt to use his or her position or authority for the purpose of intimidating, threatening, coercing, commanding or manipulating any Staff member in an attempt to interfere with Staff's duties, including, without limitation, the duty to disclose improper activity.

Members shall be respectful of the role of Staff to provide advice based on political neutrality and objectivity and without undue influence from any individual Member or faction of Council or any Local Board.

No Member shall malign, impugn or injure the professional or ethical reputation or the prospects or practice of Staff and all Members shall show respect for the professional capacities of Staff at all times.

Council as a whole approves the budget, policies and governance of the City through its by-laws and resolutions. Members acknowledge that the CAO directs City General Managers, who in turn direct City Staff. City Council and not individual Members of Council appropriately give direction to the City's administration. Members shall not interfere with the proper operation of the City by individually attempting to direct or oversee Staff.

Members shall not interfere or attempt to interfere with or in any way influence or attempt to influence the procurement of goods or services by Staff. Members acknowledge that fair and transparent procurement processes that are free from undue political influence are fundamental to maintaining the integrity of the City's procurement process. Nothing in this Article shall in any way limit the ability of any Member to raise questions about City or Local Board purchasing policies or procedures generally, and direct those questions to Staff for a response.

16.10.8 Nepotism – Prohibited

Members shall not use their positions to procure any benefit or privilege for a Family Member with respect to any service or opportunity provided by the City. Specifically, Members shall not:

- a) influence or attempt to influence any Staff member to hire or promote a Family Member of the Member;
- b) make any decision or participate in the process to hire, transfer, promote, demote, discipline or terminate any Family Member of the Member; or
- c) supervise a Family Member, or be placed in a position of influence over a Family Member who is also a Staff member of the City or Local Board.

ARTICLE 11

INTEGRITY COMMISSIONER

16.11.1 Integrity Commissioner – Advice

Members seeking clarification of any part of this Code of Conduct or the ethical obligations of Members under any by-law, procedure, rule, guideline, or policy of the City or Local Board, as the case may be, should consult with the Integrity Commissioner and submit such requests in writing.

Any advice given by the Integrity Commissioner to a Member shall be in writing and shall bind the Integrity Commissioner in any subsequent consideration of the conduct of the Member in the same matter as long as all of the relevant facts known to the Member were disclosed to the Integrity Commissioner.

16.11.2 Obstruction – Prohibited

All Members shall be aware of and comply with this Code of Conduct. It is a violation of the Code of Conduct to obstruct, in any way whatsoever, the Integrity Commissioner in the carrying out of his or her responsibilities.

Specifically, and without limitation, it is a violation of this Code of Conduct to destroy documents, erase electronic records, refuse to respond to the Integrity Commissioner, or refuse to participate in an inquiry where a formal complaint has been lodged under the Code of Conduct.

16.11.3 No Reprisal

Absolutely no reprisal shall be taken against any person who initiates a complaint or otherwise participates in or conducts a formal inquiry pursuant to this Code of Conduct. Any act of reprisal shall be construed as a breach of the requirements of this Code of Conduct with all of the same remedies as if such act of reprisal was a breach of this Code of Conduct.

16.11.4 Supplemental Information

To aid Members in complying with the Code of Conduct, the City Solicitor, in consultation with the Integrity Commissioner, may:

- a) create an annotated version of the Code of Conduct;
- b) create a version of the Code of Conduct that includes commentary on the various provisions of the Code of Conduct; and/or
- c) create other such material as deemed appropriate by the Integrity Commissioner.

Any documentation created in accordance with this section is illustrative only and not exhaustive.

16.11.5 Training – Mandatory

From time-to-time, the Integrity Commissioner may recommend training for Members to ensure Members are well-versed in the requirements of this Code of Conduct and other applicable legislation, by-laws, policies, procedures, rules, and guidelines. Where the Integrity Commissioner deems such training to be both necessary and beneficial for Members, the Integrity Commissioner shall prepare a report to Council explaining the rationale for the recommendation, and setting out the timing and content of such training, which report shall be provided to the Clerk and placed on the earliest available agenda of Council or the Local Board, as the case may be. For clarification, and notwithstanding Chapter 15 of the City of Brantford Municipal Code (Procedure), reports from the Integrity Commissioner shall proceed directly to Council.

Where Council or the Local Board adopts the recommendation of the Integrity Commissioner with respect to training, attendance at such training shall be mandatory for all Members of Council or the Local Board, as the case may be. Failure to attend such training shall amount to a violation of this Code of Conduct, except where non-attendance is excused by the Integrity Commissioner, taking into consideration the circumstances surrounding the non-attendance.

ARTICLE 12

COMPLAINT AND APPLICATION PROCEDURES

16.12.1 Application of procedures

Any person who wishes to make a Code of Conduct Complaint or an MCIA Application shall follow the procedures set out in this Article.

The Integrity Commissioner may, in his or her discretion, waive compliance with any part of these procedures, other than those required under the *Municipal Act, 2001*, or the *Public Inquiries Act, 2009*.

16.12.2 Informal complaint procedure – optional

Any person (for example, members of the public, other Members, and Staff) who has identified or witnessed any activity or behaviour by a Member that they believe is in contravention of the Code of Conduct may address the prohibited behaviour or activity themselves as follows:

- a) respectfully advise the Member that you believe the behavior or activity contravenes the Code of Conduct;
- b) encourage the Member to stop the prohibited behavior or activity;
- c) keep a written record of the incident(s) including dates, times, locations, other persons present and any other relevant information;
- d) if applicable, advise the Member of your satisfaction with their response or, if applicable, advise the Member of your dissatisfaction with their response; or
- e) consider the need to pursue the matter in accordance with the formal complaint procedure or in accordance with another applicable judicial or quasi-judicial process or complaint procedure.

Individuals are not required to address the offending behavior through informal means prior to accessing the formal complaint process set out in this Article.

16.12.3 Formal process – filing

Individuals who have identified or witnessed any behaviour or activity by a Member that they believe is in contravention of the Code of Conduct or the MCIA may file a formal Code of Conduct Complaint or make an MCIA Application and request an inquiry by executing the following steps:

- a) A Complainant who wishes to make a Code of Conduct Complaint must complete the Complaint Form and deliver it by mail, in person, or by e-mail to the Clerk or designate. The Complaint Form must be signed by the Complainant.
- b) An Applicant who wishes to make an MCIA Application must complete the Application Form and deliver it by mail, in person, or by e-mail to the Clerk or designate. The Application Form must be signed by the Applicant.
- c) An individual may file both a Code of Conduct Complaint and an MCIA Application about the same subject matter, in which case the individual must file a Complaint Form and an Application Form.

16.12.4 Formal process – intake review

Once a Code of Conduct Complaint or an MCIA Application has been filed, an Intake Officer will send a Consent and Confidentiality Agreement to the Complainant or Applicant, as the case may be, who must sign and return the Consent and Confidentiality Agreement to the Intake Officer.

The Intake Officer will provide the completed Code of Conduct Complaint or MCIA Application to the Integrity Commissioner who shall conduct the following review:

- a) The Integrity Commissioner will review all Code of Conduct Complaints and MCIA Applications to verify that they are properly filed in accordance with these procedures and, as applicable, the requirements of the *Municipal Act, 2001*.
- b) All Code of Conduct Complaints and MCIA Applications that are properly filed will be reviewed by the Integrity Commissioner to determine whether the subject matter of Code of Conduct Complaint or MCIA Application is within the jurisdiction of the Integrity Commissioner.
- c) The Integrity Commissioner may dismiss a Code of Conduct Complaint or an MCIA Application without conducting any inquiry if:
 - i. there are insufficient or no grounds for an inquiry, or,
 - ii. the Code of Conduct Complaint or MCIA Application is frivolous, vexatious, or not made in good faith.
- d) The Integrity Commissioner may dismiss a Code of Conduct Complaint without conducting any inquiry if:
 - i. there has been a substantial delay between the request and the incidents that are the subject matter of the Code of Conduct Complaint and because of the delay the inquiry would serve no useful purpose, or,
 - ii. the Integrity Commissioner is of the opinion that the inquiry would serve no useful purpose.
- e) The Integrity Commissioner will dismiss an MCIA Application without conducting any inquiry when the MCIA Application indicates that the Applicant became aware of the alleged contravention more than six (6) weeks prior to the date of filing and therefore did not commence the application in accordance with the requirements of the *Municipal Act, 2001* or the *MCIA*.
- f) If a Code of Conduct Complaint or MCIA Application concerns an allegation of a criminal nature as set out in the *Criminal Code (Canada)* or an offence under any other Act, the Integrity Commissioner will not conduct an inquiry into that component of the Code of Conduct Complaint

or MCIA Application and the Complainant or Applicant will be so advised. Allegations of a criminal or quasi-criminal nature may be pursued with the appropriate authority.

- g) The Integrity Commissioner or Intake Officer will inform the Complainant or Applicant and the Clerk of the outcome of the intake review.
- h) If a Code of Conduct Complaint or an MCIA Application is dismissed at the intake stage, the Integrity Commissioner will not inform the Respondent of the Code of Conduct Complaint or MCIA Application unless the Integrity Commissioner determines that it is otherwise appropriate to do so.

16.12.5 Formal process - inquiry

The following process shall be followed during an inquiry by the Integrity Commissioner:

- a) In the case of a Code of Conduct Complaint, the Integrity Commissioner will inform the Respondent of the substance of the allegations and provide the Respondent the opportunity to provide a response within a specified time. The Integrity Commissioner may provide the response to the Complainant for reply.
- b) In the case of an MCIA Application, the Integrity Commissioner will provide the Respondent with a copy of the MCIA Application and provide the Respondent the opportunity to provide a response within a specified time. The Integrity Commissioner may provide the response to the Applicant for reply.
- c) If the same person has made a Code of Conduct Complaint and an MCIA Application about the same subject matter, the Integrity Commissioner may conduct a single inquiry into both.
- d) If more than one individual makes a Code of Conduct Complaint or MCIA Application about the same subject matter, the Integrity Commissioner may combine these into a single inquiry.
- e) When conducting inquiries in relation to Code of Conduct Complaints and MCIA Applications, the Integrity Commissioner may use the powers of inquiry set out in the *Municipal Act, 2001*, as well as the powers provided in sections 33 and 34 of the *Public Inquiries Act, 2009*.
- f) Without limiting the powers of the Integrity Commissioner pursuant to the *Municipal Act, the Public Inquiries Act, 2009* or the MCIA, during the course of an inquiry, the Integrity Commissioner may interview the Complainant, Respondent, any other Member, Staff and any other relevant person. The Integrity Commissioner may also request all relevant

documents and written material and is entitled to free access to all records, things, or property belonging to or used by the City or Local Board that the Integrity Commissioner believes to be necessary for an inquiry. Should any such records include those over which the City or Local Board may claim privilege, including, without limitation, solicitor-client or litigation privilege, the provision of those records to the Integrity Commissioner shall not in any way constitute a waiver of privilege by the City or Local Board, as the case may be.

- g) The Integrity Commissioner shall make every effort to complete an inquiry within ninety (90) days.
- h) If the Integrity Commissioner requires more than ninety (90) days to complete an inquiry, the following shall be notified accordingly:
 - i. the Complainant;
 - ii. the Member; and
 - iii. the Mayor in the case of a complaint concerning another Member; or the Member of Council appointed to act from time to time in the place and stead of the Head of Council for the month when the complaint is received, in the case of a complaint concerning the Mayor (Head of Council).
- i) The Integrity Commissioner will seek and share information with and from the Complainant, the Respondent and witnesses as is necessary to complete the inquiry, in a manner that is procedurally fair, proportionate, and that enables the Integrity Commissioner to maintain secrecy with respect to the inquiry.
- j) Should, during the course of an inquiry into an MCIA Application, the Integrity Commissioner determine that the subject matter may also, or alternatively, give rise to a possible Code of Conduct contravention, the Integrity Commissioner may treat the matter as a Code of Conduct Complaint, and will inform the Respondent, provide the Respondent with an opportunity to provide a response, and proceed as if a Code of Conduct Complaint had also been made with respect to the subject matter of the MCIA Application.

16.12.6 Conclusion of inquiry – no report

During the course of an inquiry into a Code of Conduct Complaint or MCIA Application, the Integrity Commissioner may determine that there are insufficient or no grounds for a further inquiry, the Code of Conduct Complaint or MCIA Application is frivolous, vexatious, not made in good faith, or that the continued inquiry would serve no useful purpose. In these circumstances, the Integrity Commissioner will so notify the parties and make no report about the matter.

16.12.7 Code of Conduct Complaint – conclusion of inquiry

The Integrity Commissioner shall not issue a report finding a violation of the Code of Conduct on the part of any Respondent unless the Respondent has had notice of the basis for the proposed finding and any recommended penalty or remedial action, and an opportunity either in person or in writing to comment on the proposed findings and any recommended penalty or remedial action.

If the Integrity Commissioner concludes that a Respondent contravened the Code of Conduct, the report will contain a recommendation regarding penalty or remedial action and shall be filed with City Council or the applicable Local Board, as the case may be, in accordance with the reporting procedure set out at section 16.12.9, below.

If the Integrity Commissioner concludes that the Respondent did not contravene the Code of Conduct, the report will be provided to the Complainant and Respondent. The Integrity Commissioner may file all or any portion of the report with Council or the Local Board, as applicable, should the Integrity Commissioner determine that the report contains useful guidance or interpretation about the meaning of the Code of Conduct for Members, or for any other similar reason. If the Integrity Commissioner determines that the report will be filed with Council or the Local Board, the Integrity Commissioner will follow the reporting procedure set out at section 16.12.9 below.

16.12.8 MCIA Application – conclusion of inquiry

At the conclusion of an inquiry into an MCIA Application, or within 180 days from the application date (being the date on which a complete MCIA Application was filed with the Clerk), whichever is earlier, the Integrity Commissioner will notify the Applicant and Respondent whether the Integrity Commissioner intends to apply to a judge under section 8 of the MCIA for a determination about whether the Respondent has contravened section(s) 5, 5.1, and/or 5.2 of that Act and publish reasons in due course.

In making his or her decision, the Integrity Commissioner may consider whether the inquiry established that the conduct at issue was also contrary to the Code of Conduct and, accordingly, whether the matter could be adequately addressed by a report to Council or the applicable Local Board.

If the Integrity Commissioner determines that the matter could be adequately addressed by way of a report to Council or the Local Board, the Integrity Commissioner shall follow the reporting procedure set out below at section 16.12.9.

16.12.9 Inquiry results – reporting procedure

Upon the conclusion of any inquiry resulting in a report to Council, the Integrity Commissioner shall notify the Clerk, or designate, when the final report is ready and the Clerk shall distribute the final report to Council and make the report available to the public. The Clerk shall also place the final report on a Council agenda where the Integrity Commissioner can report his or her findings at an open meeting of Council. For certainty, a report of the Integrity Commissioner shall proceed directly to a meeting of Council without having to first be considered by a committee of Council, regardless of any provision to the contrary in Chapter 15 of the City of Brantford Municipal Code (Procedure).

The Integrity Commissioner shall give a copy of the final report to the Complainant and the Respondent at least fifteen (15) days prior to the Council meeting at which the final report will be considered.

Where the enquiry relates to a Local Board, the report will be submitted to both Council and the Local Board. The Clerk, or designate, will provide the date of such meeting to the Integrity Commissioner and such date shall be no less than fifteen (15) days prior to the Council meeting at which it will be considered.

16.12.10 Election – blackout period

No Code of Conduct Complaints or MCIA Applications shall be commenced or continued, nor shall the Integrity Commissioner report to Council or the Local Board respecting an inquiry, within the election period described within sections 223.4 and 223.4.1 of the *Municipal Act, 2001* except as permitted in those sections.

All open inquiries during this time period will be suspended in accordance with the *Municipal Act, 2001* and the parties will be so notified and informed of their rights to seek a resumption of such suspended inquiries by the Integrity Commissioner following this period.

16.12.11 Final report – recommendation

The Integrity Commissioner, in reporting to Council, may include in his or her report recommendations with respect to an appropriate penalty or remedial action resulting from any breach of the Code of Conduct.

The *Municipal Act, 2001* authorizes Council to impose either of the penalties listed below, if so desired, on a Member following a report by the Integrity Commissioner that, in his or her opinion, the Member has contravened the Code of Conduct:

- a) a reprimand; or

- b) suspension of the remuneration paid to the Member in respect of his or her services as a Member for a period of up to ninety (90) days.

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

Affidavit of Complainant

I _____ of the of _____ of _____,
[Full legal name] [City, Town etc.] [Name of Municipality]

in the Province of Ontario, make oath and say (or affirm):

1. I have reasonable grounds to believe that _____, a Member of Council/Local Board,
[Name of Member]

has contravened the following provisions of the Code of Conduct _____

[List specific section(s) of the Code of Conduct]

2. The particulars of this belief are outlines in the attached Schedule A to this my affidavit.

[on Schedule A, the Complainant should clearly outline all the reasons why you believe the Member of Council/Local Board has contravened the Code, including applicable date(s), time(s) and location(s). Any supporting documents and evidence that you wish to provide should be listed in Schedule A. Additional Schedule A pages can be added as required.]

3. That I make this affidavit in support of my formal complaint that the named Member of Council/Local Board has contravened the Code and for no improper purpose.

Sworn (or Affirmed) before me at the

[Name of Municipality]

In the Province of Ontario on this ____ day

of _____ [month], _____ [year]

Complainant's Signature

A Commissioner for Taking Affidavits, etc.

Personal Information Collection Notice

Personal information collected on this form is collected under the authority of section 10(1), 223.1 and 223.8 of the *Municipal Act, 2001*, as amended, and will be used by the Integrity Commissioner to carry out an investigation under the Act. This form will be shared with the Integrity Commissioner and may be shared by the Integrity Commissioner with any persons the Integrity Commissioner deems necessary as part of any investigation. Questions regarding the collection of personal information on this form can be directed to the Clerk, City of Brantford at (519) 759-4150, 100 Wellington Square, Brantford, ON, N3T 5R7.

Schedule A
to the Affidavit of

[Complainant's Full Legal Name]

Clearly outline all the reasons why you believe the Member of Council/Local Board has contravened the sections of the Code identified in the complaint form, and include applicable dates, times, and locations. Any supporting documents or evidence that you wish to provide should be listed in Schedule A and attached to the affidavit. You may attach additional Schedule A pages as required.

A large, empty rectangular box with a thick black border, intended for the complainant to provide details of the complaint as instructed in the text above.