

**TO:** Mayor Savage and Members of Halifax Regional Council

**SUBMITTED BY:**

Original Signed by 

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Jacques Dubé, Chief Administrative Officer

**DATE:** January 2, 2020

**SUBJECT:** Review of Code of Conduct for Elected Municipal Officials

## ORIGIN

At the November 14, 2017 meeting of Halifax Regional Council, the following motion was passed:

That Regional Council request a staff report on a review of Administrative Order 52: Code of Conduct for Elected Officials to include, but not be limited to, consideration of:

Review section IV Member Responsibilities, specifically regarding 13. Interpersonal Behaviour and 14. Community Representation, to provide clear and unambiguous expectations.

Periodic review of Administrative Order 52 (i.e. every 4 years) for consideration of potential amendments.

Ask the Province to provide an update of the 2016 request to initiate legislative changes to the HRM Charter allowing for the ability to censure Members of Council by remitting remuneration for violations to AO 52, Code of Conduct for Municipal Officials.

At the March 27, 2018 meeting of Halifax Regional Council, Item 14.3.1, the following motion was passed:

That Halifax Regional Council request a staff report and recommendations with respect to HRM entering into a retainer agreement with an External Consultant as set out in s. 19 of the Code of Conduct to:

1. Review and investigate, where an investigation is necessary, reported violations of the Code of Conduct;
2. Attempt to resolve reported violations with the parties involved where possible;
3. Where, after an investigation, the Consultant is of the view there is further action required provide a confidential report and recommendation to Council in respect of the matter; and
4. Maintain confidentiality with respect to the parties and issues raised in the reported violation.

**RECOMMENDATION ON PAGE 2**

## **LEGISLATIVE AUTHORITY**

Administrative Order One, Schedule 6 (Executive Standing Committee Terms of Reference), Section 8:

“The Executive Standing Committee shall act as a review committee for matters related to the general self-governance and administration of the Council as directed by the Council.”

*Halifax Regional Municipality Charter*, clause 20(1)(b), “The Council may make policies ...  
(b) regulating its own proceedings and preserving order at meetings of the Council;”

## **RECOMMENDATION**

It is recommended that Halifax Regional Council:

1. Suspend the rules of procedure under Schedule 6, the Executive Standing Committee Terms of Reference, of Administrative Order One, the Procedures of the Council Administrative Order; and
2. Endorse the approach for a revised code of conduct regime as outlined in this report and direct the Chief Administrative Officer to bring this approach forward as Halifax Regional Municipality's position during future consultations conducted by the Province. This position includes:
  - a. The inclusion of new and revised code provisions that are in keeping with the best practices outlined in sections 4B and 5 of the Discussion section of this report;
  - b. The ability to create an annotated code format that incorporates context and commentary; and
  - c. The inclusion of enforcement protocols that are consistent with the best practices outlined in sections 4C and 5 of the Discussion section of this report.

## **EXECUTIVE SUMMARY**

The *Halifax Regional Municipality Charter* (HRM Charter), along with the *Municipal Government Act* (MGA), have recently been amended to require that all NS municipalities adopt a code of conduct for elected municipal officials, as well as prescribing minimum content requirements. Council's request for the authority to impose monetary sanctions for code breaches was not addressed in these legislative changes. Relatively minor amendments to Administrative Order 52, the Code of Conduct for Elected Officials (AO 52), are necessary to bring it in line with these new statutory requirements, which are yet to be proclaimed.

Initially, staff's recommendation was for Council to utilize the recent legislative changes as an opportunity to more broadly re-examine and amend AO 52. A jurisdictional scan of code of conduct regimes from across Canada has been conducted and used to support drafting instructions for a revised AO 52. The recommended changes include:

- The addition of common code provisions highlighted in the scan, such as the improper use of influence, among others;
- Drafting updated code provisions that move away from broad statements of principle towards provisions that are clear and concise;
- Incorporating definitions and cross-references to other applicable statutes and municipal policies where appropriate;
- Adopting an annotated code format which incorporates context and commentary; and
- Maintaining the self-governing model of code enforcement in the absence of the authority to impose monetary sanctions, subject only to a revised screening process to streamline the handling of reported complaints.

However, in early 2020, HRM received notice that the Province plans to hold consultations with municipalities to gather input on code of conduct regimes, which will then be used to inform the development of future regulations. Although it is unclear how the timeline for these consultations will be impacted by the Covid-19 pandemic, they were initially planned to take place during 2020. Consequently, it may be premature to seek revisions to AO 52 prior to these consultations, which should provide clarity on the legislative approach that the Province intends to adopt. It is now staff's recommendation that the material in this report form the outline of the position to be brought forward by HRM during consultations with the Province.

## **BACKGROUND**

On May 26, 2009, Halifax Regional Council approved the first version of the HRM Code of Conduct for Elected Officials. This was a modified version of the code of conduct template developed by the Nova Scotia Federation of Municipalities (NSFM – formerly the Union of Nova Scotia Municipalities). At the May 2009 meeting, Council affirmed their support for NSFM's requests to the Province for amendments to the MGA and HRM Charter to provide municipalities with greater powers to sanction members found to be in breach of their codes.

On October 25, 2011, Council approved an enforcement protocol for administering the Code, which was proposed by the Office of the Auditor General for HRM. Under this process, complaints would be referred to an Independent Investigative Panel on an as needed basis. The Panel would consist of members independent and external to the organization. Although approved by Council, this protocol was never implemented in practice, as the recommendation from the Auditor General suggested that implementation be deferred "until discussions are held with the Province of Nova Scotia relating to implementation of sanctions and other required changes to the HRM Charter." As such, Council reaffirmed their support for NSFM's request to the Province for increased code sanctioning powers.

On July 23, 2013, Council adopted AO 52 (*Attachment A*). Whereas the previous code applied to both HRM staff as well as elected officials, AO 52 applies only to elected members of Council. A code of conduct for municipal employees was adopted in a separate policy. While still based on NSFM's code template, AO 52 added provisions on Reporting Breaches (s. 18) and Corrective Action (s. 19). A limited list of sanctions available to Council for code breaches are set out in section 19, which include censure, an apology to those impacted, counselling, and suspending membership from boards and committees of Council. Section 19 additionally provides that Council "may retain an external consultant or panel with relevant experience to conduct an investigation and provide a report and recommendation to Council."

By 2013, NSFM had decided to suspend their efforts to actively petition the Province for increased code sanctioning powers, citing an inability to develop a consensus position among member municipalities. As a consequence, on August 6, 2013, Council suspended its request to the Province as well.

On September 20, 2016, Council revisited the enforcement protocol for AO 52. As the requested legislative changes had not been forthcoming, Council elected to adopt a self-governing model, rather than the model put forward by the Office of the Auditor General in 2011. This formalized what had been Council's de facto procedure since 2011 and continues to be the protocol in place for handling complaints under AO 52. Under the self-governing model, complaints are received and considered by Council as an In Camera (In Private) agenda item. If Council determines that the complaint has merit, it may proceed with an investigation, retain a third-party investigator or panel, and/or impose a corrective action in accordance with section 19 of AO 52. The self-governing model is explained in greater detail in the staff report dated August 23, 2016.<sup>1</sup>

At the September 20, 2016 meeting, Council additionally directed staff to reinstate the formal request to the Province for HRM Charter amendments relating to increased sanctioning powers. This request was forwarded to the Minister of Municipal Affairs and is an active legislative request at the time of writing.

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<sup>1</sup> <http://legacycontent.halifax.ca/council/agendasc/documents/160920ca1441.pdf>

For process charts for both the Independent Panel and Self-Governing models of code enforcement, see *Attachment B*.

## **DISCUSSION**

### **1. Recent Legislative Amendments Relating to Codes of Conduct**

In 2016, the Joint Municipal Accountability and Transparency (JMAT) Committee was established by the Department of Municipal Affairs and Housing (DMAH), the Association of Municipal Administrators Nova Scotia (AMANS), and NSFM. The formation of the JMAT Committee was partially in response to a 2016 Ombudsman report on the spending practices of some municipal units within the Province. As such, a key focus of the JMAT Committee centred on transparency and accountability as it relates to expense policies and reporting for municipal units. HRM Council's 2016 request for legislative amendments for increased sanctioning powers was also brought forward for consideration.

On March 30, 2017, the JMAT Committee submitted a report to the Deputy Minister of Municipal Affairs, which outlined several recommendations focusing on ways that municipalities could strengthen transparency and accountability. Two of the recommendations relate to codes of conduct:

- Amend the MGA and HRM Charter to require that all municipalities in Nova Scotia have a code of conduct for elected officials, including minimum content and consequences if breached. Compliance with the expense policy must be part of the code of conduct; and
- Develop a formal process for municipal council and staff to report complaints.

Many of the recommendations from the JMAT report were introduced to the NS Legislature in Bill No. 10, which was passed on October 26, 2017.<sup>2</sup> While the legislation introduced several amendments to the MGA/HRM Charter, those specific to codes of conduct include:

- 20A (1) The Municipality shall adopt a code of conduct.
- (2) The code of conduct must
- (a) include a requirement for compliance with the expense policy and the hospitality policy;
  - (b) apply to the Mayor, councillors and positions prescribed by the regulations;
- and
- (c) comply with the regulations.
- 20B Every person to whom the code of conduct applies shall comply with the code of conduct.

An additional amendment expands the regulation making power of the Minister of Municipal Affairs and Housing as it relates to establishing further minimum requirements for code content.

Although passed by the Legislature, these amendments are yet to be proclaimed. The amendments did not respond to HRM's requests for enhanced sanctioning powers.

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<sup>2</sup> Bill No. 10: [https://nslslegislature.ca/legc/bills/63rd\\_1st/1st\\_read/b010.htm](https://nslslegislature.ca/legc/bills/63rd_1st/1st_read/b010.htm)

Only minor amendments are required for AO 52 to be brought into compliance with the new HRM Charter requirements. These include:

- The inclusion of a new provision requiring that members comply with expense and hospitality policies; and
- The revision of section 21 of AO 52 to add the wording that the Code applies to “positions prescribed by provincial regulations” in addition to Councillors and the Mayor.

## **2. NSFM Working Paper – Update**

In a staff information report before Council on November 13, 2018, the following was noted:

The Nova Scotia Federation of Municipalities (NSFM) is developing a working paper with recommendations for the Provincial government which will include the process to address inappropriate behaviour and complaints, as well as consideration of the Integrity Commissioner concept. The AMANS and NSFM work is expected to be complete within six months. Given that the working paper recommendations will include potential legislative changes and possible financial implications, HRM staff propose waiting for the final paper before recommending changes to the HRM Code of Conduct and the complaints process.

NSFM has elected not to undertake the above noted working paper based on a determination that, due to the variability among municipal units in the Province, a working paper would be limited to a basic set of recommendations.

NSFM considered the concept of a shared Integrity Commissioner for NS municipalities. The idea was dismissed as the cost estimates were determined to be excessive for member municipalities.

As an alternative to the working paper, NSFM has decided to focus on retooling its code of conduct template to respond to the recent MGA/HRM Charter amendments, as outlined above. The proposed wording of these new and revised provisions are as follows:

### **COMPLIANCE WITH EXPENSE POLICY AND HOSPITALITY POLICY**

Members shall comply with the expense policy and the hospitality policy for the municipality.

[.....]

### **COMPLIANCE WITH CODE**

Pursuant to section 23 of the *Municipal Government Act*, S.N.S. 1998, c 18., the code of conduct applies to mayors, wardens, councillors, and positions prescribed by provincial regulations. Every person to whom a code of conduct for a municipality applies shall comply with the code of conduct. Each of these persons is required to sign a "Statement of Commitment to the Code" (Attachment A) within seven (7) days of taking the Councillors' oath pursuant to section 147 of the *Municipal Elections Act*, R.S.N.S. 1989, c. 300.

The draft of NSFM's updated code template has been forwarded to the DMAH and is awaiting review at the time of writing. As noted above, similar amendments to AO 52 will be required to bring it in line with the new requirements under the HRM Charter, once they receive ratification from the provincial government.

## **3. Provincial Code of Conduct Consultations**

In February 2020, HRM staff received notice that the Province is planning to hold code of conduct consultations with municipalities in 2020. The consultations will focus on gathering input on different options for municipal codes of conduct, which will inform the development of future code regulations made pursuant to the recent HRM Charter/MGA amendments.

The recent legislative changes, along with the planned consultations, indicate that the Province is moving towards adopting a legislative framework which prescribes mandatory minimum code requirements. The decision to legislate in this area rather than leave codes at a council's sole discretion is consistent with the direction being taken by many other provinces.

The original intention of this report was to seek drafting instructions from Council for a revised AO 52. These revisions would respond to the recent HRM Charter amendments and seek to better align AO 52 with best practices for code content and enforcement as examined in other jurisdictions.

In light of the planned consultations, it may be premature to seek such direction from Council at this time. Just as AO 52 will have to be updated to conform with the recent HRM Charter amendments, it would likewise have to be amended in the future to bring it into compliance with any new code of conduct regulations developed by the Province. It is likely that the HRM Charter/MGA amendments specific to codes of conduct will not be proclaimed until the corresponding regulations are developed. As such, it is prudent to delay revising AO 52 until there is greater clarity on the legislative approach that the Province intends to adopt.

As future regulations may impose a mandatory code of conduct framework on all NS municipalities, HRM has an interest in having input in their development. The findings of the jurisdictional scan highlight several components for an effective code of conduct regime. Although originally intended to support the development of a revised AO 52, these findings can inform HRM's position to bring forward during provincial consultations.

#### **4. Jurisdictional Scan – Municipal Code of Conduct Regimes**

A benchmarking exercise was undertaken to examine code of conduct regimes from municipalities across Canada, other levels of government, professional regulatory organizations, and some non-Canadian jurisdictions. Code regimes were examined for their format, content, enforcement protocols, sanctioning powers, and the legislative framework under which they operate.

Six provinces impose a requirement for municipalities to adopt codes of conduct for elected officials: Alberta, Saskatchewan, Manitoba, Ontario, Quebec, and Prince Edward Island. While codes were reviewed from across Canada, the scan largely focused on 11 comparator code regimes from municipalities within these six provinces: Calgary, Edmonton, Saskatoon, Winnipeg, Toronto, Ottawa, Kingston, Brampton, Windsor, Montreal, and Charlottetown.

##### **A. Code Format**

A notable trend in the comparator jurisdictions is the increasing use of annotated codes of conduct, or codes that include illustrative examples and commentary within the body of the document. These codes typically note in their preambles that the commentary does not form part of the code but is intended to provide guidance to members, staff, and the public on what constitutes appropriate conduct under the code, and how the code may be interpreted and applied in practice.

Of the municipalities examined, Calgary, Saskatoon, Winnipeg, Toronto, Brampton, and Windsor use annotated codes. These codes are also commonly used by other levels of government as well as professional regulatory bodies. The Nova Scotia Barristers' Society's Code of Professional Conduct provides a good example of an annotated code in the context of a professional regulatory body.<sup>3</sup>

Toronto's annotated code is a leading example in the municipal context.<sup>4</sup> It incorporates examples of past decisions of their Integrity Commissioner to illustrate specific circumstances under which each provision has been applied in the past. In addition to the annotated code, Toronto's Integrity Commissioner has released a number of "Interpretation Bulletins", which supplement the annotated code and seek to further

<sup>3</sup> <https://nsbs.org/wp-content/uploads/2019/11/CodeofProfessionalConduct.pdf>

<sup>4</sup> <https://www.toronto.ca/wp-content/uploads/2017/08/9697-ICannotated-code-of-conduct-for-members-of-council.pdf>

clarify how the code may be applied in more specific contexts. Examples include a bulletin on election campaign activities, and another on the appropriate use of social media (*Attachment D*).

The increasing use of annotated codes to provide greater interpretive guidance and shared understanding of expected standards of conduct represents one of the most notable emerging best practices relating to codes of conduct examined during the review.

## B. Code Content

Although the comparator codes vary, the results of the scan indicate a growing consensus on a few essential content areas. While this is reflective of a growing body of best practices arising out of experience, it is partially due to provinces increasingly legislating mandatory minimum standards for code content.

The table below provides an overview of the results of the scan as it relates to code content areas. For a more detailed discussion of each content area and the results of the scan, see *Attachment C*.

Content Areas	Comparator Codes	AO 52
Values and Principles	10/11	Yes
Confidential Information	11/11	Yes
Conflicts of Interest	11/11	Yes
Gifts and Benefits	11/11	Partial
Improper Use of Influence	11/11	No
Use of Municipal Resources	11/11	Yes
Election Campaign Activities	10/11	No
Interactions with Staff	11/11	Partial
Respectful Conduct	11/11	Yes
Communications/Public Statements	6/11	Partial
Adherence to Policies & Procedures	9/11	No
Mandatory Training	5/11	No
Periodic Review	5/11	No

The most notable discrepancies between AO 52 and the comparator codes include:

- The absence of specific provisions on the improper use of influence;
- The absence of provisions on election campaign activities;
- The absence of a requirement that members adhere to a municipality's workplace harassment policy (present in 7/11 codes examined);
- The absence of a provision requiring that members adhere to all municipal policies and procedures;
- The absence of provisions requiring mandatory training or periodic review of the code; and
- The absence of a requirement to file disclosure statements for gifts and benefits received over a certain dollar threshold (present in 10/11 codes examined).

The content areas that are included in AO 52 are often less detailed when viewed against the comparator codes. As previously noted, AO 52 is based on the NSFM code of conduct template, which was developed primarily to assist smaller municipal units that may lack the necessary resources to develop their own code. As such, AO 52 is comparatively basic, focusing more on providing broad statements of principles while leaving much of the interpretation to the reader.

In contrast, it is much more common for the comparator codes to focus on providing clearer guidance through the inclusion of more detailed rules, utilizing definition sections, cross-referencing applicable legislation and municipal policies, and increasingly annotating their codes with context and commentary.

B(i). Note on Public Communications and Social Media

The results of the scan suggest that most municipalities are reluctant to prescribe specific rules regulating the public statements of elected members, as well as their use of social media. Code regimes typically seek to ensure that the conduct of a member does not bring council or the municipality into disrepute in the eyes of the public, but a code must respect a member's freedom of expression and their statutory mandate to represent their constituents as an elected official. This difficult balance is reflected in Edmonton's code, which prefaces its provision on member communications with: "without limiting the ability of a Councillor to hold a position on an issue and respectfully express their opinions, Councillors will...".<sup>5</sup> For municipalities that have chosen to regulate in this area, common code provisions are discussed in greater detail in *Attachment C*.

Rather than incorporating specific rules, most of the comparator jurisdictions have adopted the default position that a member's public statements as an elected official, as well as their social media use, can be adequately regulated by existing common code provisions.<sup>6</sup> For instance, such statements, whether made via social media or otherwise, can potentially engage provisions on respectful conduct, interactions with staff, confidential information, the improper use of influence, and the use of municipal resources.

For the municipalities that have adopted annotated codes, it is common to provide additional guidance on how public statements and social media use are potentially impacted by these provisions. As previously noted, Toronto has developed robust guidelines in the form of an Interpretation Bulletin issued by its Integrity Commissioner, which details how the code may apply to the specific instances of social media use (Attachment D).

**C. Enforcement Protocols**

While code content sets out the rules and shared standards of conduct expected of members of council, enforcement protocols set out the procedures through which a code will be administered and enforced. Both are important components of an effective code of conduct regime.

Among the six provinces that impose the requirement for municipalities to adopt a code of conduct, there is variance related to imposing mandatory procedures for enforcement. The legislation is prescriptive in some provinces, but others have no requirement that municipalities adopt enforcement procedures. Despite this, each municipality examined has adopted an enforcement protocol, with some being included in the code and others in a separate by-law or policy. Codifying an enforcement protocol provides the benefit of transparency and predictability in the process of code enforcement, which in turn contributes to procedural fairness.

Several models of code enforcement were examined in the scan, with each originating in provinces that have chosen to legislate specific enforcement procedures. The main distinction between these models is centred around who is mandated with administering code enforcement. However, a common thread running through each is the emphasis placed on having an independent third-party conduct the investigation of code complaints.

Each model is examined below, but for greater detail on the results of the scan as it relates to enforcement protocols, see *Attachment E*.

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<sup>5</sup> [https://www.edmonton.ca/city\\_government/documents/Bylaws/C18483.pdf](https://www.edmonton.ca/city_government/documents/Bylaws/C18483.pdf)

<sup>6</sup> This was the position taken by Toronto's Integrity Commissioner  
<https://www.toronto.ca/legdocs/mmis/2016/cc/bgrd/backgroundfile-94765.pdf>

C(i). Integrity Commissioner Model

The scan indicates a trend among medium to large Canadian municipalities towards adopting the Integrity Commissioner Model of code enforcement. Of the 11 municipalities included in the scan, 9 have implemented an Integrity Commissioner, 4 of which have elected to do so voluntarily.

An Integrity Commissioner is a neutral independent third-party selected by a council to administer a municipality's code of conduct regime for elected officials. Generally, an Integrity Commissioner has 3 core functions:

- **Investigative** – Receives and screens code of conduct complaints, undertakes complaint investigations, reports findings to council, and makes recommendations on corrective action(s);
- **Advisory** – Provides confidential written and oral advice on questions and situations related to the codes of conduct and other policies or statutes governing ethical behavior of elected members; and
- **Education** – Delivers training and educational programs to members of council and staff.

The Integrity Commissioner Model originated in Ontario, where the position was first implemented at the municipal level in 2007 and is now mandatory for all municipalities in the Province. While not mandatory outside of Ontario, of the municipalities examined, Calgary, Edmonton, Saskatoon, and Winnipeg have each voluntarily elected to appoint Integrity Commissioners. With the possible exception of Charlottetown, these represent those municipalities included in the scan in jurisdictions where councils are provided with some discretion in selecting enforcement protocols.

The table below outlines the procedures for handling code complaints under the Ontario Integrity Commissioner Model. This enforcement protocol is relatively consistent for all municipalities that have adopted Integrity Commissioners.

<b>Overview of Complaint Protocol in Ontario Municipalities</b>
<b>Informal and Formal Complaint Process</b>
<ul style="list-style-type: none"> <li>• Provides for both an informal resolution process (mediation, etc), as well as a formal process; both are overseen by the Integrity Commissioner.</li> <li>• Complainants are encouraged to attempt informal resolution prior to submitting a formal complaint.</li> </ul>
<b>Filing a Formal Complaint</b>
<ul style="list-style-type: none"> <li>• Formal complaints are filed either directly with the Integrity Commissioner or with the Clerk's Office (which are then forwarded to the Integrity Commissioner).</li> <li>• Complaints must be submitted in a prescribed form by an identifiable individual with a supporting affidavit. The specific provision(s) allegedly violated must be clearly cited, and supporting evidence attached to the affidavit.</li> <li>• Among the municipalities examined, the limitations period for filing complaints varies from having none at all to up to 6 months following the date of the incident giving rise to the complaint, or alternatively the date that it was "discoverable".</li> </ul>
<b>Initial Screening</b>
<ul style="list-style-type: none"> <li>• The Integrity Commissioner undertakes initial screening of complaints, reviewing to ensure that the complaint:                             <ul style="list-style-type: none"> <li>➢ Is complete and meets the formal requirements in terms of format and information provided;</li> <li>➢ Is not frivolous, vexatious, or not brought in good faith;</li> <li>➢ Is not filed within an <b>election blackout period</b> running up to a municipal election.</li> </ul> </li> </ul>

- Election blackout periods are intended to reduce politically motivated misuse of the code of conduct regime preceding an election.<sup>7</sup>
- Blackout periods typically start 3 months prior to a municipal election.
- Complaints received during this period, as well as active investigations, are deferred until after the election period.
- Is, on its face, a complaint with respect to non-compliance with the code of conduct. Complaints will be referred back to the complainant or elsewhere where the subject matter of the complaint:
  - Is of a criminal nature/falls under the *Criminal Code*;
  - Falls under municipal conflict of interest legislation;
  - Falls under municipal freedom of information legislation;
  - Falls under another municipal policy (e.g. complaint is about municipal staff);
  - Is already pending under other processes, such as a human rights complaint, or a grievance under a collective agreement;
  - Is otherwise outside the jurisdiction of the Integrity Commissioner.
- The Integrity Commissioner retains the authority to dismiss complaints or decline to undertake a formal investigation.

#### Investigation and Report to Council

- If a complaint passes initial screening, the Integrity Commissioner will undertake a confidential investigation, during which the subject of the complaint is entitled to natural justice and procedural fairness.
  - The subject member must be provided with notice of the investigation.
  - The subject member is entitled to know the identity of the complainant and is provided with the supporting materials and particulars of the complaint against them.
  - Both the subject member and the complainant are invited to make written submissions and responses to the Integrity Commissioner.
  - The subject member must be provided notice of any recommendation by the Integrity Commissioner to council and is entitled to an opportunity to comment on the findings and recommendations.
  - Codes typically prescribe set timelines between the date that the complaint is received and the date that the Integrity Commissioner's report must be filed and provided to the parties.
  - The Integrity Commissioner conducting the investigation is an independent third-party, reducing any apprehension of bias in the process.
- The Integrity Commissioner is generally given broad powers to examine documents in the course of their investigation.
- Codes contain provisions against obstructions of an investigation, and/or reprisals against participants. A failure to observe these provisions is itself a breach of the code.

#### Report to Council

- If the Integrity Commissioner finds that there has been no code breach, then typically there is no report to council, and the identity of the subject member is not released to the public. However, there is some variation between the codes on this point.
- Should the Integrity Commissioner determine that there has been a code breach, they will submit a report to council containing their findings and their recommendation on sanctions.
- The report is forwarded to the Clerk to be placed on the next regular council meeting agenda.
  - Integrity Commissioners are also typically required to provide council with an annual report, outlining their activities, and the number of complaints received during the period under review.

<sup>7</sup> The reported experiences of other municipalities indicate a sharp spike in the number of complaints received in the run up to municipal elections. This was observed by Calgary's Integrity Commissioner in their annual report for 2018: <https://pub-calgary.escribemeetings.com/filestream.ashx?DocumentId=56329>

<b>Council Decision</b>
<ul style="list-style-type: none"> <li>• Council generally receives and debates the report during public session.</li> <li>• All reports from the Integrity Commissioner to council are released to the public and are typically made available when they come before council.                             <ul style="list-style-type: none"> <li>• Although council is required to respond to the report's recommendation in public session, they are usually permitted to discuss in closed session if there is a request to do so.</li> </ul> </li> <li>• While the subject member is generally provided the opportunity to respond to the allegations before a final decision, they are not permitted to participate in the review of the complaint or in the decision.</li> <li>• Council may accept or vary the Integrity Commissioner's recommendation on sanctions.</li> <li>• Some of the codes examined allow for the subject member to claim legal costs, subject to council's approval.</li> </ul>

C(ii). Practical Components of Implementing an Integrity Commissioner

Integrity Commissioners are typically appointed for a time-limited term or held on retainer with a set hourly rate. It is common for a competitive request for proposals (RFP) process to be utilized for those held on retainer. A scan of 10 municipalities with Integrity Commissioners found that Toronto, Vaughan, Brampton and Mississauga hire Commissioners directly, with annual costs ranging from \$100,000 to \$517,600. For municipalities that hold Commissioners on retainer, the annual retainers range from \$1,000 to \$25,000 annually, plus hourly rates ranging from \$200 to \$375. In terms of the actual net cost for Commissioners held on retainer, the available figures indicate a range from \$21,000 to \$185,000 annually.

<b>Integrity Commissioner Cost</b>		
<b>Municipality</b>	<b>Term of Appointment</b>	<b>Cost</b>
Calgary	2 year appointment	\$24,000 annual retainer plus hourly rate of \$200
Edmonton	Up to 4 year appointment	\$24,000 annual retainer plus hourly rate of \$200 ➤ \$185,000 annual budget (2019)
Saskatoon	3 year appointment	\$2,500 to \$5,000 annual retainer plus hourly rate of \$375
Winnipeg	2 year appointment	\$25,000 annual retainer plus hourly rate of \$200 ➤ \$150,000 annual budget (2019)
Toronto	5 year appointment	\$517,600 office budget – 3 full time staff
Ottawa	2 year appointment	\$25,000 annual retainer and a per diem of \$200 per hour to a daily maximum of \$1,000 ➤ \$115,000 reported annual expenditures (2018)
Mississauga	5 year appointment	\$100,000 (2012)
Vaughan	Up to 4 year appointment	\$200,000
Brampton	1 year appointment	\$150,000
Windsor	2 year appointment	\$12,000 annual retainer plus hourly rate of \$300 ➤ \$21,000 reported annual expenditures (2015)

For a more detailed breakdown of the reported annual expenditures for the Integrity Commissioners for the cities of Ottawa and Windsor, see *Attachment F*.

Several cost-saving options for retaining an Integrity Commissioner were noted during the scan. The reported experiences from municipalities that have voluntarily retained Commissioners suggests that costs may be reduced by narrowing or tailoring the scope of the Integrity Commissioner's mandate in the RFP, such as reducing the educational and advisory roles. In Ontario, where Integrity Commissioners are mandatory, smaller municipal units have opted to share the costs of a Commissioner or have chosen to contract the services of a Commissioner from a larger municipality.

As was previously noted, the concept of a shared municipal Integrity Commissioner was recently examined by NSF. The model proposed was based on existing public accountability offices within the Province,

such as the NS Conflict of Interest Commissioner. NSFM eventually dismissed the concept due to excessive cost estimates for municipal units. The table below outlines NSFM's costs estimates for a shared municipal Integrity Commissioner, the figures for which were based on the annual operating costs reported from the NS Office of the Information and Privacy Commissioner.

<b>NSFM Cost Estimate for Shared Municipal Integrity Commissioner</b>	
<b>Cost Category</b>	<b>Annual Cost Estimate</b>
Salary of Municipal Integrity Commissioner	\$98,000 - \$135,000
Salary of Intake/Office Manager	\$61,000 - \$84,000
Fringe Benefits (15%)	\$23,000 - \$32,850
Office Rent and Services	\$40,000 - \$70,000
Miscellaneous Costs (recruitment, performance evaluation, travel, professional development, legal services, consultant fees, etc)	\$127,150 - \$128,150
<b>Total Costs:</b>	<b>\$350,000 - \$450,000</b>

C(iii). Other Models of Code Enforcement in Canada

**Administrative Tribunal Model (Quebec)** - While municipalities in the Province are provided with some discretion in crafting the content of their codes, the responsibility of code enforcement is delegated by the Province to the Commission Municipale du Québec; a quasi-adjudicative provincial body that oversees municipal matters in the Province. The Commission has staff to undertake complaint investigations as well as provide education and training. Unlike most of the models examined, the Commission is provided with the authority to impose sanctions for code breaches.

**Municipally Appointed Investigator Model (P.E.I.)** – Legislation in P.E.I. imposes a requirement on all municipalities to retain an independent third-party to undertake complaint investigations. What distinguishes this from the Integrity Commissioner Model is that retaining a third-party investigator is only required once a complaint has been screened through to the investigation stage. While the legislation does not preclude the full adoption of the Integrity Commissioner Model, the minimum requirements set out in the legislation allows for an Integrity Commissioner to be contracted on an as-needed basis. In Charlottetown, internal resources are utilized to undertake the more administrative functions of their enforcement protocol, such as receiving and screening complaints. This model is similar to HRM's self-regulating model, with the exception that retaining a third-party is mandatory in P.E.I.

**Ombudsman Model (Saskatchewan)** - While municipalities are provided with the discretion to select their own enforcement protocols (both Saskatoon and Regina have elected to adopt Integrity Commissioners), the Provincial Ombudsman is also given jurisdiction to receive and investigate code of conduct complaints relating to elected municipal officials. This contrasts with Nova Scotia, where the Provincial Ombudsman does not deal with such complaints. However, in Saskatchewan it is generally expected that complainants first attempt a resolution through other established processes prior to seeking the involvement of the Ombudsman. In the context of municipal codes of conduct, this typically means that complaints must first go through a municipality's internal code complaint process. When the Office of the Ombudsman does investigate a complaint, it can only make recommendations to council, and does not have the authority to impose sanctions.

In the other jurisdictions examined, including Alberta, Manitoba, as well as Nova Scotia, no particular model of code enforcement is legislated. Alberta only requires that municipalities adopt an enforcement protocol to go along with their codes, while legislation in Manitoba and Nova Scotia imposes no such requirement. As noted above, Calgary, Edmonton, Saskatoon, and Winnipeg, have each adopt an Integrity Commissioner modeled after Ontario.

While there are key distinctions between each model, the findings of the scan suggest a body of best practices in Canada relating to the components of an effective enforcement protocol. These suggest that a protocol should:

- Be administered by an independent third-party;
- Include an informal process that would avoid investigations when appropriate and reduce costs;
- Include mechanisms for initial screening of complaints to allow for the quick disposition of frivolous complaints, etc.;
- Defer complaints before and during municipal elections;
- Ensure that principles of natural justice and procedural fairness are afforded to the parties throughout;
- Protect the confidentiality of the complaint and investigation process;
- Impose reasonable timeframes for investigation activities and reporting;
- Allow anyone to report a violation of the code;
- Include provisions protecting against reprisals and obstruction;
- Detail the potential ramifications of a breach of the Code; and
- Value accountability and transparency, with final decisions being made available to the public.

#### D. Sanctioning Powers

There is a growing consensus among policy makers and subject matter experts that an effective code of conduct regime must have specified sanctioning powers that act as a deterrent for code violations. However, of the 6 provinces that impose a requirement for municipalities to adopt a code of conduct, only Alberta, Ontario, Quebec, and PEI provide municipalities with the statutory authority to impose monetary sanctions in some form for code breaches.

The table below provides an overview of the sanctions available to councils in the 6 provinces examined. For a more detailed outline of the sanctioning powers in each jurisdiction, as well as sanctions provided in each comparator code, see *Attachment G*.

<b>Code of Conduct Statutory Sanctioning Powers</b>	
<b>Alberta</b>	Sanctions: <ul style="list-style-type: none"> <li>• Issuing letter of apology;</li> <li>• Requirement to attend training;</li> <li>• Reducing or suspending remuneration;</li> <li>• Suspension or removal from committees;</li> <li>• Suspension or removal as chief or deputy chief elected official.</li> </ul>
<b>Saskatchewan</b>	None set out in legislation. Sanctions currently included in codes include: <ul style="list-style-type: none"> <li>• a reprimand;</li> <li>• requiring that the member apologize to those impacted;</li> <li>• requiring educational training;</li> <li>• removing the member from Council committees or other bodies;</li> <li>• dismissing the member from a position of chairperson of a Council committee.</li> </ul>
<b>Manitoba</b>	None set out in legislation. The <i>Municipal Act</i> states that a council may censure a member if it determines that the member has breached the code of conduct.  Sanctions currently included in codes include: <ul style="list-style-type: none"> <li>• a reprimand;</li> <li>• requiring that the member apologize to those impacted;</li> <li>• requiring educational training;</li> <li>• removing the member from Council committees or other bodies;</li> </ul>

	<ul style="list-style-type: none"> <li>• dismissing the member from a position of chairperson of a Council committee.</li> </ul>
<b>Ontario</b>	<p>Sanctions:</p> <ul style="list-style-type: none"> <li>• a reprimand;</li> <li>• Suspension of the remuneration paid to the member in respect of his or her services as a member of council or of the local board for a period of up to 90 days.</li> </ul>
<b>Quebec</b>	<p>Sanctions:</p> <ul style="list-style-type: none"> <li>• a reprimand;</li> <li>• Reimbursement of any gift, hospitality or benefit received in violation of the Code (or value of same);</li> <li>• Reimbursement of the remuneration, allowances or other sums received by the member while the violation continued;</li> <li>• Suspension for up to ninety (90) days, no remuneration paid during this time.</li> </ul>
<b>PEI</b>	<p>Sanctions:</p> <ul style="list-style-type: none"> <li>• Code must provide sanctions for breaches and may include a fine of not more than \$500.</li> </ul>

Despite the absence of the authority to impose monetary sanctions, Saskatoon and Winnipeg have both implemented an Integrity Commissioner. Staff from these municipalities noted that in the absence of greater sanctioning powers, their code regimes rely more on the public embarrassment of a complaint to act as a deterrent. Due to the few reported complaints and the relative recency of implementation in these municipalities, it is difficult to assess how effective this approach has been to date.

For the jurisdictions that do provide monetary sanctioning powers, the available reported examples of these powers being applied in practice mainly come from Ontario. In the cases reviewed, sanctions were imposed in the form of a suspension of the member's entire base salary. The duration of the suspension is typically adjusted based on the severity, up to 90 days for each code breach.

## **5. Review of AO 52**

### AO 52 Code Content

When assessed against similarly sized municipalities, AO 52 is comparatively basic in both scope and detail. Unlike the six jurisdictions examined, and until the MGA/HRM Charter amendments are proclaimed, there are no mandatory minimum standards for code content legislated by the Province. Moreover, AO 52 is based on the NSFM code template and, as previously noted, the template was developed with the intention of assisting smaller municipal units in the Province which may lack the necessary resources to develop their own. It was not intended to be used by a large municipality like HRM, which has greater resources and more complex needs.

The advent of social media as a popular platform for elected officials to connect with the public, along with the trend of provincial governments stepping in to legislate mandatory minimum standards of conduct, are just some of the pressures fostering increased expectations of accountability for elected municipal officials. As a result, a corresponding need has developed for clearer guidance as to what standards of conduct are expected under a code of conduct. The jurisdictional scan suggests that some municipalities in Canada have responded to these pressures by developing codes that provide greater detail, as well as increasingly utilizing annotated codes with context and commentary.

Therefore, it is suggested that the following key points from this report be used as the basis for HRM's position during provincial consultations on code of conduct regulations:

- The addition of absent common code provisions highlighted in the scan, such as the improper use of influence, among others;
- Drafting updated code provisions that move away from broad statements of principle towards provisions that are clear and concise;
- Incorporating definitions and cross-references to other applicable statutes and municipal policies where appropriate; and
- Adopting an annotated code format which incorporates context and commentary.

Once there is greater clarity on any additional requirements for code content or format that might be prescribed by provincial regulations, staff can return to Council with a recommendation for revisions to the content of AO 52.

### AO 52 Enforcement Protocol

As HRM is yet to receive the sanctioning powers necessary to adequately enforce provisions in AO 52, it is premature to consider adopting an updated enforcement protocol. Exploring enforcement protocol options may be included in the planned provincial consultations. Options that may be considered include mandatory protocols prescribed in legislation, as well as the possibility of a centralized body to handle code complaints for all NS municipalities.

Consequently, it is not recommended that Council explore hiring a full-time Integrity Commissioner or seek a formal retainer agreement with a third-party at this time. Once there is greater clarity on the legislative approach that the Province intends to adopt, and/or should HRM receive the requested legislative changes relating to sanctioning powers, then Council could explore ways to adopt a more robust enforcement protocol.

In the interim, Council has the authority to direct that a third-party consultant be retained. Under this option, complaints can be dealt with by a third-party consultant paid on an hourly rate when and if complaints arise that warrant a review by a third-party, as determined by Council.

In terms of enforcement protocols for HRM to bring forward during the consultations, Council could provide direction to put forward the components of an effective enforcement protocol as highlighted in the scan. Specifically, that any enforcement protocol:

- Be administered by an independent third-party;
- Include an informal process that would avoid investigations when appropriate and reduce costs;
- Include mechanisms for initial screening of complaints to allow for the quick disposition of frivolous complaints, etc.;
- Defer complaints before and during municipal elections;
- Ensure that principles of natural justice and procedural fairness are afforded to the parties throughout;
- Protect the confidentiality of the complaint and investigation process;
- Impose reasonable timeframes for investigation activities and reporting;
- Allow anyone to report a violation of the code;
- Include provisions protecting against reprisals and obstruction;
- Detail the potential ramifications of a breach of the Code; and
- Value accountability and transparency, with final decisions being made available to the public.

In accordance with the direction previously provided by Council in 2016, staff will continue to advocate for legislative changes for increased sanctioning powers for code breaches, including the authority to impose monetary sanctions.

### **FINANCIAL IMPLICATIONS**

There are no financial implications resulting from the material in this report.

### **RISK CONSIDERATION**

There are no significant risks associated with the recommendations in this report. The risks considered rate Low.

### **COMMUNITY ENGAGEMENT**

Not applicable.

### **ENVIRONMENTAL IMPLICATIONS**

Not applicable.

### **ALTERNATIVES**

Halifax Regional Council may provide direction to staff to return with a revised draft of AO 52 for Council's consideration, which incorporates any or all of the following:

- The necessary changes to respond to the recent HRM Charter amendments;
- Broader revisions of code content to better align AO 52 with best practices outlined in the scan included in this report; and
- An annotated code format that includes context and commentary.

This is not recommended until staff have engaged in the consultations with the Province, as any subsequent regulations may conflict with a revised code and necessitate additional revisions of AO 52.

Halifax Regional Council may provide direction to staff to return with recommendations on an enforcement protocol for AO 52. This is not recommended in the absence of monetary sanctioning powers, and prior to staff engaging in the planned consultations.

**ATTACHMENTS**

**Attachment A** – Administrative Order 52: Code of Conduct for Elected Officials

**Attachment B** - HRM Complaint Process Flow-Charts

**Attachment C** - Jurisdictional Scan of Code of Conduct Content

**Attachment D** – Toronto Interpretation Bulletin on the Use of Social Media by Members of Council

**Attachment E** – Jurisdictional Scan of Code of Conduct Enforcement Protocols

**Attachment F** – Integrity Commissioner Cost Breakdown for Ottawa and Windsor

**Attachment G** - Jurisdictional Scan of Code Sanctioning Powers

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A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: David Perusse, Intergovernmental Affairs Advisor, GREA, 902.490.7420

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**HALIFAX REGIONAL MUNICIPALITY  
ADMINISTRATIVE ORDER 52  
CODE OF CONDUCT  
FOR  
ELECTED MUNICIPAL OFFICIALS**

**BE IT RESOLVED AS AN ADMINISTRATIVE ORDER** of the Council of the Halifax Regional Municipality as follows:

**I. SHORT TITLE**

1. This Administrative Order may be cited as Administrative Order 52, the *Code of Conduct for Elected Officials*.

**IA. PURPOSE**

2. The public expects the highest standards of professional conduct from Members elected to local government. The purpose of this Code is to establish guidelines for the ethical and interpersonal conduct of Members of Council (“Members”). Council is answerable to the community through democratic processes and this Code will assist in providing for the good government of the Halifax Regional Municipality.

**II. STANDARDS OF CONDUCT**

3. Members shall uphold the law and at all times:

(a) Seek to advance the common good of the municipality as a whole while conscientiously representing the communities they serve.

(b) Perform the functions of office truly, faithfully and impartially to the best of their knowledge and ability in accordance with the following core values:

(i) **Integrity** – giving the municipality’s interests absolute priority over private individual interests;

(ii) **Honesty** – being truthful and open;

(iii) **Objectivity** – making decisions based on a careful and fair analysis of the facts;

(iv) **Accountability** – being accountable to each other and the public for decisions taken;

(v) **Leadership** – confronting challenges and providing direction on the issues of the day.

(c) Uphold this Code as a means of promoting the standards of behaviour expected of members and enhancing the credibility and integrity of Council in the broader community.

### **III. COUNCIL RESPONSIBILITIES**

4. The Council (or its designated committee) will:

(a) review the Halifax Regional Municipality's Code of Conduct for Elected Officials as required and make any amendments considered appropriate.

(b) review, consider or take other action concerning any violation of this Code of Conduct which is referred to Council for consideration.

(c) where there is any conflict between this Code of Conduct and the requirements of any statute of the provincial or federal government, provincial or federal statutes shall take precedence.

### **IV. MEMBER RESPONSIBILITIES**

#### ***Conduct to be Observed***

5. Members are agents of the public whose primary objective is to address the needs of the citizens. As such, they're entrusted with upholding and adhering to the by-laws of the municipality as well as all applicable provincial and federal laws. As public servants, Members must observe a high standard of morality in the conduct of their official duties and faithfully fulfill the responsibilities of their offices, regardless of their personal or financial interests.

#### ***Dedicated Service***

6. All Members should faithfully work towards developing programs to address the needs of the citizens in the course of their duties. Members should strive to perform at a level which is expected of those who work in the public's interest.

#### ***Respect for Decision-Making Process***

7. All Members recognize the responsibility of the Mayor to accurately communicate the Decisions of the Council, even if they disagree with such decisions, such that respect for the decision-making processes of Council is fostered.

#### ***Conduct at Meetings***

8. Members shall respect the chair, colleagues, staff and members of the public present during Council meetings or other proceedings of the municipality. Meetings shall provide an environment for transparent and healthy debate on matters requiring decision-making.

#### ***Release of Confidential Information Prohibited***

9. No Member shall disclose or release to any member of the public any confidential information acquired by virtue of their office, in either oral or written form except when required by law or authorized by the municipality to do so. Nor shall Members use confidential information for personal or private gain, or for the gain of relatives or any person or corporation.

#### ***Gifts and Benefits***

10. No Member shall show favouritism or bias toward any vendor, contractor or others doing

business with the municipality. Members are prohibited from accepting gifts or favours from any vendor, contractor or others doing business with the Municipality personally, or through a family member or friend, which could give rise to a reasonable suspicion of influence to show favour or disadvantage to any individual or organization.

#### ***Use of Public Property***

11. No Member shall request or permit the use of municipal-owned vehicles, equipment, materials, or property for personal convenience or profit, except where such privileges are granted to the general public. Members shall ensure that the business of the municipality is conducted with efficiency and shall avoid waste, abuse and extravagance in the provision or use of municipal resource.

#### ***Obligations to Citizens***

12. No Member shall grant any special consideration, treatment, or advantage to any citizen or group of citizens beyond that which is accorded to all citizens.

#### ***Interpersonal Behaviour***

13. Members shall treat every person, including other Members, corporate employees, individuals providing services on a contract for service, and the public with dignity, understanding and respect and ensure that their work environment is free from discrimination, bullying and harassment.

#### ***Community Representation***

14. Members shall observe a high standard of professionalism when representing the municipality and in their dealings with members of the broader community.

### **V. GOOD GOVERNANCE**

15. Members accept that effective governance of the municipality is critical to ensuring that decision are taken in the best interests of all stakeholders and to enable the municipality to function as a good corporate citizen.

### **VI. GOVERNMENT RELATIONSHIPS**

16. Members recognize the importance of working constructively with other levels of government and organizations in Nova Scotia and beyond to achieve the goals of the municipality.

### **VII. CONFLICT OF INTEREST AVOIDANCE**

17. Members are committed to making decision impartially and in the best interests of the municipality and recognize the importance of fully observing the requirements of the *Municipal Conflict of Interest Act*, R.S.N.S. 1989, c. 229 with regard to the disclosure and avoidance of conflicts of interest.

### **VIII. REPORTING BREACHES**

18. Persons who have reason to believe that this Code has ben breached in any way are encouraged to bring their concerns forward. No adverse action shall be taken against any Member or municipal employee, who, acting in good faith, brings forward such information.

**IX. CORRECTIVE ACTION**

19. Any reported violations of this Code will be subject to an investigation by Council. Council may retain an external consultant or panel with relevant experience to conduct an investigation and provide a report and recommendation to Council. If an investigation finds a Member has breached a provision of this Code, Council may take corrective action which may include censure of the Member, an apology to those affected by the breach, counselling, and withdrawal of appointment from any committee of Council.

**X. COMPLIANCE WITH CODE**

20. Members acknowledge the importance of the principles contained in this Code which will be self-regulated by Council. Councillors are required to sign a “Statement of Commitment to the Code” (Attachment A) within seven (7) days of taking the Councillors’ oath pursuant to section 147 of the *Municipal Elections Act*, R.S.N.S. 1989, c. 300.

**XI. OVERALL RESPONSIBILITIES**

21. The Halifax Regional Municipality Code of conduct for elected Municipal Officials applies to all members of Council.

Done and passed in Council this 23<sup>rd</sup> day of July, 2013.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Municipal Clerk

I, Cathy Mellett, Municipal Clerk of Halifax Regional Municipality, hereby certify that the above noted Administrative Order was passed at a meeting of Halifax Regional Council held on July 23, 2013.

\_\_\_\_\_  
Cathy Mellett, Municipal Clerk

**ATTACHMENT A**

**STATEMENT OF COMMITMENT TO THE ELECTED OFFICIALS CODE OF  
CONDUCT  
OF THE HALIFAX REGIONAL MUNICIPALITY**

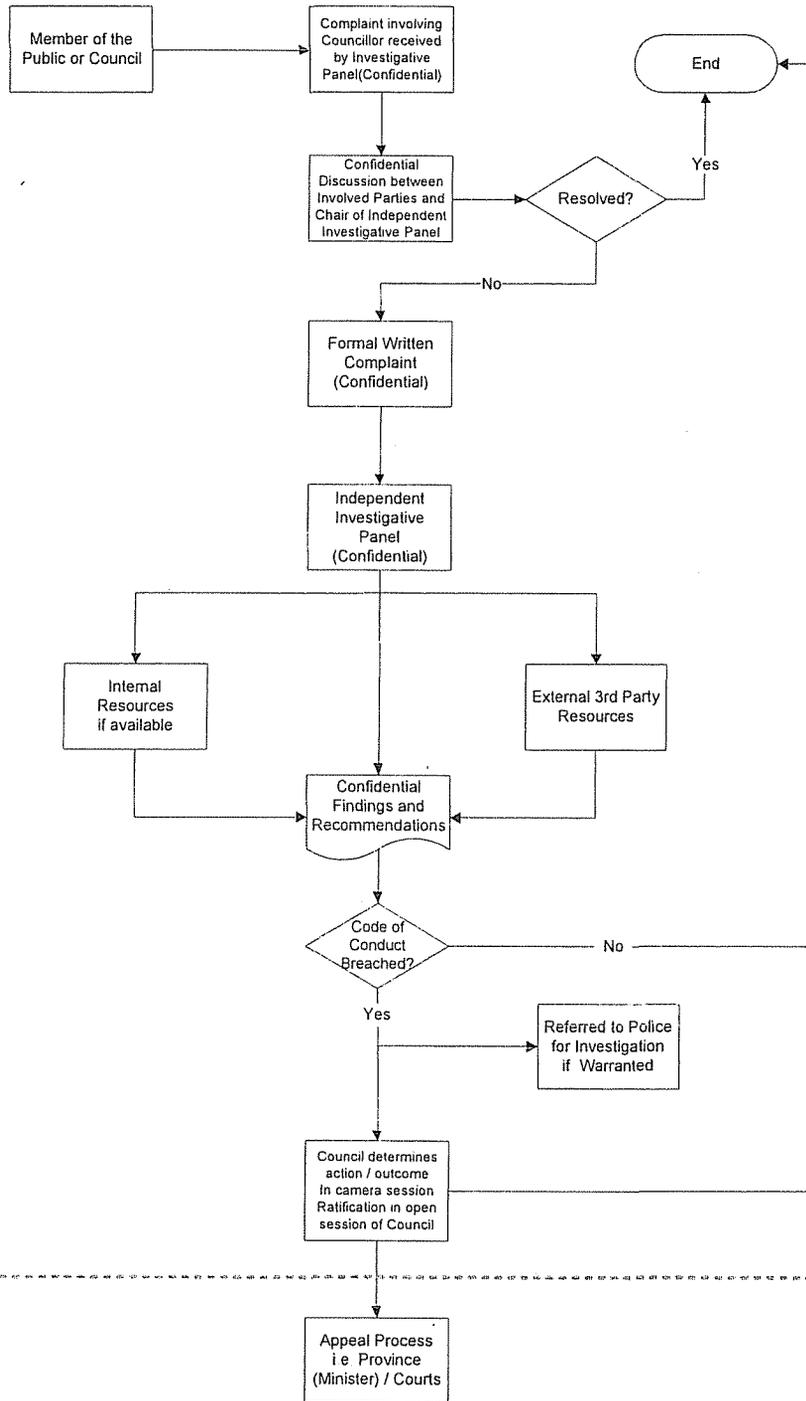
I, (Full Name) \_\_\_\_\_ declare that as a member of  
**HALIFAX REGIONAL COUNCIL** acknowledge and support the elected official's Code of  
Conduct.

Signed: \_\_\_\_\_

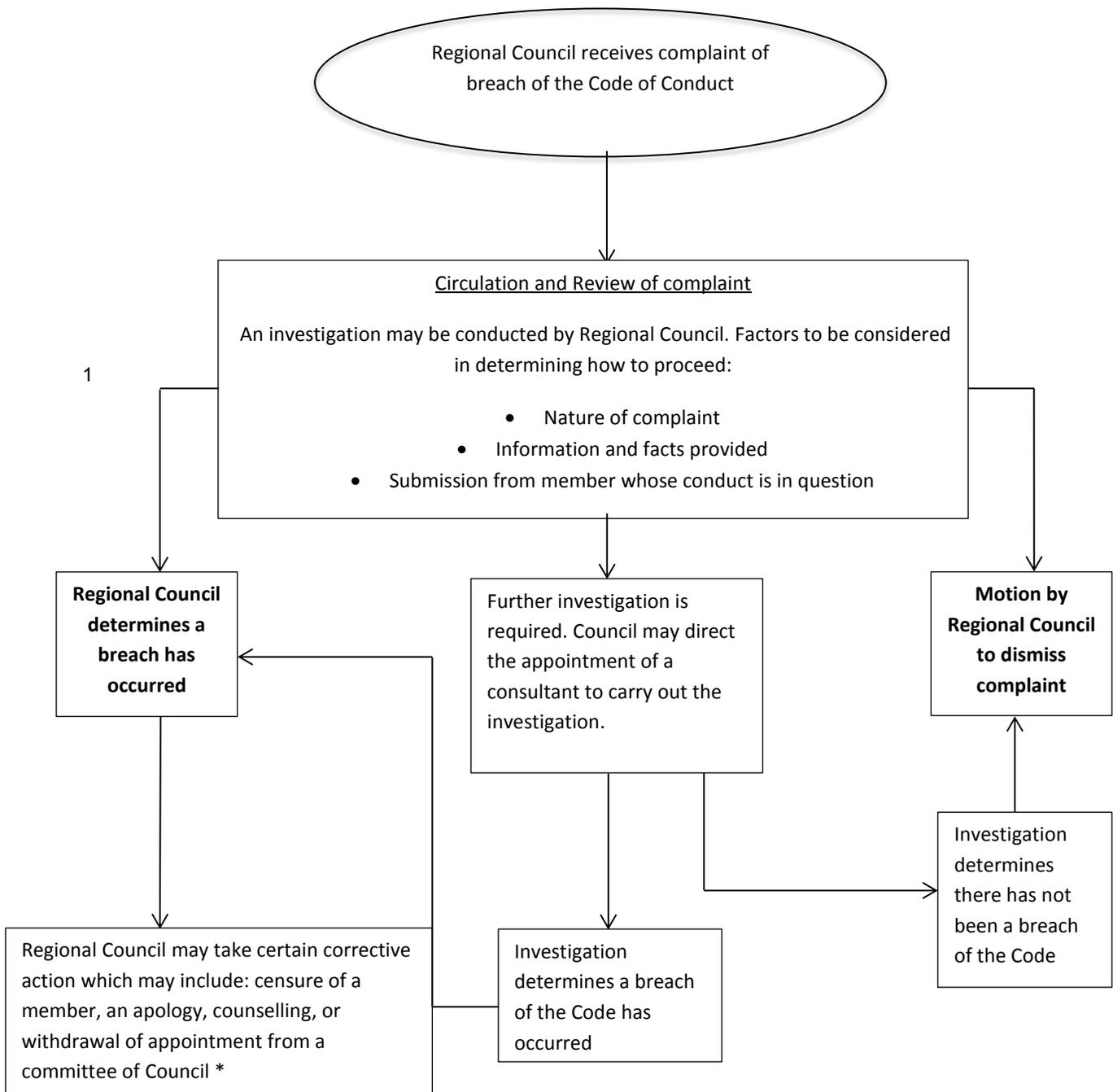
Declared this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_.

Before me:

\_\_\_\_\_  
**Municipal Clerk**



## Flow chart- Self-Governing Approach to Code of Conduct Complaints



## Attachment C

### Code of Conduct Jurisdictional Scan - Code Content

	Halifax	Calgary	Edmonton	Saskatoon	Winnipeg	Toronto	Ottawa	Kingston	Brampton	Windsor	Montreal	Charlottetown
<b>Annotated Code</b>	No	Yes	No	Yes	Yes	Yes	No	No	Yes	Yes	No	No
<b>Reference to Statutes</b>	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Definitions Included</b>	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Values/Principles</b>	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Confidential Informaiton</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Conflicts of Interest</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Gifts and Benefits</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Disclosure Statement</b>	No	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
<b>Public Communications</b>	Partial	Yes	Yes	Yes	No	No	No	No	Yes	Partial	No	Partial
<b>Improper Use of Influence</b>	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Partial	Yes
<b>Use of Municipal Resources</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Election Campaign Activities</b>	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
<b>Staff Interactions</b>	Partial	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Partial	Yes
<b>Respectful Conduct</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Discriminaiton &amp; Harrassment Policy</b>	No	Yes	Yes	Yes	No	Yes	Yes	No	Yes	No	Yes	No
<b>Adherence to Policies and Procedures</b>	No	Yes	Yes	Yes	Yes	Yes	Partial	Yes	Yes	Yes	No	No
<b>Required Training</b>	No	Yes	Yes	Yes	No	No	No	No	Yes	Yes	No	No
<b>Periodic Review</b>	No	Yes	No	Yes	No	No	No	No	Partial	Yes	No	Yes

## **Codes of Conduct Links**

**Calgary:** <https://www.calgary.ca/citycouncil/Pages/City-Council-Accountability.aspx>

**Edmonton:** [https://www.edmonton.ca/city\\_government/documents/Bylaws/C18483.pdf](https://www.edmonton.ca/city_government/documents/Bylaws/C18483.pdf)

**Saskatoon:** <https://www.saskatoon.ca/sites/default/files/documents/city-clerk/bylaws/9537.pdf>

**Winnipeg:** <https://www.winnipeg.ca/council/integritycommissioner/pdfs/CodeofConduct.pdf>

**Toronto:** <https://www.toronto.ca/wp-content/uploads/2017/08/9697-ICannotated-code-of-conduct-for-members-of-council.pdf>

**Ottawa:** <https://ottawa.ca/en/city-hall/accountability-and-transparency/accountability-framework/code-conduct-members-council-and-related-policies/code-conduct-and-related-policies#code-conduct-members-council>

**Kingston:** <https://www.cityofkingston.ca/documents/10180/14293/Code+of+Conduct/c77746fd-9c37-4462-af3d-719c2136a709>

**Brampton:** [https://www.brampton.ca/EN/City-Hall/IntegrityCommissionerReports/20180731\\_Rev\\_Rule14\(2\)\\_Brampton%20Code%20of%20Conduct-COUNCIL%20APPROVED%20version%20February%201%202016.pdf](https://www.brampton.ca/EN/City-Hall/IntegrityCommissionerReports/20180731_Rev_Rule14(2)_Brampton%20Code%20of%20Conduct-COUNCIL%20APPROVED%20version%20February%201%202016.pdf)

**Windsor:** <https://www.citywindsor.ca/cityhall/Municipal-Accountability-and-Transparency/Documents/Code%20of%20Conduct%20for%20Members%20of%20Council.pdf>

**Montreal:**  
[http://ville.montreal.qc.ca/pls/portal/docs/PAGE/prt\\_vdm\\_FR/MEDIA/DOCUMENTS/code\\_ethique\\_elus\\_en.pdf](http://ville.montreal.qc.ca/pls/portal/docs/PAGE/prt_vdm_FR/MEDIA/DOCUMENTS/code_ethique_elus_en.pdf)

**Charlottetown:** <https://www.charlottetown.ca/common/pages/DisplayFile.aspx?itemId=15363878>

<b>Code Content Jurisdictional Scan</b>	
<b>Code Area</b>	<b>Overview</b>
<b>Values &amp; Principles</b>	The majority of the comparator codes examined identify and elaborate on key values and principles that underline each code. These values are fairly consistent and are seen as fundamental to the successful performance of duties as an elected official. Clearly articulating values and principles assists readers in understanding the 'spirit of the law', which provides guidance on what constitutes appropriate conduct under a code.
<b>Codes Examined:</b>	
10/11	
<b>AO 52</b>	
Yes	
	<p>The current version of AO 52 contains the values of Integrity, Honesty, Objectivity, Accountability, and Leadership.</p> <p>Additional values commonly seen in comparator codes include Transparency, Respect, Dedication to Equality, Confidentiality, and Diligence, among others.</p> <p>It is also common for codes to outline an elected official's broad responsibility to avoid conflicts of interest, and to make decisions in the best interests of the Municipality as a whole.</p>
<b>Confidential Information</b>	All of the comparator codes contain provisions regarding the handling and use of confidential municipal information. Generally, these provisions: <ul style="list-style-type: none"> <li>• Require that members avoid the unauthorized release of confidential information; and</li> <li>• Require that members refrain from using confidential information for private gain.</li> </ul>
<b>Codes Examined:</b>	
11/11	
<b>AO 52</b>	
Yes	
	<p>Other common provisions relating to confidential information not present in AO 52 include:</p> <ul style="list-style-type: none"> <li>• That members access and use confidential municipal information only in the normal course of their duties and for the purpose that it was intended;</li> <li>• That members take reasonable care to prevent inadvertent disclosure of confidential information to unauthorized individuals; and</li> <li>• That members comply with the applicable provisions of the freedom of information and protection of privacy statutes in their jurisdiction, including a requirement that they respond to access to information requests fully and in good faith.</li> </ul> <p>Many of the codes examined additionally provide more detail as to what specifically constitutes confidential information.</p>
<b>Conflicts of Interest</b>	All comparator codes speak to a member's obligation to avoid conflicts of interests and to appropriately disclose conflicts that may arise. The most common conflict provision requires that members comply with the applicable municipal conflict of interest statute in their jurisdiction. However, these statutes typically focus on conflicts arising out of a member's pecuniary interests (or deemed pecuniary interests, etc).
<b>Codes Examined:</b>	
11/11	
<b>AO 52</b>	
Yes	
	Increasingly, codes are supplementing these statutes by seeking to impose a duty on members to avoid non-pecuniary conflicts as well as pecuniary conflicts. A key challenge with non-financial conflicts is that without the authority provided by statute, a code generally cannot include provisions that prevent members from fulfilling their legislated duties, including the duty to vote at council meetings. Therefore, unlike pecuniary interests under the

*Municipal Conflict of Interest Act*, a code generally cannot create additional duties that require that a member abstain from taking part in a debate or vote on an item due to a non-financial conflict.

However, it is common for codes to include a duty to avoid non-financial conflicts as part of the values and principles underlying the spirit of a code. These often include a requirement to act in the best interests of the municipality as a whole, and a requirement to keeping an open mind in the decision making process.

In terms of AO 52, it contains a provision that members abide by the requirements of the *Municipal Conflict of interest Act*. It also contains broader provisions, which set out a requirement that decisions be made in the best interests of all stakeholders. In this respect, AO 52 is fairly consistent with the codes examined.

<b>Gifts &amp; Benefits</b>
<b>Codes Examined:</b>
11/11
<b>AO 52</b>
Yes/Partial

All of the comparator codes incorporated provisions on gifts and benefits. In the majority of the codes examined, the ‘Gifts & Benefits’ provisions are framed as a general prima facie restriction on a member’s ability to accept or receive gifts and benefits connected directly or indirectly with the performance of their duties. Broad exceptions are then outlined in the code that dictate the circumstances and terms under which specific gifts and benefits may be accepted.

With few exceptions, the comparator codes additionally impose a requirement that individual or cumulative annual gifts or benefits over a certain threshold dollar value be reported/disclosed. This disclosure is done by way of a disclosure statement, which is typically filed with the Clerk’s Office and made available to the public.

The table below outlines the threshold dollar value from each comparator code that triggers the requirement to file a disclosure statement.

<b>Council Gifts and Benefits Reporting Threshold</b>	
<b>Municipality</b>	<b>Threshold</b>
Calgary	\$50
Edmonton	\$300
Saskatoon	\$100
Winnipeg	\$200
Toronto	\$300
Ottawa	\$100
Kingston	None
Brampton	\$50
Windsor	\$300
Montreal	\$200
Charlottetown	*Requires disclosure but no \$ threshold specified.
<b>Average:</b>	<b>\$177</b>

While AO 52 contains provisions on gifts and benefits, it is not framed as a prima facie restriction with detailed exceptions. Rather, AO 52 only provides a broad prohibition on accepting gifts or favours where it “could give rise to a reasonable suspicion of influence to show favour or disadvantage to any individual or organization.”

	The framing of gift and benefit provisions as prima facie restrictions, together with the requirement to file disclosure statements, represents two of the most notable discrepancies between AO 52, and the comparator codes.
<b>Improper Use of Influence</b>	All of the comparator codes cover the improper use of influence to some degree. These provisions typically prohibit the use of influence resulting from holding elected office to serve personal or private interest, rather than the municipality as a whole. These provisions generally seek to address any appearance of a two-tiered delivery of public services, and touch upon an elected member's duty to avoid conflicts, and their fiduciary duty to the municipality and the public.
<b>Codes Examined:</b>	
11/11	
<b>AO 52</b>	
No	
	<p>Of the codes examined, it is common to provide examples of the improper use of influence, with some of the common examples provided including:</p> <ul style="list-style-type: none"> <li>• Using one's status as elected official to influence the decision of another person to the private advantage of oneself, or one's family, staff members, friends or associates, business or otherwise.</li> <li>• Persuading someone to do something because the member will provide some future benefit in return.</li> </ul> <p>Some codes additionally cite prohibitions in the <i>Criminal Code</i> against municipal corruption.</p> <p>AO 52 does not contain specific provisions on the improper use of influence.</p>
<b>Use of Municipal Resources</b>	All comparator codes contain provisions relating to the appropriate use of municipal resources. Generally, these provisions require that members refrain from the use of municipal property and resources for any purpose other than in the normal course of their official duties as an elected official.
<b>Codes Examined:</b>	They prohibit the use of municipal resources for personal profit, as well as prohibiting members from unreasonably wasting public resources.
11/11	
<b>AO 52</b>	
Yes	
	<p>The codes examined are fairly consistent on these provisions in terms of scope; however, many codes provided greater guidance by including examples of prohibited uses, as well as noting the different types of property covered, such as intellectual property, email, computers, etc. The use of staff time is also regularly included as a resource.</p> <p>Decisions from Integrity Commissioners in Ontario help to illustrate the importance of providing this guidance. For instance, in a decision from Toronto's Integrity Commissioner, a Councillor was found to be in violation of their code as a result of their use of a municipal email distribution list, which they utilized for private purposes.<sup>1</sup></p> <p>While AO 52 contains a 'Use of Public Property' provision that is largely in keeping with those examined in other jurisdictions, it is broad and does not provide much guidance in terms of addressing appropriate access, use, and the different types of municipal property and resources covered.</p>
<b>Election Campaign Activities</b>	The majority of comparator codes include provisions detailing appropriate member conduct during election campaigning. These provisions supplement statutory requirements set out in the applicable municipal elections statutes, and tend to touch upon the proper use of municipal resources, and respectful

<sup>1</sup> <http://www.toronto.ca/integrity/pdf/nom-j35-1-report.pdf>

	interactions with others.
<b>Codes Examined:</b> 10/11 <b>AO 52</b> No	These provisions commonly include: <ul style="list-style-type: none"> <li>• A requirement that members abide by the provisions of the applicable municipal elections statute;</li> <li>• The appropriate use of municipal resources during elections, including the use of municipal websites, email and social media accounts;</li> <li>• Prohibitions against members engaging or seeking to engage municipal staff for election-related purpose during working hours; and</li> <li>• Requirements that members respect the political independence of municipal staff.</li> </ul>
	<p>It is common for codes to also include a statement reaffirming that members continue to be held to the same standards of ethical conduct during an election.</p> <p>AO 52 does not contain any provisions specifically relating to election campaign activities.</p>
<b>Staff Interactions</b>	All comparator codes contain provisions relating to appropriate member interactions with municipal staff. It is relatively common for staff interactions to fall under the broader provisions regarding 'respectful interactions'. However, 'staff interactions' are increasingly being addressed separately, and in more detail.
<b>Codes Examined:</b> 11/11 <b>AO 52</b> Partial	Some common themes from the codes examined relating specifically to member-staff interactions include: <ul style="list-style-type: none"> <li>• General prohibitions against intimidating, coercing, bullying, harassing or discriminating against staff;</li> <li>• A requirement that members respect the line between staff duties and activities that are political in nature;</li> <li>• A requirement that members respect staff's ability to provide advice that is politically neutral, and without undue influence from an individual member or faction of members;</li> <li>• A requirement that members avoid maliciously or falsely injuring the professional or ethical reputation of staff; and</li> <li>• A prohibition on inducing staff into doing something, which, if done by the member, would constitute a breach of the code.</li> </ul>
	<p>With regards to AO 52, staff interactions are only touched upon under the broad provisions of 'Interpersonal Behaviour.'</p>
<b>Respectful Conduct</b>	All comparator codes include provisions regarding respectful conduct. Generally, these provisions impose broad prohibitions against conduct that amounts to abuse, bullying, intimidating, harassing, and discriminating as it relates to interactions with other members of council, municipal staff, contractors, and members of the public. A member's duty to observe appropriate decorum at meetings of Council and committees is also commonly incorporated into these provisions.
<b>Codes Examined:</b> 11/11 <b>AO 52</b> Yes/Partial	
	Many of the codes examined seek to provide greater guidance on what constitutes abusive conduct, harassment and discrimination. For instance, it is common for codes to try and set out a definition of harassment in their

	<p>definition sections, if they have one. They also commonly make reference and note the applicability of the relevant human rights legislation in their jurisdiction.</p> <p>One of the most significant differences among the comparator codes is that 7 of 11 codes impose a requirement that members comply with their municipality's Harassment-free/Respectful Workplace Policy (or an equivalent/variation thereof).</p> <p>With regards to AO 52, respectful conduct is covered under 'Interpersonal Behaviour.' However, this provision is broad, and provides little guidance on what conduct constitutes bullying, harassment, etc. AO 52 does not reference the NS <i>Human Rights Act</i>, nor does it impose a requirement that members adhere to HRM's Workplace Harassment Prevention Policy.</p>
<p><b>Public Communications</b></p> <p><b>Codes Examined:</b> 6/11 <b>AO 52</b> No/Partial</p>	<p>For the municipalities that have sought to address public statements in their codes, the provisions tend to focus on the distinction between:</p> <ul style="list-style-type: none"> <li>• Public statements made on behalf of council or the municipality (which codes are most likely to regulate);</li> <li>• Public statements made in a members' individual capacity as a elected official (which codes are less likely to explicitly regulate); and</li> <li>• Public statements made in a member's personal/private capacity (which codes rarely touched upon beyond ensuring that an appropriate separation is maintained from statements made as an elected official).</li> </ul> <p>For public statements made on behalf of council or the municipality, the most common provisions include:</p> <ul style="list-style-type: none"> <li>• A requirement that members refrain from communicating on behalf of Council without being authorized to do so; and</li> <li>• When members communicate on behalf of the municipality, they must take reasonable care to ensure that their communications are fair and accurate.</li> </ul> <p>Public statements made in a member's individual capacity as a elected official have the potential to engage a number of common code provisions, such as those relating to respectful conduct, confidential information, the use of municipal resources, and the improper use of influence, among others. As such, the comparator codes tend rely on these common provisions rather than crafting rules specific to public statements. However, in the instances that they do, common provisions include:</p> <ul style="list-style-type: none"> <li>• A requirement that all communications must not discriminate, harass, defame, or disrespect others (generally an extension of 'respectful conduct' provisions); and</li> <li>• An obligation for members to avoid knowingly making statements that are false or misleading.</li> </ul> <p>With regards to other public statements, codes tend to only focus on ensuring that appropriate lines are drawn between a member communicating in their personal/private capacity vs. as an elected official. A good example of this is seen in social media use, as well as in election campaign activities. For the few municipalities that have addressed social media use in their</p>

	<p>codes, the provisions typically require that personal accounts be kept clearly separate from their professional accounts. In the instance of election activities, municipal resources should not be used for communications, such as social media accounts, logos, distribution lists, etc.</p> <p>AO 52 only specifically contains provisions relating to communications made on behalf of Council, noting that it is “the responsibility of the Mayor to accurately communicate the decisions of the Council...”. The provisions in AO 52 relating to Interpersonal Behaviour and the Use of Municipal Resources could be extended to cover some of the aspects of public statements outlined above.</p>
<b>Adherence to Policies &amp; Procedures</b>	<p>With few exceptions, the comparator codes include provisions requiring that members observe the terms of all policies and procedures established by council. Commentary in these codes often explains the rationale underlying these provisions, noting that the purpose is to show leadership and good governance by upholding bylaws, policies, and procedures adopted by council.</p>
<b>Codes Examined:</b>	
9/11	
<b>AO 52</b>	
No	<p>It is common for these provisions to also allow for members to request that council grant them an exception from the requirement to observe the terms of a specific policy or procedure.</p> <p>Additionally, the codes examined commonly note that members are required to adhere to provincial and federal statutes. Specific statutes of particular applicability to member conduct are often listed, and typically include:</p> <ul style="list-style-type: none"> <li>• A municipality’s enabling statute;</li> <li>• Municipal conflict of interest statutes;</li> <li>• Municipal elections statutes;</li> <li>• Freedom of information statutes;</li> <li>• Provincial human rights statutes; and</li> <li>• The <i>Criminal Code</i>.</li> </ul> <p>AO 52 imposes an obligation on members to uphold and adhere to “the by-laws of the municipality as well as all applicable provincial and federal laws.” It does not list the relevant statutes, nor does it contain any provision requiring members to adhere to policies and procedures adopted by Council.</p>
<b>Mandatory Training</b>	<p>While the majority of comparator codes make reference to members receiving training and education relating to their ethical obligations as elected municipal officials, about half of the codes impose a requirement that members attend and partake in this training.</p>
<b>Codes Examined:</b>	
5/11	
<b>AO 52</b>	
No	<p>AO 52 imposes a requirement that members sign a ‘Statement of Commitment’ to the code of conduct, which is a requirement seen in many of the comparator codes. However, AO 52 does not impose a requirement that members attend code of conduct training.</p>
<b>Periodic Review</b>	<p>There is a growing trend in the municipalities examined to treat their codes as a “living document”. These codes tend to contain provisions requiring that the code be brought forward for regular review, the requirement for which is typically triggered by the election of a new council, when relevant legislation is amended, or at other times when appropriate. The purpose is to ensure</p>
<b>Codes Examined:</b>	
5/11	
<b>AO 52</b>	
No	

	<p>that the code remains current, consistent with the values of council and the municipality, and continues to be a useful guide to members of council. If context and commentary are provided as part of a code, these are also updated and added to as appropriate.</p> <p>Currently, AO 52 notes that it is Council's responsibility to review and update the Code when appropriate. However, there is no requirement that AO 52 be reviewed and amended when a new council commences its term, when there is a legislative amendment, etc.</p>
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# Use of Social Media by Members of Council

## Purpose of the Bulletin

1. The purpose of this Interpretation Bulletin is to clarify how the Code of Conduct for Members of Council (the "Code of Conduct") guides a member's use of social media.
2. Failure to follow the guidance set out in this Interpretation Bulletin could lead to a finding that a member has contravened the Code of Conduct. Members can seek confidential advice from the Integrity Commissioner with respect to specific situations that may arise.
3. The Bulletin also includes example scenarios that are intended to assist members, their staff, and the public to understand how the Code of Conduct will be interpreted in relation to social media use. Members should seek individual, fact-specific advice to address their questions or concerns.

## Definition of Social Media

4. Social Media refers to freely accessible, third-party hosted, interactive Internet technologies used to produce, post and interact through text, images, video, and audio to inform, share, promote, collaborate or network. A non-exhaustive list of examples of social media in use in April 2016 include: Twitter, Facebook, Instagram, Snapchat, YouTube and LinkedIn.
5. Common features of social media are: accounts can be acquired at no cost; and, content is by default public and permanent.

## Articles of the Code of Conduct

6. Use of social media has the potential to engage all parts of the Code of Conduct, and in particular:
  - a. Preamble
  - b. Article II (Statutory Provisions Regulating Conduct)
  - c. Article IV (Gifts and Benefits)
  - d. Article V (Confidential Information)
  - e. Article VI (Use of City Property, Services and Other Resources)

- f. Article VII (Election Campaign Work)
- g. Article VIII (Improper Use of Influence)
- h. Article XI (Conduct at Council and Committee Meetings)
- i. Article XII (Conduct Respecting Staff)
- j. Article XIV (Discreditable Conduct)
- k. Article XV (Failure to Adhere to Council Policies and Procedures)

## Relevant Legislation and Policies

- 7. Use of social media has the potential to engage provincial legislation and City policies, including:
  - a. *Municipal Elections Act, 1996*, S.O. 1996, c. 32, Sched. (as amended)
  - b. *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50
  - c. City of Toronto *Policy on Use of City Resources during an Election* (as amended)
  - d. City of Toronto *Constituency Services and Office Budget Policy* (as amended)
  - e. City of Toronto *Corporate Identity Program* (as amended)

## Principles

- 8. Social media provides members with a valuable and convenient tool to communicate, inform and engage Torontonians about City Council work and members' activities to represent and advocate for ward interests. Social media allows for efficient and direct engagement between members and Torontonians. When used in accordance with the Code of Conduct, social media enables members to showcase their diligent and conscientious service to their constituents and can help to improve trust and confidence in City Council and the City of Toronto.
- 9. Successful social media use requires authenticity, interactivity and a blending of the personal with the professional.
- 10. As with any other activity, members of Council must ensure that their use of social media is mindful of, and consistent with, the Code of Conduct and City policies.
- 11. Use of a member's title in a social media profile provides legitimacy – from the perspective of social media providers and the public – and authority and influence similar to use of letterhead or other incidents of office. A member's title can only be used for City purposes and not for campaign purposes.

12. Social media use is not completely "cost-free." City logos, staff, volunteers assisting with council office work, computers, smart phones, services and email accounts are City resources and can only be used for City purposes and certainly not for campaign purposes.
13. Consumers of social media control whether to follow, friend or connect with members on social media.

## Guidance

### Use of Title, City Property, Services and Other Resources, and Influence of Office

14. Articles VI, VII and VIII of the Code of Conduct impose limitations on how a member uses City resources, including the member's title and influence of office.
15. Subject to the considerations in paragraph 17, a member must not post the following content using any social media account that, at the time of posting, is identified as a member's social media account or uses publicly-funded resources:
  - a. content that promotes or appears to promote any third-party interest including events, products, services, or goods; or
  - b. content that promotes or appears to promote any candidate or political party in any election at the municipal, federal or provincial level, including leadership campaigns.
16. A social media account is "identified as a member's social media account" or one that "uses publicly-funded resources" within the meaning of paragraph 15 if it:
  - a. uses any toronto.ca email address as a point of contact for registration purposes;
  - b. identifies the member as a current member of Toronto City Council in the handle name, the user name or the profile description;
  - c. is publicized on the member's constituency website or the City of Toronto's contact page for members of Council;
  - d. is publicized on business cards, newsletters or other publications eligible to be paid for out of the *Constituency Services and Office Budget* for the duration of the currency of the publication;
  - e. uses the logo or any other proprietary mark of the City of Toronto;
  - f. contains contact information for the member at City Hall, a ward constituency office or any other official contact information;
  - g. is managed using City of Toronto resources including computers, smart phones, or tablets; or

- h. is managed or maintained by City staff, the member's staff or volunteers, or using services eligible to be paid for out of the *Constituency Services and Office Budget*.
- 17. It is acknowledged that as a part of their representative duties, members regularly participate and engage in local events and activities with constituents, including local businesses, and members will use social media to publicize these kinds of activities. Members also use social media to inform residents about federal, provincial, and City programs. A member may therefore post the following types of content as long as it is occasional, voluntary, unsolicited and otherwise in accordance with the Code of Conduct:
  - a. content that raises awareness of local events and activities;
  - b. content that raises awareness of federal and provincial government programs;
  - c. content that publicizes the member's attendance at a ceremony, event or activity that is otherwise permissible under the Code of Conduct; or,
  - d. content that publicizes the member's interactions with constituents, including local businesses.
- 18. Members should exercise caution and seek specific advice from the Integrity Commissioner to determine whether the content meets the criteria in paragraph 17.

### **Specific Election Year Requirements**

- 19. To comply with the *Municipal Elections Act, 1996*, the Code of Conduct and the *City's Policy on Use of City Resources During an Election*, members must take affirmative steps to clearly distinguish between use of social media for personal or election purposes on the one hand, and use of social media in his or her capacity as a City official on the other. To take such affirmative steps members must adopt one of the following two approaches:
  - a. *Maintaining Separate Election Accounts*. Establish separate and distinct social media accounts for re-election purposes that are clearly labelled as election accounts and that are not "identified as a member's account" or one that "uses publicly-funded resources" within the meaning of this Bulletin. Members who establish separate and distinct social media accounts for re-election purposes may continue to use social media accounts described in paragraph 16 of this Bulletin throughout the "election campaign period" as defined in s. 88.24 of the *Municipal Elections Act, 1996*.

- b. *Maintaining a Single Account Subject to Restricted Use.* Members who choose not to maintain separate and distinct election accounts and who intend to use a social media account that has ever been "identified as a member's social media account" or "used publicly-funded resources" within the meaning of this Bulletin for any purpose relating to their re-election must (as applicable):
- i. on May 1 of the election year until the end of the "election campaign period" defined in s. 88.24 of the *Municipal Elections Act, 1996*,
    1. cease producing and distributing any publication, including business cards, that includes account information (i.e. user names, handle names) for the social media account;
  - ii. for the duration of the "election campaign period" as defined in s. 88.24 of the *Municipal Elections Act, 1996*:
    1. remove any reference to the City of Toronto, the City logos or images proprietary to the City of Toronto, and reference to the member's title from the account handle name, the user name, or the profile description;
    2. ensure that the account's registration information does not include any toronto.ca email addresses or City of Toronto phone numbers;
    3. remove all reference to the account from the member's website or the City of Toronto website;
    4. formally inform staff and volunteers who previously had a role with respect to managing a social media account that no City resources whatsoever, including computers, devices and staff, may be used to maintain the account and proactively monitor staff and volunteers to ensure that no such actions are taken, and,
    5. expressly notify followers or friends on the social media platform that the account will be used for purposes related to re-election, provide an alternative source of information for followers interested in constituency services, and label the account appropriately.

### **Confidential Information & *In Camera* Meetings (Article V and Article XI)**

20. The Code of Conduct prohibits members from disclosing or releasing confidential information acquired by virtue of their office. Members must not post content on social media that discloses information or conduct during *in camera* or other confidential meetings. Due to the immediacy of social media and its ease of

access on smart phones or computers, members should not use social media in any form during *in camera* or other confidential meetings.

### **Respecting Staff (Article XII)**

21. The Code of Conduct requires members to be respectful of the role of staff to provide professional and politically neutral advice. Members should not use social media to engage in criticism of City staff. The public nature of social media can increase the risk of harming the professional and ethical reputation of City staff.

### **Respecting Each Other and the Public (Article XIV)**

22. Just as Torontonians expect members of Council to maintain decorum at City Hall, they also expect members to act with decorum on social media. Members must never use social media as a platform to treat members of the public, one another, or staff without respect. Members should not engage in or encourage bullying, flaming, or shaming of any other social media users. These types of interactions on social media misplace the focus of the interaction on attacking individuals rather than engaging in constructive discussion or debate. This manner of communication is inconsistent with the Code of Conduct and unbecoming of the office that members hold.

### **Further Information**

This interpretation bulletin is intended to provide general information. To rely on the Integrity Commissioner's advice respecting specific situations, members must seek written advice consistent with Article XVII of the Code of Conduct.

If you have any questions, please contact:

Office of the Integrity Commissioner  
City of Toronto  
375 University Avenue, Suite 202  
Toronto, ON M5G 2J5  
Tel: 416-392-3826  
Email: [integrity@toronto.ca](mailto:integrity@toronto.ca)

**Issued: October 2016**

# Examples for Interpretation Bulletin: Use of Social Media by Members of Council

*A member of Toronto City Council is a frequent user of Twitter. She regularly tweets about City business, her activities in the ward, and about her family. Her Twitter biography identifies her as a councillor and her constituency website includes her Twitter handle. The member drops by a local café in her ward, as she often does, and picks up a scone on her way to work. The member tweets a picture of the scone with the text, "looking forward to breakfast from the [name of the café]". The member is not offered any compensation or benefit for the tweet and she has no ownership interest in the café. The café does not have any issue or interest with the City.*

This is an acceptable, occasional use of Twitter. Regular promotion of third party interests may increase the perception that a member is improperly using the influence of the member's office to benefit the third parties. Although the tweet is a form of promotion of a local business, it is acceptable in this case. The activity is consistent with the member's ordinary Twitter use of sharing information about her personal life, she has not been asked or compensated through payment or any gift to tweet information about the café. The member has no conflict of interest and has nothing to benefit or gain from the tweet.

*As part of a public relations campaign to launch a new local business, a business writes to the local councillor to request that she tweet the announcement about the opening of the business. The Councillor is identified as a City councillor in her Twitter bio and her staff are assigned to help the Councillor manage the Twitter account. Can the Councillor tweet this information?*

No, this is not an acceptable use of the Councillor's Twitter feed. While there are many benefits of social media, social media is also a vehicle to drive commercial gain. The Councillor must be careful not to lend her title to the cause of promoting this third party interest. This circumstance is different from the coffee shop example above because in this case, the business solicited the tweet, and it was not part of the member's ordinary Twitter use.

*A deputy mayor attends the opening of the headquarters of a multi-national company that recently moved its office to Toronto and, on behalf of the Mayor and Council, has been asked to make remarks at the opening. The deputy mayor has a Twitter account that identifies himself as the deputy mayor. He tweets a picture of himself making the*

*remarks with the caption, "Welcome to Toronto!" The picture includes the company's logo. Is this an acceptable use?*

The member's attendance at the event is acceptable in accordance with the Code of Conduct and the tweet was organic, not solicited as part of a broader commercial campaign to promote the company. Although the tweet is a form of promotion, it is acceptable for him to tweet about the event in the manner that he did because it was merely a publication of the deputy mayor performing his legitimate duties for Council.

*A not-for-profit agency within the member's ward asks a member to re-tweet a link to a webpage advertising an upcoming fundraising event. The agency offers the member a ticket in return for the tweet. The member does not use any City resources for her Twitter account, including a City phone and computer, and she does not indicate that she is a councillor in her profile or handle, but she has a large following.*

Without the offer of the ticket, the member would have been free to publicize the community event using social media. The agency's offer of the ticket in exchange for the tweet, however, engages Article IV of the Code of Conduct (Gifts and Benefits) and has compromised the situation. The member should refuse the ticket and decline to retweet the event.

*A member has established a Snapchat account without using any City resources. He wants to use the platform to give his followers an insider's look at the work in his Office. The member uses Snapchat to create a ten second video of his view from his desk. Without realizing it, the member includes a copy of the front page of a confidential report going to City Council.*

By publishing this photo the member has contravened Article V (Confidential Information) of the Code of Conduct. However, fleeing the publication on Snapchat,<sup>1</sup> the image could be saved and stored. Members are reminded that content on social media is by default public and permanent, even where there are attempts to subsequently delete the information.

*A member is involved in a federal election and is volunteering his time to door knock for a particular candidate. The member takes a picture of himself and the candidate using*

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<sup>1</sup> Snapchat allows users to share photos and videos and to set the amount of time the image can be viewed. After the length of time expires, the image becomes inaccessible and is not saved on the platform.

*his City phone and uses his City phone to publish a status update on Facebook with the picture. The Facebook account used by the member does not identify him as a councillor so his only use of resources is the City phone.*

This is not a permitted use of a City resource. The Code of Conduct, the *Municipal Elections Act, 1996*, and the *Policy on Use of City Resources during an Election* prohibit the use of any City resource to support any candidate.

*A member has a Twitter account with the handle @CouncillorJoeSmith. His profile does not indicate that he is a City councillor but the Twitter handle is published on his business card. He wishes to convert this account to a campaign account for the 2018 election. Can he keep the same handle? What other steps must he take?*

Councillor Smith's best approach would be to establish a separate account solely for the purpose of the election that would remain dormant outside of the election campaign period.

However, if he wishes to use the existing “@CouncillorJoeSmith” account as a campaign account for the election campaign period, he must follow the guidance in paragraph 19(b) of this Interpretation Bulletin. This means that Councillor Smith must:

- on or before May 1, 2018, cease producing and distributing any business card with the “@CouncillorJoeSmith” Twitter handle on it, and,
- on or before the date he files nomination papers: change the handle to eliminate the reference to "councillor", ensure that his toronto.ca email is not used as a point of contact for his account, expressly notify his Twitter followers that the account will be used for purposes related to the election, and provide an alternative source for information for followers interested only in constituency services.

### **Examples Issued: October 2016**



## **Enforcement Protocol Links**

**Calgary:** <https://www.calgary.ca/citycouncil/Pages/City-Council-Accountability.aspx>

**Edmonton:** [https://www.edmonton.ca/city\\_government/documents/Bylaws/C18483.pdf](https://www.edmonton.ca/city_government/documents/Bylaws/C18483.pdf)

**Saskatoon:** <https://www.saskatoon.ca/sites/default/files/documents/city-clerk/bylaws/9537.pdf>

**Winnipeg:** <https://www.winnipeg.ca/council/integritycommissioner/pdfs/CodeofConduct.pdf>

**Toronto:** <https://www.toronto.ca/wp-content/uploads/2017/10/96bf-code-of-conduct-complaint-protocol-for-members-of-council.pdf>

**Ottawa:** <https://ottawa.ca/en/city-hall/accountability-and-transparency/accountability-framework/code-conduct-members-council-and-related-policies/code-conduct-and-related-policies#code-conduct-members-council>

**Kingston:**

<https://www.cityofkingston.ca/documents/10180/75080/Complaint+Protocol/0d1164d8-8f9e-4db5-90c4-b8f5de024b6b>

**Brampton:** [https://www.brampton.ca/EN/City-Hall/IntegrityCommissionerReports/20180731\\_Rev\\_Rule14\(2\)\\_Brampton%20Code%20of%20Conduct-COUNCIL%20APPROVED%20version%20February%202016.pdf](https://www.brampton.ca/EN/City-Hall/IntegrityCommissionerReports/20180731_Rev_Rule14(2)_Brampton%20Code%20of%20Conduct-COUNCIL%20APPROVED%20version%20February%202016.pdf)

**Windsor:** <https://www.citywindsor.ca/cityhall/Municipal-Accountability-and-Transparency/Integrity-Commissioner/Documents/Complaint%20Protocol.pdf>

**Montreal** (*Municipal Ethics and Good Conduct Act*): <http://legisquebec.gouv.qc.ca/en/pdf/cs/E-15.1.0.1.pdf>

**Charlottetown:**

<https://www.charlottetown.ca/common/pages/DisplayFile.aspx?itemId=15363878>

### Integrity Commissioner Cost Breakdown for Ottawa and Windsor

To provide a clearer picture of the annual net expenditures made by municipalities which hold their Integrity Commissioners on retainer, below is a more detailed breakdown of the expenses incurred for the cities of Ottawa and Windsor.

<b>City of Ottawa</b>					
<b>Integrity Commissioner Retainer</b>	\$25,000 annual retainer and \$200 hourly rate up to a daily maximum of \$1,000				
<b>Expense Breakdown</b>					
	Q4 2017	Q1 2018	Q2 2018	Q3 2018	Total
Retainer				\$25,449.00	\$25,449.00
Salary	\$20,962.56	\$16,586.88	\$19,334.40	\$23,506.56	\$80,390.40
Ancillary Costs (Parking, cell phone, business travel)	\$1,096.58	\$771.96	\$1,496.84	\$5,616.35	\$8,981.73
Hours Logged	103	81.5	95	115	394.5
<a href="https://documents.ottawa.ca/sites/documents/files/2018%20Annual%20Report%20of%20the%20Integrity%20Commissioner.pdf">https://documents.ottawa.ca/sites/documents/files/2018%20Annual%20Report%20of%20the%20Integrity%20Commissioner.pdf</a>					

<b>City of Windsor</b>							
<b>Integrity Commissioner Retainer</b>	\$12,000 annual retainer and \$300 hourly rate						
<b>Expense Breakdown</b>							
Year	Retainer	Total hours	Total fees	Total Fees Discounted	Disbursements	Travel Expenses	Total Fees Charged
2011	\$5,000	22.5	\$6,750	(\$4,050)	Nil	Nil	\$7,700
2012	\$12,000	137.9	\$41,370	(\$10,890)	\$73.34	\$480	\$43,033
2013	\$12,000	69.6	\$20,880	(\$2,280)	Nil	Nil	\$30,600
2014	\$12,000	36.2	\$10,860	(\$510)	Nil	Nil	\$22,350
2015	\$12,000	42	\$12,600	(\$3,975)	Nil	Nil	\$20,625
<b>Total</b>	<b>\$53,000</b>	<b>308.2</b>	<b>\$92,460</b>	<b>(\$21,705)</b>	<b>\$73.34</b>	<b>\$480</b>	<b>124,308</b>
<a href="https://www.citywindsor.ca/cityhall/City-Council-Meetings/CouncilReports/Documents/Appointment%20of%20Integrity%20Commissioner.pdf">https://www.citywindsor.ca/cityhall/City-Council-Meetings/CouncilReports/Documents/Appointment%20of%20Integrity%20Commissioner.pdf</a>							

## Legislative Overview of Code of Conduct Sanctioning Powers

### Alberta

#### Municipal Government Act, RSA 2000, c M-26

<https://www.canlii.org/en/ab/laws/stat/rsa-2000-c-m-26/latest/rsa-2000-c-m-26.html?resultIndex=1>

#### Bylaws — codes of conduct

**146.1(1)** A council must, by bylaw, establish a code of conduct governing the conduct of councillors.

**(2)** A code of conduct under subsection (1) must apply to all councillors equally.

**(3)** A council may, by bylaw, establish a code of conduct governing the conduct of members of council committees and other bodies established by the council who are not councillors.

**(4)** A councillor must not be disqualified or removed from office for a breach of the code.

**(5)** The Minister may make regulations

- (a) respecting matters that a code of conduct established under subsection (1) must address;
- (b) respecting the date by which councils must establish a code of conduct under subsection (1);
- (c) respecting sanctions to be imposed for a breach of a code of conduct established under subsection (1);
- (d) respecting matters that a council must take into consideration in establishing a code of conduct under subsection (1) or (3), or both;
- (e) respecting implementation of a code of conduct established under subsection (1) or (3), or both;
- (f) respecting any other matter the Minister considers necessary or advisable to carry out the intent and purpose of this Division.

#### Code of Conduct for Elected Officials Regulation (Under the MGA)

<https://www.canlii.org/en/ab/laws/regu/alta-reg-200-2017/latest/alta-reg-200-2017.html>

#### Sanctions for breaching code of conduct

**5** If a councillor has failed to adhere to the code of conduct, sanctions may be imposed including any of the following:

- (a) a letter of reprimand addressed to the councillor;
- (b) requesting the councillor to issue a letter of apology;
- (c) publication of a letter of reprimand or request for apology and the councillor's response;
- (d) a requirement to attend training;
- (e) suspension or removal of the appointment of a councillor as the chief elected official under section 150(2) of the Act;
- (f) suspension or removal of the appointment of a councillor as the deputy chief elected official or acting chief elected official under section 152 of the Act;
- (g) suspension or removal of the chief elected official's presiding duties under section 154 of the Act;

(h) suspension or removal from some or all council committees and bodies to which council has the right to appoint members;

(i) reduction or suspension of remuneration as defined in section 275.1 of the Act corresponding to a reduction in duties, excluding allowances for attendance at council meetings.

### **Municipal Government Act**

#### **Expense allowance**

275.1(1) In this section, “remuneration” includes salaries, indemnities, honorariums and allowances.

(2) One third of the remuneration paid in 1999 and later years by a municipality to a councillor is deemed to be an allowance for expenses that are incidental to the discharge of the councillor’s duties.

(3) Subsection (2) does not apply to a councillor’s remuneration paid in a year if there is in force during all or any part of that year a bylaw or resolution of council establishing that a portion other than 1/3 of the councillor’s remuneration is an allowance for expenses that are incidental to the discharge of the councillor’s duties.

### **Calgary**

92. Sanctions that may be imposed for violating this Bylaw or a *City* policy governing *Member* conduct include any of the following:

(a) a letter of reprimand addressed to the *Member*;

(b) a request that the *Member* issue a letter of apology;

(c) the publication of a letter of reprimand or request for apology by the *Integrity Commissioner*, and the *Member’s* response;

(d) a requirement that the *Member* attend training;

(e) suspension or removal of the appointment of a *Member* as the *Deputy Mayor*;

(f) suspension or removal of the *Mayor’s* presiding duties under section 154 of the *Municipal Government Act* R.S.A. 2000, c. M-26;

(g) suspension or removal of the *Member* from some or all *Council* committees and bodies to which the *Member* was appointed by *Council*; or

(h) reduction or suspension of the *Member’s* remuneration as defined in section 275.1 of the *Municipal Government Act*, R.S.A. 2000, c. M-26, corresponding to a reduction in duties, excluding allowances for attendance at council meetings.

<https://www.calgary.ca/citycouncil/Pages/Integrity-Ethics.aspx>

### **Edmonton**

### **Scheduled C - Sanctions**

Council may, by motion passed by special resolution, impose any of the following sanctions:

- a) issue a letter of reprimand addressed to the Councillor;
- b) require the Councillor to issue a letter of apology;
- c) direct the publication of a letter of reprimand or request for apology and the Councillor's response;
- d) pass a motion to censure;
- e) require the Councillor to attend specified training;
- f) suspend the Councillor from acting as deputy Mayor or acting Mayor, and assign those roles to another Councillor;
- g) suspend the Councillor's duties as chair of Council or council committee meetings and assign those duties to another Councillor;
- h) suspend the Councillor's membership on a council committee;
- i) restrict the Councillor's access to electronic confidential records and require the Councillor to return copies of Council records following each meeting; or
- j) any other sanction Council deems appropriate.

<https://www.edmonton.ca/documents/Bylaws/C18483.pdf>

## **Saskatchewan**

### **The Cities Act, SS 2002, c C-11.1**

**66.1** (5) The code of ethics adopted pursuant to subsection (1) must:

- (a) include the prescribed model code of ethics;
- (b) comply with any prescribed requirements regarding adoption, updating and public accessibility; and
- (c) set out the process for dealing with contraventions of the code of ethics.

(6) In addition to the matters set out in subsection (5), the code of ethics may include:

- (a) codes of ethics for members of committees, controlled corporations and other bodies established by council who are not members of council;
- (b) subject to the regulations, rules regarding the censure or suspension of a member of council who has contravened the code of ethics;

(c) policies, rules and guidelines regarding a member of council accepting gifts or other benefits in connection with that member's holding of office; and

(d) any other statements of ethics and standards determined to be appropriate by the council.

(7) The Lieutenant Governor in Council may make regulations prescribing:

(a) the model code of ethics;

(b) the period within which a code of ethics must be adopted by the council, including prescribing different dates for different cities;

(c) the form of a code of ethics adopted pursuant to this section and the manner of its adoption, updating and being made publicly accessible;

(d) rules or limitations regarding the censure or suspension of a member of council who has contravened a code of ethics adopted pursuant to this section;

(e) the public notice and public reporting required in relation to a code of ethics adopted pursuant to this section;

(f) any other matter or thing that the Lieutenant Governor in Council considers necessary for the purposes of this section.

<https://www.canlii.org/en/sk/laws/stat/ss-2002-c-c-11.1/latest/ss-2002-c-c-11.1.html?resultIndex=1>

*\* No regulations regarding sanctions have been made to date.*

## **Saskatoon**

**92** (3) Possible censure, sanctions or corrective actions may include the following:

(a) a letter of reprimand addressed to the member;

(b) requesting the member to issue a letter of apology;

(c) publishing a letter of reprimand or request for apology and the member's response;

(d) requiring the member to attend training;

(e) suspending or removing the member from Council committees or other bodies;

(f) suspending or removing the member from a position of chairperson of a Council committee.

<https://www.saskatoon.ca/sites/default/files/documents/city-clerk/bylaws/9537.pdf>

## **Manitoba**

**Municipal Act, CCSM c M225**

**Censure**

84.1(3) A council may censure a member if it determines that the member has breached the code of conduct.

**Approval of resolution**

84.1(4) To be approved, the number of members who must affirm the resolution to censure is the majority of all the members, plus one.

<https://www.canlii.org/en/mb/laws/stat/ccsm-c-m225/latest/ccsm-c-m225.html?resultIndex=1>

**Winnipeg**

**4. Sanctions for Misconduct**

Where the Integrity Commissioner has determined there has been a violation of the Code, the Integrity Commissioner may recommend to Council that:

- i. the Member be reprimanded;
- ii. the Member be required to make a public apology;
- iii. the Member be requested to return a gift or benefit or, where the gift or benefit cannot be returned, reimburse the donor for the value of the gift or benefit;
- iv. the Member be removed from a committee; and/or
- v. the Mayor be requested to remove the Member from their position as Chair of a committee.

<https://www.winnipeg.ca/council/integritycommissioner/pdfs/CodeOfConduct.pdf>

**Ontario**

**Municipal Act, 2001, SO 2001, c 25**

- <https://www.canlii.org/en/on/laws/stat/so-2001-c-25/latest/so-2001-c-25.html?resultIndex=3>

**PART V.1**

**ACCOUNTABILITY AND TRANSPARENCY**

**Code of conduct**

223.2 (1) A municipality shall establish codes of conduct for members of the council of the municipality and of its local boards. 2017, c. 10, Sched. 1, s. 18.

.....

**No offence or administrative penalty**

(3) A by-law cannot provide that a member who contravenes a code of conduct is guilty of an offence or is required to pay an administrative penalty. 2017, c. 10, Sched. 1, s. 18.

**Regulations**

(4) The Minister may make regulations prescribing one or more subject matters that a municipality is required to include in a code of conduct. 2017, c. 10, Sched. 1, s. 18.

## Penalties

(5) The municipality may impose either of the following penalties on a member of council or of a local board if the Commissioner reports to the municipality that, in his or her opinion, the member has contravened the code of conduct:

1. A reprimand.
2. Suspension of the remuneration paid to the member in respect of his or her services as a member of council or of the local board, as the case may be, for a period of up to 90 days. 2006, c. 32, Sched. A, s. 98.

## Toronto

In addition, subsection 160(5) of the *City of Toronto Act, 2006*, authorizes Council to impose either of two penalties on a member of Council following a report by the Integrity Commissioner that, in her or his opinion, there has been a violation of the *Code of Conduct*:

1. A reprimand; or
2. Suspension of the remuneration paid to the member in respect of his or her services as a member of Council or a local board, as the case may be, for a period of up to 90 days.

## Other Actions

The Integrity Commissioner may also recommend that Council or a local board (restricted definition) take the following actions:

1. Removal from membership of a Committee or local board (restricted definition).
2. Removal as Chair of a Committee or local board (restricted definition).
3. Repayment or reimbursement of moneys received.
4. Return of property or reimbursement of its value.
5. A request for an apology to Council, the complainant, or both.

<https://www.toronto.ca/wp-content/uploads/2017/08/9697-ICannotated-code-of-conduct-for-members-of-council.pdf>

## Ottawa

### Compliance with the Code of Conduct

15.

1. Members of Council are expected to adhere to the provisions of the Code of Conduct. The *Municipal Act, 2001* authorizes Council, where it has received a report by its Integrity Commissioner that, in his or her opinion, there has been a violation of the *Code of Conduct*, to impose one of the following sanctions:

1. A reprimand; and
2. Suspension of the remuneration paid to the member in respect of his or her services as a member of Council or a local board, as the case may be, for a period of up to 90 days.

2. The Integrity Commissioner may also recommend that Council impose one of the following sanctions:

1. Written or verbal public apology;
2. Return of property or reimbursement of its value or of monies spent;
3. Removal from membership of a committee; and
4. Removal as chair of a committee.

3. The Integrity Commissioner has the final authority to recommend any of the sanctions above or other remedial action at his or her discretion.

<https://ottawa.ca/en/city-hall/accountability-and-transparency/accountability-framework/code-conduct-members-council-and-related-policies/code-conduct-and-related-policies#code-conduct-members-council>

## Kingston

### 16.0 Penalties for Non-Compliance with the Code of Conduct

16.1 Where Council receives a report from the Integrity Commissioner that there has been a violation of the Code of Conduct, Council may impose either of the following penalties on the Member as permitted by the *Municipal Act, 2001*:

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

Council may, on the basis of a recommendation from the Integrity Commissioner also take any or all of the following actions in furtherance of any penalty imposed and require that the Member:

- (i) provide a written or verbal apology,
- (ii) return property or make reimbursement of its value or of money spent,
- (iii) be removed from the membership of a Committee,
- (iv) be removed as chair of a Committee.

<https://www.cityofkingston.ca/documents/10180/14293/Code+of+Conduct/c77746fd-9c37-4462-af3d-719c2136a709>

## Brampton

(4) Upon receipt of recommendations from the Integrity Commissioner, Council may, in circumstances where the Integrity Commissioner has determined there has been a violation of the Code of Conduct, impose either of two penalties:

- (a) a reprimand; or
- (b) suspension of the remuneration paid to the Member in respect of his/her services as a Member of Council or a local board, as the case may be, for a period of up to 90 days

(5) The Integrity Commissioner may also recommend that Council take the following actions:

- (a) removal from membership of a committee;
- (b) removal as chair of a committee;
- (c) repayment or reimbursement of monies received;
- (d) return of property or reimbursement of its value;
- (e) a written and/or verbal request for an apology to Council, the complainant, or both.

<https://www.brampton.ca/EN/City-Hall/Pages/Complaint-Process-New-Council-Code-2016.aspx>

## Windsor

13.(3) Pursuant to the Municipal Act, the Council may impose either of the following penalties on a Member if the Commissioner reports to Council that, in his or her opinion, the member has contravened the Code of Conduct:

- (a) A reprimand; and/or

(b) Suspension of the remuneration paid to the member in respect of his or her services as a member of council for a period of up to 90 days

<https://www.citywindsor.ca/cityhall/Municipal-Accountability-and-Transparency/Documents/Code%20of%20Conduct%20for%20Members%20of%20Council.pdf>

## Quebec

### Municipal Ethics and Good Conduct Act, CQLR c E-15.1.0.1

**31.** A violation by a member of a council of a municipality of a rule of a code of ethics and conduct adopted under section 3 may entail the imposition of the following sanctions:

- (1) a reprimand;
- (2) the delivery to the municipality, within 30 days after the decision of the Commission municipale du Québec,
  - (a) of any, or of the value of any, gift or hospitality or benefit received; or
  - (b) of any profit made in violation of a rule set out in the code;
- (3) the reimbursement of the remuneration, allowances or other sums received as member of a council, committee or commission of the municipality or member of a body while the violation of a rule of the code continued; or
- (4) the suspension of the council member for a period of up to 90 days and not exceeding the expiry of his or her term.

When suspended, a council member may not sit on any council, committee or commission of the municipality or on any other body in his or her capacity as council member, nor may the council member receive any remuneration, allowance or other sum from the municipality or such a body.

<https://www.canlii.org/en/qc/laws/stat/cqlr-c-e-15.1.0.1/latest/cqlr-c-e-15.1.0.1.html?resultIndex=1>

## Montreal

*\*Repeated verbatim from Municipal Ethics and Good Conduct Act*

**28.** Any violation of this code may entail the imposition of the following sanctions:

- (1) reprimand;
- (2) the delivery to the municipality, within 30 days after the decision of the *Commission municipale du Québec*:
  - (a) of any, or of the value of any, gift, hospitality or benefit received; or
  - (b) of any profit made in violation of a rule set out in the code;
- (3) the reimbursement of the remuneration, allowances or other sums received as member of a council, committee or standing committee of the municipality or member of a body while the violation of a rule of the code continued;
- (4) the suspension of the council member for a period of up to 90 days and not exceeding the expiry of his or their term.

When suspended, no council member may sit on any council, committee or standing committee of the municipality or on any other body in their capacity as council member of the municipality, nor may a council member receive any remuneration, allowance or other sum from the municipality or such a body.

<http://ville.montreal.qc.ca/sel/sypre-consultation/afficherpdf?idDoc=25327&typeDoc=1>

## PEI

### Municipal Government Act, RSPEI 1988, c M-12.1

#### *Division 6 – Code of Conduct*

##### **107. Code of conduct**

(1) The council of a municipality shall by bylaw, within 12 months after the coming into force of this section, establish a code of conduct in accordance with the regulations to govern the conduct of the members of council.

##### ***Idem, contents***

- (2) The code of conduct referred to in subsection (1) shall include, at a minimum,
- (a) rules respecting confidentiality and disclosure of and access to personal information in the control of the municipality;
  - (b) rules respecting the acceptance of gifts or other personal benefits by a member;
  - (c) rules respecting the process for determining whether a member has contravened the code of conduct; and
  - (d) the requirement for each council member, within 30 days of being elected, to file a disclosure statement in the form approved by the Minister with the chief administrative officer.

##### **Procedural requirements**

(3) The code of conduct referred to in subsection (1) shall provide procedures for dealing with breaches of its provisions, including the sanctions that may be imposed for a breach of the code of conduct.

##### **Penalties**

(4) A sanction referred to in subsection (3) may include a fine of not more than \$500.

<https://www.canlii.org/en/pe/laws/stat/rspei-1988-c-m-12.1/latest/rspei-1988-c-m-12.1.html?resultIndex=1>

## Charlottetown

24.12. Council may, in accordance with section 107(3) of the Act:

- (a) dismiss the complaint;
- (b) require the Member of Council to remove themselves from the meeting if conduct is deemed to be inappropriate;
- (c) reprimand the Member of Council for a breach of this Code of Conduct Bylaw;
- (d) suspend the remuneration paid to the member in respect of their services as a Member of Council for a period of up to 90 days;
- (e) request for an apology to Council, the complainant, or both;
- (f) impose a fine of not more than \$500; or

(g) impose any other sanction that is deemed appropriate in the professional judgment of the third party investigator, where so enabled in the Act.

<https://www.charlottetown.ca/common/pages/DisplayFile.aspx?itemId=15363878>