

BY-LAW NO. 2020-17

Being a by-law to
Amend By-Law 2019-09 Schedule A (Form)

For the Code of Conduct & Integrity Commissioner Inquiry Protocol
"Request for an Inquiry" Form

WHEREAS Section 232.2 of the Municipal Act, 2001, c. 25 requires that the Township adopts code of conduct and has done so via By-law 2019-09, and;

FURTHER that sections 5, 5.1, and/or 5.2 of the Municipal Conflict of Interest Act be addressed in this policy;

NOW THEREFORE the Council of the Corporation of the Township of Plummer Additional hereby enacts as follows:

1. THAT the aforementioned Code of Conduct Schedule A - Integrity Commissioner Request for Inquiry Code of Conduct form is amended as attached.
2. THAT the remaining clauses in the by-law endures unchanged

READ three times and enacted the 20th day of May, 2020



MAYOR: Beth West



CLERK: Vicky Goertzen-Cooke

By-law 2019-09 & 2020-17 (amendment)
SCHEDULE "A"
INTEGRITY COMMISSIONER REQUEST FOR INQUIRY
CODE OF CONDUCT

This form will be used to request the Integrity Commissioner conduct an inquiry of an alleged Code of Conduct contravention	Submit completed complaint in a sealed envelope to: Integrity Commissioner-Request for Inquiry re Code of Conduct Ironsides Consulting, Antoinette Blunt 155 Ironside Drive, Prince Twsp, ON P6A 6K4 Ph.: 705-779-3233 Fax: 705-779-9982 Email: ironsidesconsult@explornet.com Web: www.ironsidesconsulting.ca
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REQUESTOR'S INFORMATION:

Last Name:	First Name:
Street Address:	Municipality:
Postal Code:	Phone #:
E-mail Address:	Name of Member:

DETAILS OF ALLEGED CODE OF CONDUCT CONTRAVENTION:

Date(s) of alleged Code of Conduct contravention:
Provision(s) of Code of Conduct allegedly contravened:
Facts constituting the alleged Code of Conduct contravention (please use separate page(s) if required);
Name(s) and contact information of any witnesses:

Signature:	Date: Year: Month: Day:
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FOR OFFICE USE ONLY:

Date Received: Year: Month: Day:	Request #:	Comments:
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Personal information contained on this form is collected under the authority of the Municipal Freedom of Information and Protection of Privacy Act and will be used for the purpose of requesting an inquiry.

Last update: May 20, 2020

THE CORPORATION OF THE TOWNSHIP OF PLUMMER ADDITIONAL

BY-LAW NO. 2019-09

Being a by-law to adopt

A Code of Conduct & Integrity Commissioner Inquiry Protocol

WHEREAS Section 232.2 of the Municipal Act, 2001, c. 25 requires that the Township adopts code of conduct and;

FURTHER that sections 5, 5.1, and/or 5.2 of the Municipal Conflict of Interest Act be addressed in this policy;

NOW THEREFORE the Council of the Corporation of the Township of Plummer Additional hereby enacts as follows:

1. THAT the aforementioned Code of Conduct is attached as Schedule "A," and;
2. THAT the aforementioned Integrity Commissioner Inquiry Protocol is attached as Schedule "B" and;
3. Schedule "A" & "B" attached hereto forms part of this by-law.

READ three times and enacted the 20th day of February, 2019.


MAYOR: Beth West


CLERK: Vicky Goertzen-Cooke

Schedule "A" to Bylaw 2019-09



Code of Conduct

Township of Plummer Additional

Important Disclaimer: this protocol complies with the relevant provisions of the *Municipal Act, 2001*, SO 2001, c 25 (the “*Act*”). If you have any questions or concerns about this protocol or how to implement it, please contact Wishart Law Firm LLP. Wishart Law Firm LLP is not responsible for the results of any edit to this protocol other than as expressly authorized or directed by Wishart Law Firm LLP.

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1. Principles Upon Which This Code is Based

- 1.1 A municipality is a responsible level of government. Improving the quality of municipal governance and administration can best be achieved by encouraging high standards of conduct on the part of all Members. In particular, the public is entitled to expect the highest standards of conduct from the Members of its local government. In turn, adherence to these standards will protect and promote the Municipality's reputation and integrity.
- 1.2 Key statements of principle that underline this Code of Conduct are as follows:
- a) Council, and its Members are the leaders of the Municipality both inside and outside its geographic boundaries. Especially in an age of social media and electronic messaging, strong positive management of the reputation of the Municipality is needed. The statements and behavior of Council affect the Municipality's reputation as a place to live and do business. Conflict and inappropriate conduct among Members, staff, officers and members of the public, adversely affects the Municipality's reputation and is to be avoided. Put differently, Council has a strong role to protect and promote the Municipality and its reputation as an excellent place to live, work and do business;
 - b) Members must serve and be seen to serve their constituents in a conscientious and diligent manner;
 - c) Members must be committed to performing their functions with integrity, avoiding the improper use of the influence of their office, and conflicts of interest, both real and perceived;
 - d) Members are expected to conduct themselves and perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny;
 - e) Members must recognize and act upon the principle that democracy is best achieved when the operation of government is as transparent and accountable to the Public as possible;
 - f) Members shall seek to serve the public interest by upholding both the letter and spirit of the laws of Parliament and the Ontario Legislature, as well as the laws and policies adopted by the Municipal Council;

- g) Members must not use the status of their position to inappropriately influence the decision of another individual or body. For example, to obtain a personal advantage for the Member, the Member's parents, children, spouse, staff, friends, associates, business or otherwise; or to disadvantage another party.
- h) Members shall be respectful of the role of staff to provide advice with political neutrality and objectivity and without undue influence from a Member or Members.

2. Application of this Code

- 2.1 This Code of Conduct applies to every Member.

3. Definitions

- 3.1 In this Code of Conduct:

- a) "Benefit" means preferential treatment, privileged access, favours or other advantage including, but not necessarily limited to, invitations to sporting, cultural or social events, access to discounts and loyalty programs and promises of a new employment.
- b) "Ceremonial Gift" means official gifts provided as part of the culture or practices of communities or government within Canada or internationally, which although they may be given to a Member, are accepted by a Member on behalf of a municipality and become the property of a municipality.
- c) "Child" means a child born within or outside marriage and includes any adopted child, step child, foster child and a person whom a Member has a demonstrated a settled intention to treat as a child of his or her family;
- d) "Confidential Information" means any information in the possession of, or received in confidence by, the Municipality that the Municipality is prohibited from disclosing, or has decided to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act* or any other law. Confidential Information also includes information of a corporate, commercial, scientific or technical nature received in confidence from third parties; personal information; information that is subject to solicitor-client privilege; information that concerns any confidential matters pertaining to personnel, labour relations, litigation, property acquisition, the security of the property of the Municipality or a Local

Board; and any other information lawfully determined by the Council to be confidential, or required to remain or be kept confidential by legislation or order.

- e) "Council" means the Council of the Township of Plummer Additional.
- f) "Gift" means free or discounted items or services and any item or service that would, viewed in light of all the circumstances, be regarded as a gift by a reasonable Person not including Ceremonial Gifts.
- g) "Hospitality" means the friendly reception and entertainment of guests, which may range from light refreshments at a meeting to expensive restaurant meals and sponsored travel or accommodation.
- h) "In-camera meeting" means a meeting, or part of a meeting, closed to the public pursuant to section 239 of the *Municipal Act, 2001*.
- i) "Information" includes a record or document written or otherwise;
- j) "Integrity Commissioner" means the Person appointed by by-law in accordance with section 223.3 of the *Municipal Act, 2001* and who is responsible for performing, in an independent manner, the functions assigned by the Municipality with respect to the application of the Code of Conduct for Members.
- k) "Local Board" means, for the purpose of this Code of Conduct, a local board other than:
 - i. A society as defined in subsection 2(1) of the *Child, Youth and Family Services Act, 2017*;
 - ii. A board of health as defined in subsection 1(1) of the *Health Protection and Promotion Act*;
 - iii. A committee of management established under the *Long-Term Care Homes Act, 2007*;
 - iv. A police services board established under the *Police Services Act* and/or the *Police Services Act, 2018*;
 - v. A board as defined in section 1 of the *Public Libraries Act*; and
 - vi. A corporation established in accordance with section 203 of the *Municipal Act, 2001*;

- l) "Member" means a member of Council, which shall include the Mayor/Reeve, members of Committees and members of Local Boards, unless, with respect to members of Local Boards, the context requires otherwise, and shall not include staff or ratepayers.
- m) "Officer(s)" means a person who holds a position of responsibility with definite rights and duties prescribed by statute or by-law.
- n) "Parent" means a person who has demonstrated a settled intention to treat a child as a part of his or her family whether or not that person is the natural parent of the child;
- o) "Person" includes a corporation, partnership, association and any other entity, as the context allows; and
- p) "Spouse" means an individual to whom an individual is married or with whom an individual is living in a conjugal relationship outside marriage.
- q) "Transparency" means that the municipality actively encourages and fosters stakeholder participation and openness in its decision-making processes. It means that the municipality's decision-making process is open and clear to the public.

4. Compliance with Declaration of Office

- 4.1 Every Member shall act in accordance with his or her declaration of office sworn pursuant to section 262 of the *Municipal Act, 2001*. A copy of the Declaration of Office is attached as Schedule "A".

5. Adherence to Council Policies and Procedures

- 5.1 Every Member shall observe and comply with every provision of this Code of Conduct, as well as all other policies and procedures adopted or established by Council.

6. Conduct at Meetings

- 6.1 Every Member shall conduct himself or herself properly and in a civil and respectful manner at meetings, and in accordance with the provisions of the Procedural By-law, this Code of Conduct, and other applicable law.

- 6.2 Members will respect the decision-making process. Members will attempt to accurately and adequately communicate the attitudes and decisions of Council, even if they disagree with a majority decision of Council.
- 6.3 Members shall strive to attend all Council Meetings. Any Member who is unable to attend a Council Meeting shall advise the clerk as soon as is reasonably possible of the reason for their absence.

7. Conduct Respecting Others

- 7.1 Every Member has the duty and responsibility to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation, and to ensure that the municipal work environment is free from discrimination and harassment. The Member shall be familiar with, and comply with, the Municipality's Workplace Anti-Violence, Harassment and Sexual Harassment Policy.
- 7.2 A Member shall not use indecent, abusive or insulting words, tone or expressions toward any other Member, any municipal staff or any member of the public.
- 7.3 A Member shall not speak in a manner that is discriminatory to any individual, based on any protected grounds. Protected grounds include: citizenship, race, place of origin, ethnic origin, colour, ancestry, disability, age, creed, sex/pregnancy, family status, marital status, sexual orientation, gender identity, and gender expression¹.

8. Conduct Respecting Staff and Officers

- 8.1 Under the direction of the senior administrative staff, and in accordance with the decisions of Council, staff and Officers are required to serve the municipal corporation as a whole. Every Member shall be respectful of the role of staff and Officers to provide advice based on political neutrality and objectivity and without undue influence from any Member or group of Members. Accordingly, no Member shall maliciously or falsely injure or impugn the professional or ethical reputation of any staff person or Officer.
- 8.2 Members shall acknowledge and respect the fact that staff carry out directions of Council, through senior staff, including but not limited to the treasurer, clerk, director of public works, and administer the policies of the Municipality. No Member shall perform, direct or attempt to undermine the duties of any staff person or Officer except in accordance with the Municipality's procedural by-law.

¹¹ See *Human Rights Code*, R.S.O. 1990, c.H.19

- 8.3 Every Member shall show respect for staff and Officers, and for their professional capacities and responsibilities.
- 8.4 No Member shall direct, instruct or compel any staff member or Officer to engage in partisan political activities or subject any staff member or Officer to threat or discrimination for refusing to engage in any such activity.
- 8.5 No Member shall use or attempt to further his or her authority or influence by intimidating, threatening, coercing, commanding or improperly influencing any staff person or Officer or interfering with that person's duties, including the duty to disclose improper activity.

9. Gifts, Benefits and Hospitality

- 9.1 For the purposes of this Code, Gifts, Benefits and Hospitality provided, with a Member's knowledge, to that Member's spouse, child or parent, or to his or her staff, that is connected directly or indirectly to the performance of the Member's duties, are deemed Gifts, Benefits and Hospitality provided to that Member.
- 9.2 No Member shall accept Gifts, Benefits and Hospitality connected directly or indirectly with the performance of his or her duties, unless permitted under one or more of the exceptions listed below:
- 9.3 Each of the following is recognized as an exception:
- a) compensation authorized by law;
 - b) Gifts, Benefits and Hospitality of the kind that normally accompanies the responsibilities of office and is received as an incident of protocol or social obligation;
 - c) a political contribution otherwise authorized and reported as required by law, in the case of a Member running for office;
 - d) services provided without compensation by a Person volunteering their time in a function that would not normally be provided for compensation;
 - e) a suitable memento of a function honouring the Member;

- f) food, lodging, transportation or entertainment lawfully provided by any Provincial, regional or local government or board or political subdivisions of any of them, by the Federal government, a foreign government, or by those organizing a conference, seminar or event where the Member is speaking or attending in an official capacity;
- g) food and beverage consumed at a banquet reception or similar event, if:
 - i. attendance by the Member is for a legitimate municipal purpose;
 - ii. the Person extending the invitation, or a representative of the organization holding the event, is in attendance; and
 - iii. the value is reasonable;
- h) communications to the office of a Member, even if such communication would, in the ordinary course, require a subscription; and
- i) a sponsorship or donation for a community event organized or run by a Member, or a third party on behalf of a Member, subject to the limitations set out in any applicable municipal policy.

9.4 Except for exception 9.3 (c) (political contributions allowable by law), these exceptions do not apply where Gifts, Benefits and Hospitality are provided by a lobbyist or a lobbyist's client or employer. In this provision, a lobbyist is an individual, organization or business who or that:

- a) lobbies, or causes the lobbying of, any public office holder of the Municipality, the municipal council or corporation or a Local Board;
- b) the Member knows is attempting or intending to lobby the Member or any of the public, Persons or bodies listed in paragraph (a); or
- c) is maintaining an active lobbyist registration with the Municipality, whether or not with respect to any specific or current subject matter.

9.5 The exceptions in section 9.3 do not apply to a gift from an anonymous sender. No Member shall accept a gift from an anonymous sender. Where a Member receives a gift from an anonymous sender, the Member will turn the gift in to the Clerk who will donate the gift to a charity/organization on the Municipality's approved donation list.

- 9.6 In the case of any of the recognized exceptions in sections 9.3 (b), (e), (f), (h) and (i), to enhance transparency and accountability with respect to Gifts, Benefits and Hospitality, if the value of the Gift, Benefit or Hospitality is over \$300, or if the total value of Gifts, Benefits and Hospitality received from any one source during the course of a calendar year exceeds \$300, the Member shall file, within 30 days of receipt, or of reaching the annual limit, a disclosure statement with the Municipality or with its Integrity Commissioner.
- 9.7 The disclosure statement must set out:
- a) the nature of all Gifts, Benefits, and Hospitality;
 - b) its source and date of receipt;
 - c) the circumstances under which it was given and received;
 - d) its estimated value or, if determinable, its exact value;
 - e) what the recipient intends to do with any gift; and
 - f) whether any gift will at some point be provided to the Municipality.
- 9.8 Every disclosure statement filed under this Code shall be made a public record and posted in a place available for public review.
- 9.9 Upon receiving a disclosure statement, the Municipality or the Integrity Commissioner, as the case may be, shall examine, or in the case of the Municipality, appoint a Person to examine, the disclosure statement to ascertain whether the receipt of any Gifts, Benefits, or Hospitality, in his or her opinion, acting reasonably, contravenes this Code. Making such determination shall include providing the Member an opportunity to provide an explanation as to why receipt of any Gift, Benefit or Hospitality at issue does not contravene this Code.
- 9.10 Should a determination be made that receipt of any Gift, Benefit or Hospitality contravenes this Code, the Member shall be directed to promptly return, dispose of, or reimburse the person giving the Gift, Benefit or Hospitality, for the full value thereof, as applicable or remit the value of any gift or benefit already consumed to the Municipality.

10. Confidential Information

- 10.1 No Member shall disclose, release, sell or publish by any means directly or indirectly, to any person or to the public, any Confidential Information acquired by virtue of his or her office, in any form including, but not limited to, written notes, reports, oral and video recording, pictures, electronic correspondence, and any form of social media except when required or authorized by Council or otherwise by law to do so.
- 10.2 No Member shall use Confidential Information for personal or private gain or benefit, or to disadvantage any other person or body.
- 10.3 Unless required by law, no Member shall disclose the substance of deliberations of meetings held *in-camera* and that are authorized to be held *in-camera* under the *Municipal Act, 2001* or any other legislation unless or until Council discloses such information at a meeting that is open to the public or otherwise releases such information to the public.
- 10.4 Without limiting the generality of the foregoing, no Member shall, without lawful authority, disclose or make personal use of any of the following types of Confidential Information:
- a) Information concerning litigation, negotiation or personnel or labour matters;
 - b) Information the publication of which may infringe on the rights of any person (e.g. source of a complaint where the identity of a complainant is given in confidence);
 - c) Price schedules in any contract, tender or proposal document while such remains Confidential Information;
 - d) Information deemed to be "personal information" under the *Municipal Freedom of Information and Protection of Privacy Act*; and
 - e) Any other information or statistical data required by law not to be released.
- 10.5 No Member shall obtain access, or attempt to gain access, to Confidential Information in the custody of the Municipality, Local Board or Committee except to the extent that such access is necessary for the performance of his or her duties and such access is not prohibited by Council or otherwise by law.

11. Use of Municipal Property, Services and Other Resources

- 11.1 No Member shall use, or permit the use of, municipal equipment, land, facilities, supplies, services, staff or other resource, including any municipally-owned information, website, or funds allocated for Member expenses, for any purpose or activity other than the lawful business of the municipal corporation. No Member shall seek or acquire any personal financial gain from the use or sale of Confidential Information, or of any municipally-owned intellectual property including any invention, creative writing or drawing, computer program, technical innovation, or any other information or item capable of being patented or copyrighted, for which property remains exclusively that of the Municipality.

12. Conduct of Election Campaign

- 12.1 Every Member shall comply with all applicable requirements of the *Municipal Elections Act, 1996* and with the Municipality's municipal or board resources rules and procedures established pursuant to section 88.18 of the *Municipal Elections Act, 1996*.
- 12.2 No Member shall use Confidential Information, facilities, equipment, supplies, services, or other resources of the Municipality, including any Member newsletter or website linked through the Municipality's website, for any election campaign or campaign-related activity. No Member shall undertake campaign-related activities on municipal property during regular working hours unless authorized by the Municipality.
- 12.3 No Member shall use the services of any person for election-related purposes during hours in which that person receives any compensation from the Municipality.

13. No Improper Use of Influence

- 13.1 No Member shall use the influence of his or her office for any purpose other than for the lawful exercise of his or her official duties and for municipal purposes.
- 13.2 No Member shall use his or her office or position to influence or attempt to influence the decision of any other person, for the Member's private advantage, the private advantage of the Member's parent, child, spouse, staff member, friend or associate, business or otherwise or the disadvantage of others. No Member shall attempt to secure preferential treatment beyond activities in which Members normally engage on behalf of their constituents as part of their official duties. No Member shall hold out the

prospect or promise of future advantage through the Member's supposed influence within Council in return for any action or inaction.

- 13.3 For the purposes of this provision "private advantage" does not include a matter:
- a) That is an interest in common with electors generally as defined in the *Municipal Conflict of Interest Act*;
 - b) that affects a Member, his or her parents/children or spouse, staff, friends or associates, business or otherwise, as one of a broad class of persons; or
 - c) that concerns the remuneration or benefits of a Member.
- 13.4 This provision does not prevent a Member from requesting that Council grant a lawful exemption from a policy.

14. Non-Compliance with this Code of Conduct – Sanctions

- 14.1 A Member found by the Integrity Commissioner to have contravened any provision of this Code, may be subject to one or more of the following consequences imposed by Council as referred to in the following:
- a) a reprimand;
 - b) suspension of the remuneration paid to the Member in respect of his or her services as a Member of the Council or Local Board, for a period of up to 90 days;
 - c) Other penalties, including, but not necessarily limited to:
 - i. Removal from membership of a Committee or Local Board;
 - ii. Removal as Chair of a Committee or Local Board;
 - iii. Require repayment or reimbursement of moneys received;
 - iv. Return of property or reimbursement of its value;
 - v. A request for an apology;
 - vi. Revocation of travel or another budget;
 - vii. Request for resignation; and

- viii. Trespass order restricting access except for Council Meetings.

15. No Reprisal or Obstruction in the Application or Enforcement of this Code

- 15.1 Every Member must respect the integrity of the Code of Conduct and inquiries and investigations conducted under it and shall co-operate in every way possible in securing compliance with its application and endorsement. Any reprisal or threat of reprisal against a complainant or any other person for providing relevant information to the Integrity Commissioner or any other person is prohibited. It is also a violation of the Code of Conduct to obstruct the Integrity Commissioner or any other municipal official involved in applying or furthering the objectives or requirements of this Code, in the carrying out of such responsibilities or pursuing any such objective.
- 15.2 Every Member shall cooperate with the Integrity Commissioner if the Integrity Commissioner conducts an inquiry concerning an alleged contravention of this Code.

16. Statutes and Policies Regulating the Conduct of Members

- 16.1 In addition to this Code of Conduct, the following Ontario legislation also governs the conduct of Members:

- a) the *Municipal Act, 2001* as amended;
- b) the *Municipal Conflict of Interest Act*;
- c) the *Municipal Elections Act, 1996*;
- d) the *Municipal Freedom of Information and Protection of Privacy Act*;
- e) the *Ontario Human Rights Code*; and,
- f) the *Occupational Health and Safety Act*.

- 16.2 The following policies govern the conduct of Members:

Procedural By-Law	March 21, 2018	2018-11
Accountability and Transparency	2010	2010-42

- 16.3 The *Criminal Code* also governs the conduct of Members.
- 16.4 A Member may become disqualified and lose his or her seat by operation of law, including being convicted of an offence under the *Criminal Code* or being found to have failed to comply with the *Municipal Conflict of Interest Act*, whether or not the conduct in question involves contravention of this Code of Conduct. In the case of any inconsistency between this Code and a Federal or Provincial statute or regulation the statute or regulation shall prevail. Should any provision of the Code become or be determined to be invalid, illegal or unenforceable, it shall be considered separate and several from the agreement and the remaining provisions shall remain in force.

17. Complaints Alleging Violation of This Code

- 17.1 Where a Member, a municipal employee, Officer, or a member of the public has reasonable grounds to believe that a Member(s) has contravened this Code, a complaint may be submitted to the Clerk's Department in the prescribed form which will be forwarded to the Municipality's Integrity Commissioner who will process it in accordance with the Integrity Commissioner Inquiry Protocol attached hereto as Schedule "B". The Complaint may also be submitted directly to the Integrity Commissioner in the event that such office is readily accessible.
- 17.3 Where a Member is found not to have contravened this Code, the Municipality is authorized to protect that Member against costs or expenses incurred by the Member as a result of the complaint proceedings.

DECLARATION OF OFFICE
(Section 232 of the *Municipal Act, 2001*)

I, _____, having been elected or appointed to the office
(name of person)

of _____
(name of office)

in the municipality of _____
(name of municipality)

do solemnly promise and declare that:

1. I will truly, faithfully and impartially exercise this office to the best of my knowledge and ability.
2. I have not received and will not receive any payment or reward, or promise thereof, for the exercise of this office in a biased, corrupt or in any other improper manner.
3. I will disclose any pecuniary interest, direct or indirect, in accordance with the *Municipal Conflict of Interest Act*.
4. I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second (or the reigning sovereign for the time being).

And I make this solemn promise and declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Declared before me)

at the)

.....)

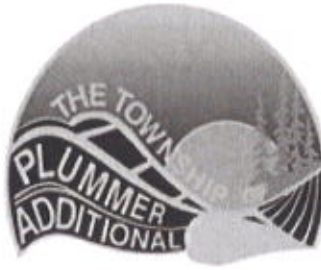
.....)

on)

20.....)

signature of declarant

Commissioner for taking Affidavits



Integrity Commissioner Inquiry Protocol

Township of Plummer Additional

Important Disclaimer: this protocol complies with the relevant provisions of the *Municipal Act, 2001*, SO 2001, c 25 (the "*Act*"). Wishart Law Firm LLP recommends that legal advice be sought by the Integrity Commissioner or anyone acting under his or her authority in responding to an application or conducting an inquiry pursuant to this protocol. If you have any questions or concerns about this protocol or how to implement it, please contact Wishart Law Firm LLP. Wishart Law Firm LLP is not responsible for the results of any edit to this protocol other than as expressly authorized or directed by Wishart Law Firm LLP.

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1. Introduction

The Municipality has, pursuant to section 223.2 of the *Municipal Act, 2001*, established a Code of Conduct for members of council of the Municipality and members of its Local Boards.

The Municipality has appointed an Integrity Commissioner whose duties include, among other things, conducting inquiries in respect of alleged contraventions of the Code of Conduct and sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* ("*MCI*A").

The purpose of this protocol is to set out a framework for the Integrity Commissioner's inquiries into allegations of contraventions of the Code of Conduct and sections 5, 5.1 and 5.2 of the *MCI*A breaches.

2. Definitions

"Applicant" means the person who has submitted an application to the Integrity Commissioner for an inquiry to be carried out concerning an alleged contravention by a Member of sections 5, 5.1 or 5.2 of the *MCI*A.

"Code of Conduct" means a code of conduct established pursuant to section 232.2 of the *Municipal Act, 2001*.

"Elector" means a person entitled to vote at a municipal election in the Municipality.

"Integrity Commissioner" means the Integrity Commissioner appointed by Municipal Council and any individual acting under powers delegated to him or her in writing by the Integrity Commissioner.

"Local Board" means a Local Board other than:

- a. A society as defined in subsection 2(1) of the *Child, Youth and Family Services Act, 2017*;
- b. A board of health as defined in subsection 1(1) of the *Health Protection and Promotion Act*;
- c. A Committee of management established under the *Long-Term Care Homes Act, 2007*;
- d. A police service board established under the *Police Services Act, 2018*;
- e. A board as defined in section 1 of the *Public Libraries Act*; and,
- f. A corporation established in accordance with section 203 of the *Municipal Act, 2001*;

“Member” means a member of the municipal council and any person on his or her staff and/or a member of a Local Board or a Committee of the Municipality and any person on his or her staff.

“Requestor” means the person who has submitted a request to the Integrity Commissioner for an inquiry concerning an alleged contravention of the applicable Code of Conduct.

“Respondent” means the person who is alleged to have violated the Code of Conduct or sections 5, 5.1 or 5.2 of the *MCI*A and whom an Integrity Commissioner inquiry application has been submitted.

3. Integrity Commissioner

3.1. Functions

The Integrity Commissioner reports to council and is responsible for performing in an independent manner, the functions assigned by the Municipality with respect to any of the following:

1. The application of the Code of Conduct for Members.
2. The application of any procedures, rules and policies of the Municipality and Local Boards governing the ethical behaviour of Members.
3. The application of sections 5, 5.1 and 5.2 of the *MCI*A to Members.
4. Requests from Members for advice respecting their obligations under the Code of Conduct applicable to the Member.
5. Requests from Members for advice respecting their obligations under a procedure, rule or policy of the Municipality or of the Local Board, as the case may be, governing the ethical behaviour of Members.
6. Requests from Members for advice respecting their obligations under the *MCI*A.
7. The provision of educational information to Members, the Municipality and the public about the Municipality's Code of Conduct for Members and about the *MCI*A.

3.2. Powers and duties

In carrying out the responsibilities described in section 3.1 above, the Integrity Commissioner may exercise such powers and shall perform such duties as may be assigned to him or her by the Municipality.

3.3. Delegation

After satisfying himself or herself that a person is fully capable of carrying out the Integrity Commissioner's powers or duties, the Integrity Commissioner may, in writing, delegate to any person, other than a member of council, any such duties or powers. For greater certainty, if the Integrity Commissioner delegates any duties or powers, the Integrity Commissioner may continue to exercise the delegated powers and duties despite the delegation.

3.4. Outside assistance

In performing any of his or her duties, the Integrity Commissioner may engage outside assistance or consult with the Municipality's legal counsel. When the Municipality's legal counsel is assisting the Integrity Commissioner their role is solely to assist the Integrity Commissioner and not any particular individual.

4. Requests for advice

4.1. Requests for advice shall be in writing

A request by a Member for advice from the Integrity Commissioner under paragraphs 4, 5 or 6 of section 3.1 above, shall be made in writing.

4.2. Advice shall be in writing

If the Integrity Commissioner provides advice to a Member under paragraphs 4, 5 or 6 of section 3.1 above, the advice shall be in writing.

4.3. Release of advice

Advice provided by the Integrity Commissioner to a Member under paragraphs 4, 5 or 6 of section 3.1 above may be released by the Integrity Commissioner:

1. With the Member's written consent; or
2. Without the Member's written consent if the Member releases part of the advice.

5. Inquiry by Integrity Commissioner re Code of Conduct

5.1. *Request for inquiry*

A request for inquiry may be made in writing to the Integrity Commissioner by a Member, staff or member of the public about whether a Member has contravened the Code of Conduct.

5.2. *Request contents*

A request for inquiry under section 5.1 above may be in the form set out in Schedule “A” or, otherwise, shall include sufficient information to set out a prima facie contravention of the applicable Code of Conduct, including, but not necessarily limited to, all of the following:

- The Requestor’s name and contact information.
- What happened – a description of the events or situation.
- When it happened – dates and times of the events or incidents.
- Where it happened – the location(s) where the events or incidents occurred.
- Who saw it happen – the names of any witnesses, if any.

5.3. *Jurisdiction re workplace violence, harassment, and sexual harassment*

Requests made under this section must specifically refer to alleged contraventions of the Code of Conduct by a Member. Allegations of workplace violence, harassment, and sexual harassment by a Member must be reported in the manner set out in the Township of Plummer Additional Workplace Anti-Violence, Harassment and Sexual Harassment Policy and must be reported as provided thereunder and that policy shall exclusively apply in respect of any such report.

5.4. *Request review*

The Integrity Commissioner will conduct an initial review of the request to ensure that it is a proper allegation of a breach of the Code of Conduct . If, after the initial review, the Integrity Commissioner determines that the request is not properly an allegation of a breach of the Code of Conduct, there are insufficient grounds to believe that there has been a contravention of the Code of Conduct, or the Integrity Commissioner determines that an inquiry is not appropriate for any other reason in the Integrity Commissioner’s reasonable discretion, the Integrity Commissioner will dismiss the request. When determining if an inquiry is appropriate, the Integrity Commissioner may, among other things, take into account the date of the alleged

breach. Further, the Integrity Commissioner shall, in his or her discretion, dismiss the request. If, upon initial review, the Integrity Commissioner determines that the Requestor has not supplied the information as mentioned by section 5.2, the Integrity Commissioner will advise the Requestor that he or she must supply additional information and shall take no further action until the information is provided.

5.5. Powers on inquiry

The Integrity Commissioner may elect to exercise the powers under sections 33 and 34 of the *Public Inquiries Act, 2009*, in which case, notwithstanding anything to the contrary herein, those sections apply to the inquiry.

5.6. Information

The Municipality, its Local Boards and Committees shall give the Integrity Commissioner such information as the Integrity Commissioner believes to be necessary for an inquiry including free access to all books, accounts, financial records, electronic data processing records, reports, files and other papers, things or property belonging to or used by the Municipality, Committee or a Local Board. For greater certainty, providing the Integrity Commissioner with information concerning legal advice shall be deemed not to constitute a waiver of solicitor-client privilege.

5.7. Penalties the Municipality may impose

Council may impose any of the following penalties on a Member if the Integrity Commissioner reports to the Municipality that the Member has contravened the Code of Conduct:

1. A reprimand;
2. Suspension of the remuneration paid to the Member for a period of up to 90 days;
3. Other penalties, including, but not necessarily limited to:
 - a. Removal from membership of a Committee or Local Board;
 - b. Removal as Chair of a Committee or Local Board;
 - c. Require repayment or reimbursement of moneys received;
 - d. Return of property or reimbursement of its value;
 - e. Request for an apology to Council, the Requestor or other relevant party;
 - f. Revocation of travel or other budget;
 - g. Request for resignation;

h. Trespass Order restricting access except for Council Meetings.

5.8. Penalties the Local Board may impose

A Local Board may impose any of the penalties described in section 5.7 above on a member of the Local Board if the Integrity Commissioner reports to the Local Board that, in his or her opinion, the member of the Local Board has contravened the Code of Conduct applicable to the Member of the Local Board, and if the Municipality has not imposed a penalty on the member of the Local Board under section 5.7 above in respect of the contravention.

5.9. Termination of inquiry when regular election begins

If the Integrity Commissioner has not completed an inquiry before nomination day for a regular election, as set out in section 31 of the *Municipal Elections Act, 1996*, the Integrity Commissioner shall terminate the inquiry on that day. If an inquiry is so terminated, the Integrity Commissioner shall not commence another inquiry in respect of the matter unless, within six weeks after voting day in a regular election as set out in section 5 of the *Municipal Elections Act, 1996*, the person or entity who made the request or the Member or former Member whose conduct is concerned makes a written request to the Integrity Commissioner that the inquiry be commenced.

5.10. Other rules that apply during regular election

The following rules apply during the period of time starting on nomination day for a regular election, as set out in section 31 of the *Municipal Elections Act, 1996*, and ending on voting day in a regular election, as set out in section 5 of that *Act*:

1. There shall be no requests for an inquiry about whether a member of council or of a Local Board has contravened the Code of Conduct applicable to the Member.
2. The Integrity Commissioner shall not report to the Municipality or Local Board about whether, in his or her opinion, a member of council or of a Local Board has contravened the Code of Conduct applicable to the Member.
3. The Municipality or Local Board shall not consider whether to impose the penalties referred to in sections 5.5 and 5.6 above on a member of council or of a Local Board.

6. Inquiry by Integrity Commissioner re s. 5, 5.1 or 5.2 of the *MClA*

6.1. *Application*

An Elector, or a person demonstrably acting in the public interest, may apply in writing to the Integrity Commissioner for an inquiry to be carried out concerning an alleged contravention of sections 5, 5.1 or 5.2 of the *MClA* by a Member.

6.2. *Content of application*

An application may be in the form set out in Schedule "B" or, otherwise, shall set out the reasons for believing that the Member has contravened sections 5, 5.1 or 5.2 of the *MClA* and include the Applicant's name and contact information and a statutory declaration attesting to the fact that the Applicant became aware of the contravention not more than six weeks before the date of the application or, in the case where the Applicant became aware of the alleged contravention during the period of time described in paragraph 1 of section 6.6 below, a statutory declaration attesting to the fact that the Applicant became aware of the alleged contravention during that period of time.

6.3. *Review of application*

The Integrity Commissioner will conduct an initial review of the application to ensure that it complies with this section. If the application does not comply with this section, the Integrity Commissioner will advise the Applicant about the non-compliance in writing and the Integrity Commissioner shall take no further action unless or until the Applicant submits a compliant application. If upon initial review, the Integrity Commissioner determines that the application is not properly an application alleging contravention of sections 5, 5.1 or 5.2 of the *MClA* or there are no reasonable grounds to support the application, the Integrity Commissioner shall dismiss the application.

6.4. *No application for inquiry during regular election*

No application for an inquiry under this section may be made to the Integrity Commissioner during the period of time starting on nomination day for a regular election, as set out in section 31 of the *Municipal Elections Act*, 1996, and ending on voting day in a regular election as set out in section 5 of that *Act*.

6.5. Application timing

An application under this section may only be made within six weeks after the Applicant became aware of the alleged contravention. No application shall be brought after the expiration of six years from the time at which the contravention is alleged to have occurred.

6.6. Exception

Despite section 6.5 above, an application may be made more than six weeks after the Applicant became aware of the alleged contravention if both of the following are satisfied:

1. The Applicant became aware of the alleged contravention six weeks before nomination day for a regular election, as set out in section 31 of the *Municipal Elections Act, 1996*, and ending on voting day in a regular election, as set out in section 5 of that *Act*.
2. The Applicant applies to the Integrity Commissioner under section 6.1 within six weeks after the day after voting day in a regular election, as set out in section 5 of the *Municipal Elections Act, 1996*.

6.7. Public meeting

If the Integrity Commissioner decides to conduct an inquiry, the Integrity Commissioner may have a public meeting to discuss the inquiry.

6.8. Powers on inquiry

The Integrity Commissioner may elect to exercise the powers under sections 33 and 34 of the *Public Inquiries Act, 2009*, in which case, notwithstanding anything to the contrary herein, those sections apply to the inquiry.

6.9. Information

The municipality and its Local Boards shall give the Integrity Commissioner such information as the Integrity Commissioner believes to be necessary for an inquiry including free access to all books, accounts, financial records, electronic data processing records, reports, files and other papers, things or property belonging to or used by the Municipality or a Local Board. For greater certainty, providing the Integrity Commissioner with information concerning legal advice shall be deemed not to constitute a waiver of solicitor-client privilege.

6.10. Termination of inquiry when regular election begins

If the Integrity Commissioner has not completed an inquiry before nomination day for a regular election, as set out in section 31 of the *Municipal Elections Act, 1996*, the Integrity Commissioner shall terminate the inquiry on that day.

6.11. No other inquiry in respect of the matter to commence without application

If an inquiry is terminated under section 6.10, the Integrity Commissioner shall not commence another inquiry in respect of the matter unless, within six weeks after voting day in a regular election as set out in section 5 of the *Municipal Elections Act, 1996*, the person who made the application or the Member or former Member whose conduct is concerned applies in writing to the Integrity Commissioner for the inquiry to be carried out.

6.12. Timing for completion of inquiry

The Integrity Commissioner shall complete the inquiry within 180 days after receiving the completed compliant application under section 6.1 above unless the inquiry is terminated under section 6.10 above.

6.13. Decision to apply to a judge upon completion of inquiry

Upon completion of the inquiry, the Integrity Commissioner may, if he or she considers it appropriate, apply to a judge for a determination as to whether the Member has contravened sections 5, 5.1 or 5.2 of the *MCI*.

6.14. Notice to Applicant re decision not to apply to judge

The Integrity Commissioner shall advise the Applicant if the Integrity Commissioner will not be making an application to a judge.

6.15. Reasons re decision to apply to a judge

After deciding whether or not to apply to a judge, the Integrity Commissioner shall publish written reasons for the decision.

6.16. Costs

The Integrity Commissioner's costs of applying to a judge shall be paid by:

1. The municipality, if the Member is alleged to have contravened sections 5, 5.1 or 5.2 of the *MCIA* as member of council of the Municipality; or
2. The Local Board, if the Member is alleged have contravened sections 5, 5.1 or 5.2 of the *MCIA* as member of the Local Board.

7. Conduct of inquiry

The Integrity Commissioner may conduct such inquiry as he or she considers necessary in response to a compliant request or application under sections 5 or 6 above and such inquiry may include all or some of the following:

- Informing the Respondent of the application;
- Interviewing the Applicant, the Respondent, any person involved in the incident, and any identified witnesses;
- Interviewing any other person who may have knowledge of the incidents related to the application or any other similar incidents; and
- Reviewing any information the Integrity Commissioner believes necessary and document such review.

8. Reference to appropriate authorities

8.1. Referral of matter by Integrity Commissioner

If the Integrity Commissioner, when conducting an inquiry, determines that there are reasonable grounds to believe that there has been a contravention of the Criminal Code of Canada or any other *Act*, the Integrity Commissioner shall immediately refer the matter to the appropriate authorities and suspend the inquiry until any resulting investigation, including, but not limited to, police investigations and/or the charges have been finally disposed of, and shall report the suspension to council. Contravention of any other *Act* includes, but is not limited to, contravention of the *Occupational Health and Safety Act*.

8.2. No derogation of rights

The provisions of this protocol in no way affect the right of anyone to:

- (a) contact the police, other law enforcement agency, or any other appropriate authority on their own initiative;
- (b) exercise their right(s) under any legislation; or

- (c) take any other available legal action.

9. Confidentiality

9.1. Integrity Commissioner's duty of confidentiality

The Integrity Commissioner and every person acting under his or her jurisdiction shall preserve confidentiality with respect to all matters that come to his or her knowledge in the course of performing his or her duties. This section prevails over the *Municipal Freedom of Information and Protection of Privacy Act*.

9.2. Confidentiality of those involved in inquiry

Out of respect for the relevant individuals, it is essential that the Applicant, Respondent, witnesses and anyone else involved in an inquiry conducted by the Integrity Commissioner hereunder maintain confidentiality throughout the inquiry and afterwards.

9.3. Disclosure required by law

Notwithstanding sections 9.1 or 9.2 above, information may be disclosed in a criminal proceeding, or as required by law.

9.4. Retention of records

The Integrity Commissioner and person providing outside assistance to the Integrity Commissioner pursuant to section 3.4 above, shall retain all records related to any application and any inquiry indefinitely.

10. Reports

10.1. Periodic report to council

If the Integrity Commissioner provides a periodic report to the Municipality on his or her activities, the Integrity Commissioner may summarize advice he or she has given, but shall not disclose confidential information that could identify a person concerned.

10.2. Report about conduct

After completing an inquiry, the Integrity Commissioner shall provide a written report to the Municipality or the Local Board (the "Report").

The Integrity Commissioner may disclose in the Report, such matters as in the Commissioner's opinion are necessary for the purposes of the Report. Where the Integrity Commissioner finds that there has been a contravention of the Code of Conduct, the Report may, at the Integrity Commissioner's discretion, contain the following:

1. An outline of the Integrity Commissioner's finding; and,
2. The terms of any recommended corrective action;

Where the Integrity Commissioner finds that there has been a contravention of the Code of Conduct, the Report must contain sufficient information for the Municipality or Local Board to determine whether or not to impose corrective action under section 5.7.

10.3. Report to Council or Local Board

Upon receipt of the Report, the Clerk shall indicate on the regular agenda of Council or the Local Board, notice of intent from the Integrity Commissioner to submit a Report for consideration at the following regular meeting.

The Respondent shall have the right of reply when the Report is considered by the Municipality or the Local Board.

Upon review of the Report, Council shall pass a resolution stating whether or not it intends to take action in response to the Report, and if so, what action Council will take.

10.4. Publication of reports

The Municipality and each Local Board shall ensure that reports received from the Integrity Commissioner by the Municipality or by the Local Board, as the case may be, are made available to the public upon request.

11. Bad Faith Applications or Requests

If a person or entity makes a request or application for an inquiry hereunder and the Integrity Commissioner determines such request or application is made in bad faith, notwithstanding anything to the contrary in protocol, the Integrity Commissioner may disclose all relevant information concerning the request or application to the Municipality such that the Municipality may pursue any recourse available against the individual or entity. Examples of bad faith include, but are not limited to, making a report knowing the allegations therein are untrue or making a report for an improper purpose.

12. Indemnity

The Municipality shall indemnify and save harmless the Integrity Commissioner, or any person acting under the instructions of the Integrity Commissioner, for costs reasonably incurred by either of them in connection with the defence of a proceeding if the proceeding relates to an act done in good faith in the performance or intended performance of a duty or authority hereunder or an alleged neglect or default in the performance in good faith of such duty or a by-law passed under Part V.1 of the *Municipal Act, 2001*. For greater certainty, nothing in this section affects the application of section 448 of the *Municipal Act, 2001* with respect to a proceeding referred to in this section.

13. Protocol review

The Municipality will review this Policy as often as it deems reasonably necessary and will post the most current version of this protocol on its website.

SCHEDULE "A"**INTEGRITY COMMISSIONER REQUEST FOR INQUIRY
CODE OF CONDUCT**

This form will be used to request the Integrity Commissioner conduct an inquiry of an alleged Code of Conduct contravention	Submit completed complaint in a sealed envelope to: Integrity Commissioner Request for Inquiry Re Code of Conduct [Integrity Commission Contact Information]
---	---

REQUESTOR'S INFORMATION

Last Name:	First Name:
Street Address:	Municipality:
Postal Code:	Phone #:
E-mail Address:	Name of Member:

DETAILS OF ALLEGED CODE OF CONDUCT CONTRAVENTION

Date(s) of alleged Code of Conduct contravention:	
Provision(s) of Code of Conduct allegedly contravened:	
Facts constituting the alleged Code of Conduct contravention (please use separate page(s) if required)	
Name(s) and contact information of any witnesses:	
<input type="checkbox"/> I agree to release my identity with regard to this request	
<input type="checkbox"/> I do NOT agree to release my identity with regard to this request	
Signature:	Date:
	Year: Month: Day:

FOR OFFICE USE ONLY

Date Received Year: Month: Day:	Request #:	Comments:
Personal information contained on this form is collected under the authority of the <i>Municipal Freedom of Information and Protection of Privacy Act</i> and will be used for the purpose of requesting an inquiry.		

SCHEDULE "B"

INTEGRITY COMMISSIONER APPLICATION FOR INQUIRY MUNICIPAL CONFLICT OF INTEREST ACT

AFFIDAVIT OF _____ (insert full name) I,
 _____ (insert full name), of the (insert City, Town etc.)
 _____ (Municipality of residence) in the Province of Ontario.

MAKE OATH AND SAY (or AFFIRM):

1. I have personal knowledge of the facts as set out in this affidavit, because: (insert reasons - e.g. I work for/I attended a meeting at which, etc.)
2. I have reasonable and probable grounds to believe that a Member, namely: (insert specify name of Member)

has contravened section(s) _____ (specify section(s) 5, 5.1 or 5.2) of the *Municipal Conflict of Interest Act*, RSO 1990, c M.50. The particulars of which are as follows:

(If more room is required, attach and initial extra pages to set out the statement of facts in consecutively numbered paragraphs, with each paragraph being confined as far as possible to a particular statement of fact. Exhibits should be labelled as Exhibit A, B, etc. and attached to this affidavit.)

3. I became aware of the alleged contravention:
 - ☐ not more than six weeks before the date of this application.
 - ☐ within the period of time beginning six weeks before nomination day for a regular election, as set out in section 31 of the *Municipal Elections Act*, 1996, and ending on voting day in a regular election, as set out in section 5 of that *Act*.

This affidavit is made for the purpose of applying for an inquiry by the Integrity Commissioner and for no other purpose.

SWORN (or AFFIRMED) before me at the
 City of _____, this _____ day of _____
 ,20____.

)
)
)
)
)
)

A Commissioner etc.


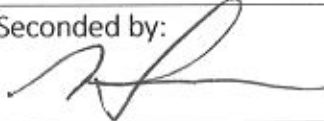
The Corporation of the Township of Plummer Additional
R. R. 2, 38 Railway Crescent
Bruce Mines, ON P0R 1C0
Phone: 705-785-3479 Fax: 705-785-3135

COUNCIL RESOLUTION

AGENDA ITEM

___22c

Date: Feb 20, 2019

Resolution 2019-43	
Moved by: 	Seconded by: 

WHEREAS Section 232.2 of the Municipal Act, 2001, c. 25 requires that the Township adopts code of conduct and;

FURTHER that sections 5, 5.1, and/or 5.2 of the Municipal Conflict of Interest Act be addressed in this policy;

BE IT RESOLVED THAT this council gives three readings and approves by-law 2019-09 which is a by-law adopting a Code of Conduct policy with the addition of the Integrity Commissioner Inquiry Protocol as a Schedule.

RESOLUTION RESULT	RECORDED VOTE		
	MAYOR AND COUNCIL	YES	NO
<input checked="" type="checkbox"/> CARRIED			
<input type="checkbox"/> DEFEATED			
<input type="checkbox"/> DEFERRED*	Mike Jones		
<input type="checkbox"/> REFERRED*	Boris Koehler		
<input type="checkbox"/> PECUNIARY INTEREST DECLARED	Carl MacKenzie		
<input type="checkbox"/> RECORDED VOTE	Tasha Strum		
<input type="checkbox"/> WITHDRAWN*	Beth West		
MAYOR – BETH WEST	Clerk-Treasurer: Y. Goertzen-Cooke		
