

**REPORT TO:** Mayor James M. Diodati  
and Members of Municipal Council

**SUBMITTED BY:** Chief Administrative Officer

**SUBJECT:** **CAO-2017-04**  
**Code of Conduct for Members of Council and Integrity**  
**Commissioner Appointment Process**

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## **RECOMMENDATION**

1. The Code of Conduct for Members of Council and the Integrity Commissioner appointment process attached to this report as Addendum 1 be approved.
2. That Council choose one of the following options related to implementation of penalties:
  - Option 1: Council impose the penalties under Section 223 of the Municipal Act.
  - Option 2: The Integrity Commissioner be delegated authority to impose penalties under Section 223 of the Municipal Act.

## **EXECUTIVE SUMMARY:**

In May, 2012 Council approved a Code of Ethics/Conflict of Interest Policy related to all Employees and Elected Officials. This was a result of the 2011-2014 Strategic Priorities identifying the need to develop a Corporate Code of Ethics to assist with the Corporation committing to a values based corporate culture.

Subsequently in November 22, 2016 Council approved a report from the City Clerk (CD-2016-03) directing staff to prepare an independent Code of Conduct for Council Members and report back on the hiring of an Integrity Commissioner. This report addressed that recommendation.

## **BACKGROUND:**

In 2006, *the Municipal Statute Law Amendment Act, 2006* (Bill 130), amended the Municipal Act to give municipalities the authority to appoint various accountability officers. One of the possible accountability officers, an Integrity Commissioner, reports to Council, in an independent manner, on the application of Code of Conduct and other procedures, rules and policies governing ethical behaviour for members of council and local boards.

In 2014, *the Public Sector and MPP Accountability and Transparency Act* (Bill 8) was passed. As of January 1, 2016 the Ontario Ombudsman was given expanded jurisdiction over municipalities, in addition to being the de facto Closed Meeting Investigator, if a municipality did not hire their own investigator. In the first three months of the increased oversight, the Ombudsman's Office received 266 complaints. The majority of the complaints were related to Councillor or committee member conduct. In these cases, the Ombudsman's Office will not intercede but has recommended municipalities adopt a Code of Conduct and hire an Integrity Commissioner.

Bill 68, *Modernizing Ontario's Municipal Legislation Act, 2017* received Royal Assent on May 30, 2017. This Act includes a requirement that "a municipality shall establish codes of conduct for members of the municipality and of its local boards." The amendments also require the municipality to appoint an Integrity Commissioner who reports to Council and who is responsible for performing in an independent manner the functions assigned by the municipality as outlined in the Act.

## **ANALYSIS/RATIONALE**

An Integrity Commissioner reports directly to Council and is responsible for performing, in an independent manner, investigations regarding application of the municipality's Code of Conduct and other procedures, rules and policies governing ethical behaviour for members of councils and local boards. Section 223,4 (5) of the *Municipal Act* provides that penalties may be imposed including a reprimand or suspension of pay for a period of up to ninety (90) days. Some limited remedial measures may also be outlined in a Code of Conduct, such as an apology or return of municipal property, if improperly used. In other municipalities, the Integrity Commissioner may also be expected to provide ethical advice to Councillors and deliver an annual report on their activities.

Codes of Conduct form the basis of an Integrity Commissioner review. Codes address a broad range of issues, including how to handle gifts and benefits, proper use of municipal resources, social media conduct, proper conduct at council meetings and how to behave when acting on behalf of the municipality. The City of Niagara Falls has an approved Code of Ethics (HR-2012-03). The Code of Ethics has references to elected officials related to conduct, use of position, receipt of gifts and adherence to the provisions of the Municipal Conflict of Interest Act. As a result of the recent changes to the Municipal Act (Bill 68), it is appropriate to develop a Councillor-specific Code of Conduct.

**FINANCIAL IMPLICATIONS**

Penalties under a breach of a Code of Conduct are limited to a reprimand or a suspension of pay of up to ninety (90) days.

The engagement of an Integrity Commissioner will require payment for conducting investigations. Common arrangements in other municipalities include fixed hourly rates, sometimes coupled with an annual retainer.

An RFP process will be carried out by staff and a subsequent report will be presented to Council on the appointment of an Integrity Commissioner. In the meantime, the City Solicitor will seek out qualified individuals to conduct such investigations until a formal appointment is made.

**STRATEGIC COMMITMENT**

Organizational Effectiveness and Efficiency: ensuring that governments are appropriate, effective and accountable to its citizens.

**Respectfully submitted:** \_\_\_\_\_  
Ken Todd, Chief Administrative Office

Attachment: Code of Conduct for Members of Council