

MUNICIPAL CORPORATION OF THE TOWNSHIP OF KILLALOE, HAGARTY AND

RICHARDS

BY-LAW No. 04-2016

BEING a by-law to appoint an Integrity Commissioner.

WHEREAS the *Municipal Act, 2001*, c.25 S5(1) provides that the powers of a municipal corporations are to be exercised by its Council;

AND WHEREAS the *Municipal Act, 2001*, c. 25 S. 5 (3) provides that the powers of every council are to be exercised by by-law;

AND WHEREAS the *Municipal Act, 2001*, C. 25 S. 223(3) authorizes a municipality to appoint an Integrity Commissioner who reports to Council and who is responsible for performing, in an independent manner, the application of the Code of Conduct for Members of Council and the application of any procedures, rules and policies of the municipality governing the ethical behavior of members of Council;

AND WHEREAS Council of the Township of Killaloe, Hagarty and Richards desires to establish the office of the Integrity Commissioner.

NOW THEREFORE be it resolved that the Council of the Corporation of the Township of Killaloe, Hagarty and Richards enacts as follows:

1. That the office of the Integrity Commissioner is hereby established.
2. That Council shall appoint Jack Rosien to be the Integrity Commissioner for a term of three years, effective January 1, 2016.
3. That the general responsibilities of the Integrity Commissioner be approved as outlined in Schedule "A", attached hereto and forming part of this by-law.
4. That the procedure to submit a complaint to the office of the Integrity Commissioner, attached hereto as Schedule "B" of this by-law, is hereby adopted.
5. Any other by-laws inconsistent with this by-law are hereby repealed.

Read a first and second time this 5th day of January, 2016.

Read a third time and finally passed this 5th day of January, 2016.

Janie Wisniewski

Mayor

John Phelan

CAO/Clerk-Treasurer

Schedule "A" to By-law No. 04 -2016

Duties of the Integrity Commissioner

The Commissioner carries out the following core functions.

Investigative Role

Complaints about breaches of the Codes of Conduct are made to the Integrity Commissioner. Complaints can be dealt with through a formal or informal process. When carrying out a formal complaint investigation, the Commissioner can summon evidence and examine persons under oath.

Should the Integrity Commissioner find a contravention, he/she can recommend penalties for imposition by Council. The penalties range from a reprimand to suspension of remuneration.

Excerpt from the Municipal Act, 2001:

Integrity Commissioner

223.3(1) Without limiting sections 9, 10 and 11, those sections authorize 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 with respect to,

- a) the application of the code of conduct for members of council and the code of conduct for members of local boards or of either of them;
- b) the application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards or of either of them; or
- c) both of clauses (a) and (b).

Powers and duties

Subject to this Part, in carrying out the responsibilities described in subsection (1), the Commissioner may exercise such powers and shall perform such duties as may be assigned to him or her by the municipality.

Delegation

(2) The Commissioner may delegate in writing to any person, other than a member of council, any of the Commissioner's powers and duties under this Part.

(3) **Same**

The Commissioner may continue to exercise the delegated powers and duties, despite the delegation.

(4) **Status**

The Commissioner is not required to be a municipal employee.

Inquiry by Commissioner

223.4(1) This section applies if the Commissioner conducts an inquiry under this Part,

- (a) in respect of a request made by council, a member of council or a member of the public about whether a member of council or of a local board has contravened the code of conduct applicable to the member; or
- (b) in respect of a request made by a local board or a member of a local board about whether a member of the local board has contravened the code of conduct applicable to the member.

Powers on inquiry

(2) The Commissioner may elect to exercise the powers under sections 33 and 34 of the

Public Inquiries Act, 2009, in which case those sections apply to the inquiry.

Information

(3) The municipality and its local boards shall give the Commissioner such information as the Commissioner believes to be necessary for an inquiry.

Same

(4) The Commissioner is entitled to have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by the municipality or a local board that the Commissioner believes to be necessary for an inquiry.

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.

Same

(6) The local board may impose either of the penalties described in subsection (5) on its member if the Commissioner reports to the board that, in his or her opinion, the member has contravened the code of conduct, and if the municipality has not imposed a penalty on the member under subsection (5) in respect of the same contravention.

Duty of confidentiality

223.5(1) The Commissioner and every person acting under the instructions of the Commissioner shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties under this Part.

Exception

(2) Despite subsection (1), information may be disclosed in a criminal proceeding as required by law or otherwise in accordance with this Part.

Section prevails

(3) This section prevails over the *Municipal Freedom of Information and Protection of Privacy Act*.

Report to council

223.6(1) If the Commissioner provides a periodic report to the municipality on his or her activities, the Commissioner may summarize advice he or she has given but shall not disclose confidential information that could identify a person concerned.

Report about conduct

(2) If the Commissioner reports to the municipality or to a local board his or her opinion about whether a member of council or of the local board has contravened the applicable code of conduct, the Commissioner may disclose in the report such matters as in the Commissioner's opinion are necessary for the purposes of the report..

Publication of reports

(3) The municipality and each local board shall ensure that reports received from the Commissioner by the municipality or by the board, as the case may be, are made available to the public.

Testimony

223.7 Neither the Commissioner nor any person acting under the instructions of the commissioner is a competent or compellable witness in a civil proceeding in connection with anything done under this Part.

Reference to appropriate authorities

223.8 If the Commissioner, when conducting an inquiry, determines that there are reasonable grounds to believe that there has been a contravention of any other Act or of the *Criminal Code* (Canada), the Commissioner shall immediately refer the matter to the appropriate authorities and suspend the inquiry until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to council.

Schedule "B" To By-Law # 04 -2016**Procedure to Submit a Complaint to the Integrity Commissioner**

1. Council members, employees or members of the public may submit complaints to the Integrity Commissioner relating to compliance with the Code of Conduct for Members of Council.
2. All complaints will be treated as confidential at all times.
3. Complaints shall be submitted on the established Complaint Request Review Form, attached hereto. The Complaint Review Request Form is also available on the Township website or from the Clerk's office.
4. All complaints must contain the following information:
 - a) Name of Municipality;
 - b) Complainant's name, mailing address, telephone number and e-mail address (if applicable);
 - c) Nature and background of the complaint;
 - d) Any activities undertaken (if any) to resolve the concern;
 - e) Any other relevant information;
 - f) Original Signature; and a
 - g) Cheque in the amount of \$125.00 made payable to the Township of Killaloe, Hagarty and Richards.
5. The Complaint Review Request form, accompanied by the prescribed fee, shall be dated and submitted to the Clerk by mail or personal delivery.
6. Upon receipt of a complete Complaint Review Request the Clerk shall prepare a package to be forwarded to the Integrity Commissioner that will include the following:
 - a) The Complaint Review Request Form;
 - b) A certified true copy of the Code of Conduct for Members of Council; and
 - c) Any and all such other information or documentation supplied by the complainant that is deemed relevant.
7. The information package referred to above shall be forwarded to the Integrity Commissioner in hard copy format by courier or regular mail, whichever is deemed appropriate.

**Township of Killaloe, Hagarty and Richards
Integrity Commissioner Complaint Review Request Form
Section 223 – Municipal Act, 2001, (As Amended)**

COMPLAINANT NAME			
ADDRESS			
TELEPHONE	HOME	WORK	
E-MAIL			

Personal Information is collected pursuant to the Municipal Freedom of Information and Protection of Privacy Act and will be used for the purpose of responding to your request. Questions about this collection should be directed to the CAO/Clerk-Treasurer at (613) 757-2300.

BACKGROUND	This should provide as much information as is required to explain the nature and background of the particular occurrence. (i.e.) timing, contact and explanation. Please attach applicable documents.

ACTION	Activities that the complainant has undertaken to resolve the matter; if applicable.

SUMMARY / COMMENTS

Date of Signature _____ Signature of Complainant _____