



CITY OF YELLOWKNIFE

BY-LAW NO. 4976

BC 26

A BY-LAW of the Council of the Municipal Corporation of the City of Yellowknife in the Northwest Territories, to establish a Code of Ethics for Members of Council.

WHEREAS, pursuant to section 35(1) of the *Cities Towns and Villages Act*, S.N.W.T., 2003, c.22; a Council may make rules respecting the behaviour of Council Members;

AND WHEREAS Council wishes to set out a process for dealing with violations of the code of ethics in this by-law;

AND WHEREAS the public is entitled to expect the highest standards of conduct from the members that it elects to Council for the City of Yellowknife;

AND WHEREAS the establishment of a code of ethics for members of Council is consistent with the principles of transparent and accountable government;

AND WHEREAS a code of ethics ensures that members of Council share a common understanding of acceptable conduct extending beyond the legislative provisions governing the conduct of members of Council;

NOW THEREFORE, THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE CITY OF YELLOWKNIFE, in regular sessions duly assembled, enacts as follows:

1. SHORT TITLE

1.1. This By-law may be cited as the Council Code of Ethics By-law.

2. DEFINITIONS

2.1. In this By-law:

“Administration”

means the administrative and operational arm of the City, comprised of the various departments and business units and includes City Staff;

“City”	means the municipal corporation of the City of Yellowknife;
“City Administrator”	means the Senior Administrative Officer of the City appointed pursuant to the <i>Cities, Towns and Villages Act</i> , or their designate;
“City Staff”	includes the City Administrator, Directors, Managers, Supervisors, and all employees of the City whether they be non-union or union staff, whether full-time, part- time, contract, seasonal or volunteers.
“Conflict of Interest”	includes a Pecuniary Interest or circumstances where an individual is, or could be, influenced, or appear to be influenced, by a personal interest when carrying out their public duty including anything that gives rise to bias, prejudgment, close mindedness, or undue influence;
“Council”	means council of the City of Yellowknife;
“Integrity Commissioner”	means an independent and impartial individual that reports directly to Council that is retained and responsible for performing the functions assigned by the City with respect to the application of the Council Code of Ethics by-law;
“Member”	means a member of the Council, including the Mayor;
“Nomination”	means that the returning officer has included the candidates name in the public notice of persons nominated as candidates;
“Pecuniary Interest”	means a direct or indirect pecuniary interest as defined in the <i>Conflict of Interest Act</i> .
“Private Meeting”	means a meeting or portion of a meeting which is closed to the public;

“Social Media”

means publicly available, third party hosted, interactive web technologies used to produce, post, and interact through text, images, video, and audio to inform, share, promote, collaborate, or network;

3. PURPOSE AND APPLICATION

- 3.1. The purpose of this By-law is to establish standards for the ethical conduct of Members relating to their roles and obligations when acting as representatives of the City and a procedure for the investigation and enforcement of those standards.

4. KEY PRINCIPLES THAT UNDERLINE THE CODE OF ETHICS

- 4.1. Members shall serve and be seen to serve all residents in a transparent and diligent manner. Members recognize the public’s right to reasonable access to information in relation to how decisions are made. The public’s right to access however must be balanced against the requirement to protect the legitimate interests of the City and the respect for approved policies of the City.
- 4.2. Members are expected to perform their duties in office in a manner that promotes public confidence and will bear close public scrutiny.
- 4.3. Decision-making authority lies with Council, and not with an individual Member.
- 4.4. Members recognize that it is the role of Administration to implement Council’s decisions and to establish administrative practices and procedures to carry out Council’s decisions.
- 4.5. Members shall treat every person, including other Members, City Staff and the public, with dignity, understanding and respect.
- 4.6. Other than the office of Mayor, being a Member is a part time commitment, which means that Members may have other employment and activities as private citizens. Members expect, and should be expected to lead, private lives. When conducting themselves in private, Members should be sensitive to the nature of their public position.

5. REPRESENTING THE CITY

- 5.1. Members shall:
- (a) act honestly and, in good faith, serve the welfare and interests of the residents of the City as a whole;
 - (b) perform their functions and duties in a conscientious and diligent manner with integrity, accountability and transparency; and
 - (c) conduct themselves in a professional manner with dignity and make every effort to

participate diligently in the meetings of Council, committees of Council and other bodies to which they are appointed by Council.

6. COMMUNICATING ON BEHALF OF THE CITY

- 6.1. A Member must not claim to speak on behalf of Council unless authorized to do so.
- 6.2. Unless Council directs otherwise, the Mayor is Council's official spokesperson and in the absence of the Mayor it is the Deputy Mayor. All inquiries from the media regarding the official Council position on an issue shall be referred to Council's official spokesperson.
- 6.3. A Member who is authorized to act as Council's official spokesperson must ensure that their comments accurately reflect the official position and will of Council as a whole, even if the Member personally disagrees with Council's position.
- 6.4. No Member shall make a statement when they know that statement is false.
- 6.5. No Member shall make a statement with the intent to mislead Council or members of the public.
- 6.6. Any statement by a Member that is not consistent with the official position of Council should be prefaced as personal opinion only.

7. RESPECTING THE DECISION MAKING PROCESS

- 7.1. Decision making authority lies with Council, and not with any individual Member. Council may only act in accordance with the *Cities, Towns and Villages Act* and the Council Procedures By-law. No Member shall, unless authorized by Council, attempt to bind the City or give direction to City Staff, agents, contractors, consultants or other service providers or prospective vendors to the City.
- 7.2. Members shall conduct and convey Council business and all their duties in an open and transparent manner (other than for those matters which by law are authorized to be dealt with in a confidential manner in a Private Meeting) and in so doing, allow the public to view the process and rationale which was used to reach decisions and the reasons for taking certain actions.
- 7.3. Members shall accurately communicate the decisions of Council, even if they disagree with Council's decision, such that respect for the decision-making processes of Council is fostered.
- 7.4. Members shall approach decision making with an open mind that is capable of persuasion.

8. ADHERANCE TO POLICIES, PROCEDURES AND BY-LAWS

- 8.1. Members shall seek to serve the public interest by upholding both the letter of the law and the spirit of the laws and policies established by the Federal Parliament, Northwest Territories Legislature, and by Council. The provisions of this by-law are intended to be applied in concert with existing legislation and go beyond the minimum standards of behaviour set out in current Federal and Territorial statutes.

- 8.2. Members shall respect the City as an institution, its by-laws, policies and procedures and shall encourage public respect for the City, its by-laws, policies and procedures.
- 8.3. A Member must not encourage disobedience of any by-law, policy or procedure of the City in responding to a member of the public, as this undermines public confidence in the City and in the rule of law.

9. RESPECTFUL INTERACTIONS WITH COUNCIL MEMBERS, CITY STAFF, THE PUBLIC AND OTHERS

- 9.1. Members shall act in a manner that demonstrates fairness, respect for individual differences and opinions, and an intention to work together for the common good and in furtherance of the public interest.
- 9.2. No Member shall use indecent, abusive, or insulting words or expressions toward another Member, any City Staff or any member of the public.
- 9.3. No Member shall speak in a manner that is discriminatory to any individual based on race, colour, ancestry, nationality, ethnic origin, place of origin, creed, religion, age, disability, sex, sexual orientation, gender identity, marital status, family status, family affiliation, political belief, political association, social condition, or a conviction that is subject to a pardon or record suspension.
- 9.4. Members shall respect the fact that City Staff work for the City as a corporate body and are charged with making recommendations that reflect their professional expertise and a corporate perspective and that City Staff are required to do so without undue influence from any Member or group of Members.
- 9.5. All Members have a duty to treat members of the public, one another, and City Staff appropriately and without abuse, bullying or intimidation and to ensure that their work environment is free from discrimination and harassment. The City's *Respectful Workplace and Anti-Harassment Policy* applies to all Members in their interactions with City Staff.
- 9.6. All complaints received involving Members under the *Respectful Workplace and Anti-Harassment Policy* shall be referred to the Integrity Commissioner for processing in accordance with both the said policy and the Council Code of Ethics By-law Complaints Protocol.
- 9.7. A Member must not:
 - (a) involve themselves in matters of Administration, which fall within the jurisdiction of the City Administrator, other than to elicit a free flow of information through the office of the City Administrator;
 - (b) use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any City Staff with the intent of interfering in the person's duties; or
 - (c) maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of City Staff.

10. CONFIDENTIAL INFORMATION

- 10.1. Members must keep in confidence:
- (a) the subject matter of a Private Meeting;
 - (b) any confidential information obtained at a Private Meeting; and
 - (c) the substance of deliberations discussed in a Private Meeting,
- until the matter is discussed at a meeting held in public, or until a decision is made by Council to make the matter public.
- 10.2. Even after certain information from a Private Meeting is made public a Member must not disclose information, or discuss the substance of deliberations, if to do so would:
- (a) be prejudicial to the City or persons involved in the matter;
 - (b) reveal personal information, including personal information about City Staff;
 - (c) reveal salary, benefits or performance record of City Staff;
 - (d) prejudice an investigation under, or enforcement of, an enactment or by-law;
 - (e) prejudice public security or the maintenance of law and order; or
 - (f) compromise the security of documents or premises.
- 10.3. No Member shall use confidential information for personal benefit or for the benefit of any other individual organization.
- 10.4. In the course of their duties, Members may also become privy to confidential information received outside of a private meeting. Members must not:
- (a) disclose or release by any means to any member of the public, including the media, any confidential information acquired by virtue of their office, unless the disclosure is required by law or authorized by Council to do so;
 - (b) access or attempt to gain access to confidential information in the custody or control of the City unless it is necessary for the performance of the Member's duties and is not otherwise prohibited by Council, and only then if the information is acquired through appropriate channels in accordance with applicable Council by-laws and policies; or
 - (c) use confidential information for personal benefit or for the benefit of any other individual or organization.

11. CONFLICT OF INTEREST

- 11.1. Members shall perform their functions with integrity and avoid private conflicts of interest, both apparent and real.
- 11.2. Members shall not extend in the discharge of their official duties, preferential treatment to any individual, corporation or organization.
- 11.3. Members shall fulfill all of their obligations under the *Conflict of Interest Act*.
- 11.4. In addition to their obligations under the *Conflict of Interest Act*, Members shall avoid all Conflicts of Interest and disclose them in accordance with the Council Procedures By-law.
- 11.5. Requirements on Members to avoid Conflicts of Interest are subject to any common law exemptions, including without limitation, the exemption referred to as 'community of interest' which allows a member to participate in deliberations where a Member has a personal interest but that interest is no different from that of the community in general, or a section of the community.

12. IMPROPER USE OF INFLUENCE

- 12.1. No Member shall use the influence of the Member's office for any purpose other than for the exercise of the Member's official duties.
- 12.2. When a Member's private life or employment intersects with City Staff, Members should not expect that their role as a Member will affect or influence the services that they would receive as a private citizen. Members should expect a high quality of advice from City Staff based on political neutrality and objectivity.

13. USE OF CITY ASSETS AND SERVICES

- 13.1. Members shall use City property, equipment, services, supplies and Administration's resources (including City Staff) only for the performance of their duties as a Member, subject to the following limited exceptions:
 - (a) City property, equipment, service, supplies and Administration's resources (including City Staff) that are available to the general public may be used by a Member for personal use upon the same terms and conditions as members of the general public, including booking and payment of any applicable fees or charges;
 - (b) electronic communication devices, including but not limited to desktop computers, laptops, tablets and smartphones, which are supplied by the City to a Member, may be used by the Member for personal use, provided that the use is not for personal gain, offensive or inappropriate.

14. ORIENTATION AND OTHER TRAINING ATTENDANCE

- 14.1. Every Member must attend the orientation training if offered by the City within 90 days after the Member takes the oath of office.
- 14.2. Unless excused by Council, every Member must attend any other training organized at the direction of Council for the benefit of Members throughout the Council term.

15. GIFTS AND HOSPITALITY

- 15.1. Members shall not accept gifts, hospitality or other benefits that are connected directly or indirectly with the performance of their duties of office.
- 15.2. Members shall not accept gifts, hospitality or other benefits that would, to a reasonable member of the public, appear to be in gratitude for influence, to induce influence, or otherwise to go beyond the necessary and appropriate public functions involved.
- 15.3. Members may accept hospitality, gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation, provided that the value of the hospitality, gift or benefit does not exceed \$100. If any such hospitality, gift or benefit is valued over \$100 or is artwork it shall be reported to the Council at the next regularly scheduled meeting at which the recipient is in attendance. If it is deemed by a majority of Council that the gift or artwork was intended for the City, then it shall be the property of the City of Yellowknife, otherwise the recipient is entitled to retain the gift provided that it does not violate section 15.1 or section 15.2 of this by-law.

16. ELECTION CAMPAIGNS

- 16.1. Members are required to follow the provisions of the *Local Authorities Elections Act* and Members are accountable under the provisions of that statute.
- 16.2. No Member shall use the equipment, supplies, services, City Staff, or other resources of the City for any election campaign or campaign-related activities and shall not use the City of Yellowknife logo for any campaign purposes.
- 16.3. If a Member uses any social media account for campaign purposes, such account must not be created or supported by City resources or use the City logo. Social media accounts used for campaign purposes must utilize personal cell phones, tablets and/or computers.
- 16.4. To avoid confusion with any website or social media accounts used for Council Member work, Council Members who choose to create or use social media accounts for campaign communications must include, for the duration of the campaign, a clear statement on each campaign website or social media account's home page indicating that the account is being used for election campaign purposes.

- 16.5. No Member shall use City facilities or property for campaign events, unless the facility or property is rented in accordance with municipal agreements and the appropriate rates are paid.

17. INFORMAL COMPLAINT PROCESS

- 17.1. Any person who has identified or witnessed conduct by a Member that the person reasonably believes, in good faith, is in contravention of this By-law may address the prohibited conduct by following this process:
- (a) Advise the member that the behaviour or activity contravenes the by-law;
 - (b) Encourage the member to stop the prohibited behaviour or activity;
 - (c) Keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information and file it with the Integrity Commissioner;
 - (d) If applicable, confirm to the member your satisfaction with the response of the member; or, if applicable, advise the member of your dissatisfaction with the response; and
 - (e) Consider the need to pursue the matter in accordance with the formal complaint procedure outlined in Part 18, or in accordance with another applicable judicial or quasi-judicial process or complaint procedure.
- 17.2. Individuals are encouraged to pursue this informal complaint procedure as the first means of remedying conduct that they believe violates this By-law. However, an individual is not required to complete this informal complaint procedure prior to pursuing the formal complaint procedure outlined below.

18. FORMAL COMPLAINT PROCESS

- 18.1. Any person who has identified or witnessed conduct by a Member that the person reasonably believes, in good faith, is in contravention of this By-law may file a formal complaint in accordance with the following procedure:
- (a) A request for an investigation of a complaint that a Member has contravened the Council Code of Ethics By-law (the "complaint") shall be sent directly to the Integrity Commissioner by mail, e-mail, fax, or courier in the form attached to this by-law as Schedule "A";
 - (b) All complaints shall be signed by an identifiable individual (which includes the authorized signing officer of an organization);
 - (c) The complaint must set out reasonable and probable grounds for the allegation that the Member has contravened this By-law, including a detailed description of the facts, as they are known, giving rise to the allegation;

- (d) If the facts, as reported, include the name of one or more Members who are alleged to be responsible for the breach of this By-law, the Member or Members concerned shall receive a copy of the complaint submitted to the Integrity Commissioner;
 - (e) A Member who is the subject of an investigation shall be afforded procedural fairness, including an opportunity to respond to the allegations before Council deliberates and makes any decision or any sanction is imposed;
 - (f) A Member who is the subject of an investigation is entitled to be represented by legal counsel, at the Member's sole expense.
- 18.2. The requirements set out in subsections 18.1(a)-(b) do not apply to complaints received in accordance with the City's Whistleblower Policy.

19. INTEGRITY COMMISSIONER INVESTIGATION

- 19.1. Upon receipt of a complaint under this By-law or the City's Whistleblower Policy the Integrity Commissioner shall review the complaint and decide whether to proceed to investigate the complaint or not.
- 19.2. If the Integrity Commissioner is of the opinion that a complaint is frivolous or vexatious or is not made in good faith, or that there are no grounds or insufficient grounds for conducting an investigation, the Integrity Commissioner may choose not to investigate or, if already commenced, may terminate any investigation, or may dispose of the complaint in a summary manner. If Council was previously aware of such a complainant then Council shall be notified of the Integrity Commissioner's decision. Other than when Council was previously aware of such a complaint, or in exceptional circumstances, the Integrity Commissioner will not report to Council on any such complaint except as part of an annual or other periodic report.
- 19.3. If the complaint is not, on its face, a complaint with respect to non-compliance with the by-law or the complaint is covered by other legislation or a complaint procedure under another Council policy, the Integrity Commissioner shall so advise the complainant in writing.
- 19.4. If the complaint on its face is an allegation of a criminal nature consistent with the *Criminal Code of Canada*, the complainant shall be advised that if the complainant wishes to pursue any such allegation, the complainant must pursue it with the appropriate police force.
- 19.5. In other cases, the complainant shall be advised if the matter, or part of the matter, is not within the jurisdiction of the Integrity Commissioner to process, with any additional reasons and referrals as the Integrity Commissioner considers appropriate.
- 19.6. Upon receipt of a formal complaint pursuant to this by-law-, and where the Integrity Commissioner determines that the complaint meets the criteria to be investigated, the Integrity Commissioner will proceed as follows:
- (a) serve the complaint and supporting material on the Member whose conduct is in question with a request that a written response to the allegation by way of affidavit

or otherwise be filed within ten business days; and

- (b) serve a copy of the response provided on the complainant with a request for a written reply within ten business days.
- 19.7. If necessary, after reviewing the written materials, the Integrity Commissioner may speak to anyone relevant to the complaint, access and examine any of the information relevant to the complaint and may enter any City work location relevant to the complaint for the purposes of investigation.
- 19.8. The Integrity Commissioner shall not issue a report finding a violation of the Council Code of Ethics By-law on the part of any Member unless the Member has had reasonable notice of the basis for the proposed finding and any recommended sanction and an opportunity either in person or in writing to comment on the proposed finding and any recommended sanction.
- 19.9. The Integrity Commissioner will make interim reports to Council where necessary and as required to address any instances of interference, obstruction or retaliation encountered during the investigation.
- 19.10. The Integrity Commissioner shall report to the complainant and the Member generally no later than 90 days after the making of the complaint.
- 19.11. Where the complaint is sustained in whole or in part, the Integrity Commissioner shall also report to Council outlining the findings, or recommended corrective action.
- 19.12. Where the complaint is dismissed, other than in exceptional circumstances, the Integrity Commissioner shall not report to Council except as part of an annual or other periodic report.
- 19.13. Any recommended corrective action must be permitted in law and shall be designed to ensure that the inappropriate behaviour or activity does not continue.
- 19.14. If the Integrity Commissioner determines that there has been no contravention of the Council Code of Ethics By-law, or that a contravention occurred although the Member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgement made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.
- 19.15. The City Clerk shall process the report for the next meeting of Council.
- 19.16. The Integrity Commissioner may report to Council that a specific complaint is not within the jurisdiction of the Integrity Commissioner.
- 19.17. The Integrity Commissioner shall report annually to Council on complaints not within the jurisdiction of the Integrity Commissioner, but, where possible, shall not disclose information that could identify a person concerned.
- 19.18. The Integrity Commissioner is responsible for performing the duties set out in this By-law independently and shall report directly to Council in respect of all such matters.

- 19.19. The Integrity Commissioner shall file an annual report to Council respecting the advice, education and investigations carried out in the previous year, and developments or recommendations of significance related to the role of the Integrity Commissioner.

20. ENFORCEMENT

- 20.1. Council shall consider and respond to the Integrity Commissioner's report within 90 days after the day the report is laid before it.
- 20.2. In responding to the report, Council may vary a recommendation that imposes a penalty, subject to Section 35, subsection (2) of the *Cities, Towns and Villages Act* but shall not refer the recommendation other than back to the Integrity Commissioner.
- 20.3. Upon receipt of recommendations from the Integrity Commissioner, Council may by resolution approved by at least 2/3 of the Members present, in circumstances where the Integrity Commissioner has determined there has been a violation of the Council Code of Ethics By-law, impose one or more of the following penalties:
- (a) public censure; or
 - (b) removal of the member from meetings.

21. MEMBER COMPLIANCE

- 21.1. Members shall uphold the letter and the spirit and intent of this By-law.
- 21.2. Members are expected to co-operate in every way possible in securing compliance with the application and enforcement of this By-law.
- 21.3. No Member shall:
- (a) undertake any act of reprisal or threaten reprisal against a complainant or any other person for providing relevant information to Council or to any other person;
 - (b) obstruct Council, or any other person, in carrying out the objectives or requirements of this By-law.

22. CONFIDENTIALITY OF INTEGRITY COMMISSIONER

- 22.1. The Integrity Commissioner and every person acting under her or his instructions shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of any investigation except as required by law in a criminal proceeding.
- 22.2. All reports from the Integrity Commissioner to Council will be made available to the public.
- 22.3. Any references by the Integrity Commissioner in an annual or other periodic report to a complaint or an investigation shall not disclose confidential information that could identify a person concerned.

22.4. The Integrity Commissioner in a report to Council on whether a Member has violated the Council Code of Ethics By-law shall only disclose such matters as in the Integrity Commissioner's opinion are necessary for the purposes of the report.

23. REVIEW

23.1. This By-law shall be brought forward for review at the beginning of each term of Council, when relevant legislation is amended, and at any other time that Council considers appropriate to ensure that it remains current and continues to accurately reflect the standards of ethical conduct expected of Members.

24. EFFECT

24.1. That this by-law shall come into effect upon receiving Third Reading and otherwise meets the requirements of Section 75 of the *Cities, Towns and Villages Act*.

Read a First time this 23 day of July, A.D. 2018.



Mayor

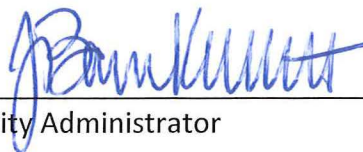


City Administrator

Read a Second Time this 29 day of August, A.D. 2018.



Mayor




City Administrator

Read a Third Time and Finally Passed this 24 day of SEPTEMBER, A.D., 2018.

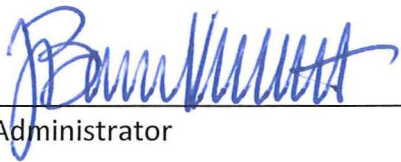


Mayor



City Administrator

I hereby certify that this by-law has been made in accordance with the requirements of the *Cities, Towns and Villages Act* and the by-laws of the Municipal Corporation of the City of Yellowknife.



City Administrator





CITY OF YELLOWKNIFE

BY-LAW NO. 4976

**SCHEDULE "A"
COUNCIL CODE OF ETHICS
COMPLAINT FORM**

First Name	
Last Name	
Daytime Telephone #	
Evening Telephone #	
Email Address:	
Are you: (choose one)	<input type="radio"/> A member of the Public <input type="radio"/> A Member of Council <input type="radio"/> A member of City Staff
Please identify the Member of Council that you believe has breached the Council Code of Ethics By-law (the "Respondent"):	
Please identify the section(s) of the Code of Ethics you believe has been breached:	
Please provide all relevant facts in support of your assertion of a violation or violations (use additional pages if necessary and attach any relevant documents):	

Please provide the name(s) and contact information of any and all witnesses to the alleged violation or violations:

NAME	TELEPHONE	EMAIL ADDRESS
.....
.....
.....
.....

By submitting this Ethics Complaint, I allege that the Respondent identified herein violated the Council Code of Ethics By-law No. 4976. I understand that I am required to keep the information that has been and will be submitted concerning this ethics proceeding confidential. **I also understand that the Respondent may receive a complete, non-redacted copy of this document, as well as other information that is submitted with regard to this ethics proceeding.**

I acknowledge and agree that the Integrity Commissioner may contact individuals who may be witnesses. Further, I understand that some or all of the information submitted with regard to the ethics proceeding may be disclosed publicly (in either redacted or non-redacted form) within the Integrity Commissioner’s annual report to Yellowknife City Council.

I further certify that the factual allegations made in this Ethics Complaint are true and accurate to the best of my knowledge and that these ethics charges are made in good faith.

DATED at the City of Yellowknife this _____ day of _____, 20__.

Signature of Complainant

Submit to:
[CONTACT INFORMATION FOR THE INTEGRITY COMMISSIONER TO BE INSERTED]