

Report to Corporate Services Committee

To: Chair and Members
Corporate Services Committee
From: Cathy Saunders, City Clerk
Subject: Province of Ontario – Request for Comment – Code of Conduct for Members of Council and Report on the Town of Collingwood Judicial Inquiry
Meeting on: May 31, 2021

Recommendation

That on the recommendation of the City Clerk, the following actions be taken with respect to the Code of Conduct for Members of Council:

- a) the report dated May 31, 2021 entitled “Province of Ontario – Request for Comment – Code of Conduct for Members of Council and Report on the Town of Collingwood Judicial Inquiry”, BE RECEIVED; and,
- b) the City Clerk BE ADVISED of any actions to be taken in response to the above-noted report.

Analysis

1.0 Background Information

The purpose of this report is to review the Municipal Council’s current Code of Conduct and to seek direction from the Municipal Council for any changes that the Municipal Council may wish to make to enhance the Code of Conduct that has been in place for two-years, and to provide comments to the Government of Ontario in response to their ongoing consultation process with respect to Municipal Council’s Codes of Conduct — taking into consideration the City’s experience over the past two years and the recommendations contained in the Report of the Collingwood Judicial Inquiry.

The following summarizes pertinent background information related to this matter.

1.1 *Modernization of Ontario’s Municipal Legislation Act, 2017*

In March 2019, in response to the implementation of the *Modernization of Ontario’s Municipal Legislation Act, 2017*, the Municipal Council adopted by by-law, the following documents:

- A new Code of Conduct for Members of Council;
- A new Code of Conduct for Local Boards;
- A revised Terms of Reference for the Integrity Commissioner to reflect legislative changes related to the new Codes of Conduct for Members of Council and Local Boards;
- A new “Members of Council Public Registry Declaration of Interest” policy;
- A new “Public Registry Declaration of Interest for Local Boards” policy; and
- A new “Members of Council – Absence – Pregnancy or Parental Leave” policy.

1.2 Transparency and the Public Trust – Report of the Collingwood Judicial Inquiry

In November 2020, Associate Chief Justice, Frank N. Marrocco released the report on the Town of Collingwood Judicial Inquiry. The full Report can be found at the following link: <https://www.collingwoodinquiry.ca/report/index.html>

The purpose of the Judicial Inquiry was “to examine two major transactions that the Town of Collingwood engaged in under the leadership of its 2010-14 municipal Council”. The two actions related to the “sale of 50 percent interest in the Town’s electrical utility”.

The findings of the Collingwood Judicial Inquiry are pertinent to considerations related to the municipal council’s Codes of Conduct and Procurement Policies.

1.3 Government of Ontario – Consultation Code of Conduct

On April 14, 2021, the Province of Ontario launched a 90-day consultation process to receive comments on how Municipal Council’s Codes of Conduct could be strengthened to ensure that municipal governments have a safe and respectful workplace and carry out their duties in an ethical manner. The following link provides further information on this process: <https://www.ontario.ca/page/consultation-strengthening-accountability-municipal-council-members>

A letter dated February 2, 2021 from the Association of Municipalities submitted to the Minister of Municipal Affairs and Housing in response to the Government of Ontario inquiry “as to whether AMO might provide input into a potential council member recall mechanism” can be found at the following link: https://www.amo.on.ca/sites/default/files/assets/DOCUMENTS/Letters/2021/OptionsforEnforcingCompliancebyCouncilMemberswithMunicipalCodesofConductAMOLtr20210203.pdf?_zs=0tLdL1&_zl=PFjw1

2.0 Discussion and Considerations

2.1 Current Code of Conduct for Members of Council

Attached as Appendix “A” to this report is the current “Code of Conduct for Members of Council” (“Code of Conduct”) adopted by Council in 2019.

The most notable change made to the Code of Conduct in 2019 related to the following additional Principles provided for in the *Municipal Conflict of Interest Act*:

“The Province of Ontario endorses the following principles in relation to the duties of members of councils and local board under this Act;

1. The importance of integrity, independence and accountability in local government decision-making.
2. The importance of certainty in reconciling the public duties and pecuniary interests of members.
3. Members are expected to perform their duties of office with integrity and impartiality in a manner that will bear the closest scrutiny.
4. There is a benefit to municipalities and local boards when members have a broad range of knowledge and continue to be active in their own communities, whether in business, in the practice of a profession, in community associations, and otherwise.”

In addition, Members who have a direct or indirect pecuniary interest in a matter that is being considered by an officer or employee of a municipality or local board or a person or body who has a delegated power or duty are precluded from using their office in any way to attempt to influence any decision or recommendation that results from consideration of the matter.

Potential Penalties Issued by the Integrity Commissioner

If the Integrity Commissioner determines that a violation of the Code of Conduct has occurred, the Integrity Commissioner may impose one of the following sanctions:

- written or verbal public apology;
- return of property or reimbursement of its value or of monies spent;
- removal from membership of a committee; and,
- removal as a chair of a committee.

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

The Integrity Commissioner has the authority to apply sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* and investigate complaints or initiate an investigation of suspected violations of the Act. If the Integrity Commissioner determines that a violation has occurred, the Integrity Commissioner may apply to a judge for determination of the questions of whether a Member has contravened section 5, 5.1 or 5.2 of the Act.

Potential Penalties Issued by Municipal Council

Upon receipt of a recommendation from the Integrity Commissioner, Council may, in circumstances where the Integrity Commissioner has determined there has been a violation of the Code of Conduct, impose either:

- a reprimand; or
- a suspension of the remuneration paid to the Member in respect of their services as a Member of Council or a local board, as the case may be, for a period of up to 90 days.

Potential Penalties Issued by the Courts

If a Judge determines that a member or former member has contravened the *Municipal Conflict of Interest Act* and therefore also in violation of the Code of Conduct, the Judge may do any of the following:

- reprimand the member or former member;
- suspend remuneration paid to the member for a period up to 90 days;
- declare the member's seat vacant;
- declare the member's seat vacant;
- disqualify the member or former member from being a member during a period of not more than seven years after the date of the order; and,
- if the contravention has resulted in personal financial gain, require the member or former member to make restitution to the party suffering the loss, or if the party's identity is not reasonable ascertainable, to the municipality.

2.2 Transparency and the Public Trust – Report of the Collingwood Judicial Inquiry

In November of 2020, Associate Chief Just Frank N. Marrocco issued the “Transparency and the Public Trust – Report of the Collingwood Judicial Inquiry” in response to actions taken by the 2010-2014 Town of Collingwood Council and Town Administration with respect to the “sale of a 50 percent interest in the Town’s electric utility, Collus Power Corporation”. The Inquiry also reviewed “the construction of an arena and pool facilities, which the Town substantially paid for by using the proceeds of the Collus Power share sale”. The Judicial Inquiry determined that the “(r)oles and responsibilities of Council members were (also) misunderstood, leading to certain fundamental decisions being made away from the Council table or behind closed doors. Undisclosed conflicts of interest marred many of the decisions made in respect to these two transactions.”

The recommendations of the Judicial Inquiry are pertinent considerations when determining how Municipal Council Codes of Conduct “could be strengthened to ensure that municipal governments have a safe and respectful workplace and carry out their duties in an ethical manner”. The recommendations are also relevant to and should be considered when reviewing the Council’s “Procurement of Goods and Services Policy”.

The Judicial Inquiry resulted in 306 recommendations. Although prepared in response to actions of the Town of Collingwood, the recommendations are applicable to any municipal government. This report will focus on the following recommendations pertaining to strengthening Municipal Council’s Codes of Conduct, noting that the current Code of Conduct does contain many of the recommendations set out in the Judicial Review:

- Require annual financial disclosure;
- Disclosure of private interests of all elected officials;
- Include a statement that “Council members must discharge their duties in a manner that not only promotes public confidence in the integrity of the individual Council member but also fosters respect for Council as a whole;
- Should reflect “the differences in the roles and responsibilities of Council members and staff, Council members should fully understand the roles of staff and never blur the distinction between their duties as elected officials and that of staff...”;
- Council members must encourage public respect for by-laws and policies;
- Council members shall not use the influence of their office for any purpose other than for the exercise of their official duties;
- Council members must respect the role of staff to provide advice based on political neutrality and objectivity and without the undue influence of a Council member or group of Council members;
- Define “immediate relatives” to include a spouse, common law partner, or any person with whom the person is living as a spouse outside marriage; parent, including stepparent and legal guardian; child, including stepchild; grandchild; sibling; aunt, uncle, nephew, niece, first cousins; and in-laws, including mother- and father-in-law, sister- and brother-in-law and daughter- and son-in-law and that a Council member should state any pecuniary interests related to “immediate relatives”;

- Define “disqualifying interest” as an interest in a matter, that by virtue of the relationship between the Member of Council and other persons and bodies associated with the matter, is of such a nature that reasonable persons fully informed of the facts would believe that the Member of Council could not participate impartially in the decision-making processes related to the matter;
- Define “non-disqualifying interest” as an interest in a matter that, by virtue of the relationship between the Member of Council and other persons or bodies associated with the matter, is of such a nature that reasonable persons fully informed of the facts would believe that the Member of Council could participate impartially in the decision-making processes related to the matter if:
 - i) the Council member “fully discloses the interest” and provides “transparency” regarding the relationship;
 - ii) the Council member thoroughly explains “why the interest does not prevent” the Council member “from making an impartial decision on the matter”;
 - iii) the Council member promptly files a Transparency Disclosure Form established by the municipality which is available to the public and posted on the municipality’s website;
- Prohibit Council members from accepting gifts, favours, entertainment, meals, trips, or benefits of any kind from lobbyists;
- Council members shall not receive gifts, favours, benefits or hospitality which a reasonable member of the public would believe is gratitude for influence, to induce influence, or goes beyond the appropriate public functions involved;
- Council members be prohibited from accepting gifts, favours, entertainment, trips, or benefits of any kind from any bidder or potential bidder in either the pre-procurement phase or during the procurement process;
- Council members should be required to file a disclosure statement each month relating to all such gifts, favours, benefits, hospitality, including all sponsored travel. The disclosure statement should at a minimum indicate:
 - i) the source of the gift, favour, benefit, hospitality;
 - ii) a description of the gift, favour, benefit or hospitality;
 - iii) its estimated value;
 - iv) the circumstances in which the Council member received it;
 - v) the date of the gift, favour, benefit or hospitality;
 - vi) the estimated value of the gifts, favours, benefits, hospitality received by the Council member from that person, organization, or group in the previous twelve months.
- Former Council members should not accept employment for one year on a specific matter on which they worked as an elected official;
- Council members who have reasonable grounds to believe that a violation of the Code of Conduct has occurred should promptly report such behaviour or activity to the Integrity Commissioner;
- An appropriate range of penalties must exist for Council members who are found to be in violation of ethical conduct including a reprimand, suspension of remuneration paid to Council members, a public oral or written apology by the Council member, the return of property or reimbursement of its value or monies spent, removal from membership of a committee, or removal as chair of a committee. The appropriate penalty is to be determined by the Integrity Commissioner;
- Training and education with respect to the Code of Conduct should be mandatory for new members of Council; and

- Council members should be required to sign annually an acknowledgement that they are aware of their obligations and will abide by the provisions in the Code of Conduct.

There are several other recommendations that relate to conduct with staff, however the City of London's Respectful Workplace Policy (Anti-Harassment/Anti-Discrimination policy) speaks to these matters in greater detail.

The Civic Administration is seeking direction on any changes, if any, the Municipal Council may wish to make to the current Code of Conduct for Members of Council.

2.3 Government of Ontario – Consultation Code of Conduct

As noted previously in this report, the Government of Ontario is currently undertaking consultation to seek input into potential legislative changes to increase possible penalties for violations of Council Codes of Conduct.

A copy of the response submitted by the Association of Municipalities of Ontario (AMO) with respect to this matter can be found at this link:

https://www.amo.on.ca/sites/default/files/assets/DOCUMENTS/Letters/2021/OptionsforEnforcingCompliancebyCouncilMemberswithMunicipalCodesofConductAMOLtr20210203.pdf?_zs=0tLdL1&_zl=PFjw1

Section 223.4(5) of the *Municipal Act, 2001* sets out the following penalties for a member of council that is, in the opinion of the Integrity Commissioner, has contravened the code of conduct:

1. a reprimand.
2. suspension of remuneration paid to the member in response of his or her services as a member of council for a period up to 90 days.

The current legislation does not provide for additional penalties for serious contraventions of Codes of Conduct and therefore, the Government of Ontario is seeking input what, if any, additional measures, could/should be put in place. This could include the ability to remove a member of council for a serious breach of the Code of Conduct.

The two options presented by the Government of Ontario for the purpose of discussion, included removal of a council member by the Minister of Municipal Affairs and Housing, and voter recall.

The Association of Municipalities of Ontario has recommended the following in response to the request for comment:

- The levying of an Administrative Monetary Penalty for a violation of a Code of Conduct provision, subject to a municipal policy adopted by a Council specifying penalty ranges;
- Suspension of a council member for a specific time where the council member's attendance at council is affecting the ability of council to make necessary decisions in the interest of the public such as during an emergency;
- Referral to a member of the judiciary with a recommendation to consider removing a councillor from office where continued and serious violations of the Code of Conduct have been documented; and
- The Ministry of Municipal Affairs and Housing provide funding and resources to improve the education and performance of Integrity Commissioners to create norms and standards in the office holders to improve councillor and public acceptance and trust.

The Civic Administration is seeking direction from the Municipal Council as to what comments, if any, you may wish to submit in response to the request from the Government of Ontario for comment.

2.4 Lobbyist Registrar

The Municipal Council has previously considered the establishment of a Lobbyist Registry as is provided for by the *Municipal Act, 2001*, but determined not to move forward at the last review, which occurred in March 2019, given that the Municipal Council had passed a Code of Conduct and had retained an Integrity Commissioner.

Lobbyist Registry and Registrar

Sections 223.9 and 223.11 of the *Municipal Act, 2001* authorize a municipality to establish and maintain a registry to keep returns filed by persons who lobby public office holders and to appoint a registrar who is responsible for performing, in an independent manner, the functions assigned by the municipality with respect to its lobbyist registry.

Section 223.9(2) of the *Municipal Act, 2001*, where a registry is established, authorizes a municipality to do the following things:

1. Define “lobby”.
2. Require persons who lobby public office holders to file returns and give information to the public.
3. Specify the returns to be filed and the information to be given to the municipality by persons who lobby public officer holders and specify the time within which the returns must be filed and information provided.
4. Exempt persons from the requirement to file returns and provide information.
5. Specify activities with respect to which the requirement to file returns and provide information does not apply.
6. Establish a code of conduct for persons who lobby public office holders.
7. Prohibit former public office holders from lobbying current public office holders for the period of time specified in the by-law.
8. Prohibit a person from lobbying public office holders without being registered.
9. Impose conditions for registration, continued registration or a renewal of registration.
10. Refuse to register a person, and suspend or revoke a registration.
11. Prohibit persons who lobby public office holders from receiving payment that is in whole or in part contingent on the successful outcome of any lobbying activities.

The registry is to be available for public inspection.

A Lobbyist Registrar, appointed by Municipal Council, performs in an independent manner and may conduct an inquiry in respect of a request made by council, a member of council or a member of the public about compliance with the system of registration noted above and may make a report to the municipality in respect of an inquiry.

A Lobbyist Registrar:

- oversees the establishment and maintenance of a lobbyist registry;
- provides advice, opinions and interpretation to the administration, application and enforcement of the provisions set out in a by-law to establish a registry;
- conducts inquiries in respect to a request made by Council, a member of Council or a member of the public about compliance with the municipal by-law, which may include requesting that a public office holder gather information concerning lobbying of them and provide that information concerning lobbying of them and provide that information to the Lobbyist Registrar; and
- advises Council on lobbying matters

What are the best practices for a municipal Lobbyist Registry and Lobbyist Registrar?

Lobbyist Registries and Registrars were discussed extensively at the Toronto and Mississauga Inquiries and both reports contain recommendations regarding them. Justice Bellamy recommended that the City of Toronto establish a lobbyist registry and appoint a registrar to oversee it. The Toronto system was reviewed extensively by experts who testified at the Mississauga Inquiry. These witnesses opined that the Toronto registry was too costly and complex.

Witnesses at the Mississauga Inquiry discussed different types of lobbyist registries including a voluntary registry system that only requires lobbyists to register what the nature of their business is and a disclosure system which would include more detailed information in terms of the lobby activities undertaken.

Also raised at the Inquiry were alternate models including a lobbyist code of conduct regulated through an accountability framework and overseen by an Integrity Commissioner similar to the provincial model. The Surrey B.C. model—which uses guidelines in the city’s code of conduct for council members and employees—was raised at the Inquiry and in Justice Cunningham’s Report as an example for regulating lobbying activity other than through a registry.

Justice Cunningham did not recommend that Mississauga establish a lobbyist registry. Instead, he recommended that the City amend its Code of Conduct for Council Members to incorporate guidelines for how council members should deal with lobbyists particularly in the context of development issues.

What options are available for Council when considering a Lobbyist Registry or Lobbyist Registrar?

During previous reviews of this matter, the Municipal Council acknowledged that as much of the work undertaken by an Integrity Commissioner is to educate and provide advice to Members of Council and recent amendments to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act* have resulted in an enhanced Code of Conduct with more emphasis on the disclosure of pecuniary interests, disclosures of gifts and hospitality and a greater role for the Integrity Commissioner to investigate and decide on such matters that a Lobbyist Registrar and Lobbyist Registry was not required at that time.

If Council wishes to implement a system with respect to regulating lobbying activities, the following options could be considered:

1. Establish a lobbyist registry system that requires defined classes of lobbyists to register either before or after they undertake a lobbying activity with no enforcement provisions.

2. Establish a lobbyist registry system to be overseen by a Registrar that requires defined classes of lobbyists to register either before or after they undertake a lobbying activity with enforcement provisions which could include offences under the *Provincial Offences Act* (Toronto model), a ban system to be imposed by the Registrar (Ottawa model), or enforcement through the application of the Council Member and Employee Codes of Conduct (currently under review in Ottawa).
3. Amend the Code of Conduct for Council Members to include guidelines as to how elected officials may communicate with lobbyists.
4. Maintain the status quo and rely on the Employee Code of Conduct, the City's Procurement Policy, the Council Members Code of Conduct and the *Criminal Code*.
5. Cross-appoint an individual to perform accountability and transparency duties for the City including holding the office of Closed Meeting Investigator, Integrity Commissioner and/or Lobbyist Registrar.

Report of the Collingwood Judicial Inquiry – Lobbyist Registry

The Collingwood Judicial Inquiry also set out a number of recommendations with respect to the establishment of a Lobbyist Registry for the Town of Collingwood that could be pertinent to Municipal Council's consideration regarding this matter. The following summarizes those recommendations:

- The Town should establish a Lobbyist Registry “to foster transparency and integrity in government decision making”. The Lobbyist Registrar also assists in managing behaviour because the behaviour occurs in the open.
- The Lobbyist Registry should include all those who are paid or represent a business or financial interest whose objectives is to influence elected officials or staff.
- Only persons registered in the Lobbyist Registry should be permitted to participate in any lobbying activity.
- The Lobbyist Registry should contain at a minimum the following information:
 - The name of the lobbyist, the name of the company or partnership represented and “the names of all principals in the company or partnership”;
 - The lobbyist's contact information;
 - “the subject matter of the lobbying activity”;
 - Detailed disclosure of the lobbyist's client, its business activities, or its organizational interests. This disclosure includes information on anyone who, to the knowledge of the lobbyist, controls or directs the client or otherwise has significant control of the client, the client's business activities, or its organizational interests;
 - Identification by the lobbyist of who at the municipality is the subject of the lobbying. This information should be detailed and include, for example, the name and title of the staff being lobbied, as well as the staff's department;
 - The amount paid to the lobbyist for the lobbying activity;
 - The date, hour and location where the lobbying took place, as well as details of the lobbying activity.
- Council members and staff should be required to record “information on their meetings with lobbyists in the Lobbyist Registry.
- Sanctions should be imposed on lobbyists for failing to register.

The Judicial Inquiry also sets out recommendations with respect to establishing a Code of Conduct for the Lobbyist Registry.

The Civic Administration is seeking direction from the Municipal Council on how they wish to proceed with respect to the establishment of a Lobbyist Registry.

3.0 Financial Impact/Considerations

None at this time.

5.0 Conclusion

The purpose of this report is to review the Municipal Council's current Code of Conduct and to seek direction from the Municipal Council of any changes that the Municipal Council may wish to make to enhance the Code of Conduct that has been in place for two-years, taking into consideration the City's experience over the past two years, recommendations contained in the Report of the Collingwood Judicial Inquiry and to provide comments to the Government of Ontario in response to their ongoing consultation process with respect to Municipal Council's Codes of Conduct.

Should the Municipal Council determine that amendments to the Code of Conduct for Members of Council should be undertaken, based on some of the recommendations set out in the Report of the Collingwood Judicial Inquiry and based on the experience of the past few years, the Civic Administration will bring forward a further report with a draft Code of Conduct for Municipal Council's consideration.

Prepared and recommended by:

Cathy Saunders, City Clerk

Appendix “A”

Code of Conduct for Members of Council

Policy Name: Code of Conduct for Members of Council

Legislative History: Adopted March 26, 2019 (By-law No. CPOL.-383-90)

Last Review Date: March 19, 2019

Service Area Lead: City Clerk

1. Policy Statement

- 1.1 This Code of Conduct is established under the authority of Part V.1 – Accountability and Transparency of the *Municipal Act, 2001*, as amended.

2. Definitions

In this Code of Conduct:

- 2.1 **Apparent conflict of interest** – shall mean if there is a reasonable perception, which a reasonably well-informed person could properly have, that the Member’s ability to exercise an official power or perform an official duty or function must have been affected by his or her private interest;
- 2.2 **Child** – shall mean a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;
- 2.3 **Code** – shall mean this Code of Conduct;
- 2.4 **Corporation** - shall mean The Corporation of the City of London;
- 2.5 **Council** - shall mean the Council of The Corporation of the City of London;
- 2.6 **Family member** - shall mean a child, parent or a spouse;
- 2.7 **Member** - shall mean a Member of Council and includes the Mayor;
- 2.8 **Parent** – shall mean a parent who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;
- 2.9 **Spouse** - shall mean a person to whom the person is married or with whom the person is living in a conjugal relationship outside of marriage;

3. Applicability

- 3.1 This Code of Conduct applies to the Mayor and all Members of Council.

4. The Code

Rule 1 - Key Principles and Framework

1.1 The Code is to be given a broad, liberal interpretation in accordance with the applicable legislation, the definitions set out herein and its general intent and purposes.

1.2 The Code operates together with, and as a supplement to, the following legislation that governs the conduct of Members:

- (i) *Municipal Act, 2001*;
- (ii) *Municipal Conflict of Interest Act*;
- (iii) *Municipal Elections Act, 1996*;
- (iv) *Municipal Freedom of Information and Protection of Privacy Act*;
- (v) *Provincial Offences Act*;
- (vi) *Occupational Health and Safety Act*;
- (vii) *Ontario Human Rights Code*;
- (viii) *Criminal Code of Canada*; and
- (ix) the by-laws and policies of Council as adopted and amended from time to time.

1.3 Members are governed by the *Municipal Conflict of Interest Act* which contains the following principles in relation to the duties of Members:

1. The importance of integrity, independence and accountability in local government decision-making.
2. The importance of certainty in reconciling the public duties and pecuniary interest of Members.
3. Members are expected to perform their duties of office with integrity and impartiality in a manner that will bear the closest scrutiny.
4. There is a benefit to municipalities and local boards when Members have a broad range of knowledge and continue to be active in their own communities, whether in business, in the practice of a profession, in community associations and otherwise.

1.4 Members seeking clarification of any part of this Code should consult with the Integrity Commissioner and submit such requests in writing.

1.5 Any advice given by the Integrity Commissioner to a Member shall be in writing and binds the Integrity Commissioner in any subsequent consideration of the conduct of the Member in the same matter as long as all the relevant facts known to the Member were disclosed to the Integrity Commissioner.

1.6 In carrying out their responsibilities regarding the Code, the Integrity Commissioner is not limited to looking at the pecuniary interest of the Member and, for clarity, the Integrity Commissioner is specifically authorized to investigate issues of conflict in a broad and comprehensive manner.

Rule 2 - General Rules

2.1 Members shall serve and be seen to serve their constituents in a conscientious, accountable, transparent and diligent manner.

2.2 Members shall be committed to performing their functions with integrity, independence and impartiality and avoid the improper use of the influence of their office, and conflicts of interest, including apparent conflicts of interest.

2.3 Members shall not extend favour in the discharge of their official duties, preferential treatment to family members, organizations or groups in which they or their family members have a direct or indirect pecuniary interest.

2.4 Members are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny.

2.5 Members shall seek to serve the public interest by upholding both the letter and the spirit of the laws of the Federal Parliament, the Ontario Legislature, and the by-laws and policies of the Corporation.

2.6 Members shall accurately and adequately communicate the decisions of the Council, even if they disagree with Council's decision, such that the respect for the decision-making processes of Council is fostered.

Rule 3 – Confidential Information

3.1 Members shall hold in strict confidence all information concerning matters dealt with at a meeting closed to the public under the *Municipal Act* or any other Act. For greater certainty, information shall include, without limitation, documents, records, advice received, presented, reviewed or discussed at a closed meeting and any discussion, direction and deliberation during the closed meeting. A Member shall not, either directly or indirectly, disclose, release, make public or in any way divulge any such information or any aspect of a closed meeting to anyone unless expressly authorized by Council or required by law.

3.2 A Member shall not collect, use, or disclose information in contravention of the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*.

3.3 A Member shall not disclose information that is subject to solicitor-client privilege, unless the privilege has been expressly waived by Council.

3.4 A Member shall not misuse any confidential information such that the release thereof may cause detriment to the Corporation, Council, the public or others or benefit or detriment to themselves or others. For greater certainty, confidential information includes, without limitation, information that a Member has knowledge of by virtue of their position as a Member that is not in the public domain, including emails, and oral and written communications from other Members or third parties.

3.5 A Member shall return any gift or benefit which does not comply with this Code, along with an explanation why the gift or benefit cannot be accepted.

Rule 4 - Conduct at Meetings and When Representing the Council or the Corporation

4.1 A Member shall conduct themselves with appropriate decorum at all times.

4.2 A Member shall conduct themselves at meetings of Council, committees, agencies, local boards and commissions to which they are appointed by the Council, or by virtue of being an elected official, with decorum in accordance with the provisions of the applicable procedure by-law.

4.3 A Member shall make every effort to participate diligently in the activities of the Council and the committees, agencies, local boards and commissions to which they are appointed by the Council, or by virtue of being an elected official.

Rule 5 - Incompatible Activity

5.1 A Member shall not engage in any activity, financial or otherwise, which is incompatible or inconsistent with the ethical discharge of their official duties in the public interest.

5.2 Without limiting the generality of the foregoing, a Member shall not:

- a) use the influence of their office for any purpose other than for the exercise of their official duties;
- b) act as an agent before Council, any committee, board or commission of Council or the City's Hearings Officer;
- c) use any information gained in the execution of office that is not available to the general public for any purpose other than for official duties;
- d) place themselves in a position of obligation to any person or organization which might reasonably benefit from special consideration or may seek preferential treatment;
- e) give preferential treatment to any person or organization in which a Member has a financial interest;
- f) influence any administrative or Council decision or decision-making process involving or affecting any person or organization in which a Member has a financial interest; or
- g) use the Corporation's property, materials, equipment, services, supplies, facilities, officers, employees, agents or contractors for personal gain, personal purpose or for any private purpose; or
- h) influence or interfere, either directly or indirectly, financially, politically or otherwise with employees, officers or other persons performing duties under the *Provincial Offences Act*.

5.3 A Member shall not allow the prospect of their future employment by a person or entity to detrimentally affect the performance of their duties.

5.4 A Member shall avoid waste, abuse and extravagance in the provision or use of public resources.

5.5. A Member shall expose fraud and corruption of which the Member is aware.

Rule 6 - Conduct Respecting Staff

6.1 A Member shall be respectful of the Corporation's officers, employees, individuals contracted by the Corporation on a purchase of service agreement and students on placements, role to provide advice based on political neutrality and objectivity and without undue influence from any individual Member or faction of the Council or a committee.

6.2 No Member shall injure the professional or ethical reputation, or the prospect or practice of an officer or employee of the Corporation, an individual contracted by the Corporation on a purchase of service agreement or a student on placement, and all Members shall show respect for the professional capacities of such persons.

6.3 No Member shall compel or attempt to compel an officer and employee of the Corporation to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities.

6.4 No Member shall use, or attempt to use, their authority for the purpose of intimidating, threatening, coercing, commanding or influencing any officer or employee of the Corporation, individual contracted by the Corporation on a purchase of service agreement or a student on placement with the intent of interfering in that employee's duties, including the duty to disclose improper activity.

6.5 Members shall be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from an individual Member or group of Members.

Rule 7 – Discreditable Conduct

7.1 Members have a duty to treat members of the public, one another, individuals contracted by the Corporation on a purchase of service agreement, students on placement and officers and employees of the Corporation appropriately and without abuse, bullying or intimidation and to ensure that their work environment is safe and free from discrimination and harassment. *The Ontario Human Rights Code* and the *Occupational Health and Safety Act* apply and, where applicable, the Corporation's Workplace Harassment and Discrimination Prevention Policy.

7.2 Upon receipt of a complaint with respect to alleged discreditable conduct of a Member that relates to the Corporation's Workplace Harassment and Discrimination Prevention Policy, the Integrity Commissioner shall forward the information subject to the complaint to Human Resources which, in the event mediation or other informal attempts to resolve the complaint as provided for in the applicable policy are not appropriate or prove ineffective and where Human Resources determines that further inquiry is warranted, will refer it to an external investigator to conduct an independent investigation in accordance with the applicable policy and the Corporation's Formal Investigation Process.

7.3 Upon receipt of the report of the independent investigator, the Integrity Commissioner shall make a determination on the application of this Code of Conduct and the merits of the investigation respecting the conduct of the Member subject to the complaint. The findings of the Integrity Commissioner shall be reported to City Council as per the normal procedure respecting such matters.

Rule 8 – Requirement to Adhere to Council Policies and Procedures

8.1 Members shall adhere to such by-laws, policies and procedures adopted by Council that are applicable to them.

Rule 9 – Gifts, Benefits and Hospitality

9.1 No inappropriate gifts and hospitality are allowed 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.

9.2 No Member shall accept, solicit, offer or agree to accept a commission, fee, advance, cash, gift, hospitality, gift certificate, bonus, reward or benefit that is connected directly or indirectly with the performance of their duties of office unless permitted by the exceptions listed in section 9.4 below. No Member shall accept the use of property or facilities, such as a vehicle, office or vacation property at less than fair market value or at no cost.

9.3 For the purpose of this Code a commission, fee, advance, cash, gift, hospitality, gift certificate, bonus, reward or benefit provided with the Member's knowledge to a friend, family member or to a Member's staff that is connected directly or indirectly to the performance of the Member's duties, is deemed to be a gift to that Member.

9.4 Members are not precluded from accepting:

- a) contributions authorized by law;
- b) political contributions that are otherwise offered, accepted and reported in accordance with applicable law;
- c) food and beverages at banquets, receptions, ceremonies or similar events, if:
 - i) attendance serves a legitimate business purpose;

- ii) the person extending the invitation or a representative of the organization is in attendance; and
 - iii) the value is reasonable and the invitations infrequent;
- d) services without compensation by persons volunteering their time;
 - e) food, lodging, transportation, hospitality and entertainment provided by other levels of government, by other local governments, boards or commissions or by a foreign government within a foreign country;
 - f) a reimbursement of reasonable expenses incurred in the performance of duties or office;
 - g) a reimbursement of reasonable expenses incurred and honorariums received in the performance of activities connected with municipal associations;
 - h) token gifts such as souvenirs, mementos and commemorative gifts that are given in recognition of service on a committee, for speaking at an event or representing the Corporation at an event; and
 - i) gifts that are received as an incident of protocol or social obligation that normally and reasonably accompany the responsibility of office.

9.5 A Member shall return any gift or benefit which does not comply with this Code, along with an explanation why the gift or benefit cannot be accepted.

9.6 In the case of exceptions claimed under 9.4 (c), (e), (h) and (i), if the value of the gift, hospitality or benefit exceeds \$300.00, or if the total value of gifts, hospitality or benefits received from one source during the course of a calendar year exceeds \$300.00, the Members shall within 30 days of receipt of the gift, hospitality or benefit or reaching the annual limit, complete a disclosure statement in a form prescribed by the Integrity Commissioner and file it with the Integrity Commissioner. A disclosure statement shall be a matter of public record.

9.7 On receiving a disclosure statement, the Integrity Commissioner shall examine it to ascertain whether the receipt of the gift, hospitality or benefit might, in their opinion, create a conflict between a private interest and the public duty of the Member. In the event that the Integrity Commissioner makes that preliminary determination, they shall call upon the Member to justify receipt of the gift, hospitality or benefit.

Rule 10 - Use of Municipal Property and Resources

10.1 In order to fulfil their roles as elected representatives Members have access to municipal resources such as property, equipment, services, staff and supplies. No Member shall use, or permit the use of Corporate land, facilities, equipment, supplies, services, staff or other resources for activities other than purposes connected with the discharge of Council or Corporate business.

Rule 11 - Election-Related Activity

11.1 Members are required to conduct themselves in accordance with the *Municipal Elections Act, 1996* and the Policy for the Use of City of London Resources for Municipal Election Purposes. Members shall not solicit, demand or accept the services of any corporate officer and employee, or individual providing services on a contract for service, for re-election purposes during hours in which the officer, employee, or individual providing services under a contract for service, is in the paid employment of the Corporation.

Rule 12 - Integrity Commissioner

12.1 It is a violation of the Code to obstruct the Integrity Commissioner in the carrying out of their duties and responsibilities.

12.2 No Member shall threaten or undertake any active reprisal against a person initiating an inquiry or complaint under the Code or against a person who provides information to the Integrity Commissioner in any investigation.

12.3 It is a violation of the Code to destroy any documents or erase any electronic communications or refuse to respond to the Integrity Commissioner where a formal complaint has been lodged under the Code.

12.4 The Integrity Commissioner may also recommend that Municipal Council impose one of the following sanctions:

- (a) written or verbal public apology;
- (b) return of property or reimbursement of its value or of monies spent;
- (c) removal from membership of a committee; and
- (d) removal as a chair of a committee.

The Integrity Commissioner has the final authority to recommend any of the sanctions above or other remedial actions at their discretion.

12.5 Upon receipt of a recommendation from the Integrity Commissioner, Council may, in circumstances where the Integrity Commissioner has determined there has been a violation of the Code of Conduct, impose either:

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

12.6 The Integrity Commissioner has the authority to apply sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* and investigate complaints or initiate an investigation of suspected violations of the Act. If the Integrity Commissioner determines that a violation has occurred, the Integrity Commissioner may apply to a judge for determination of the questions of whether a Member has contravened section 5, 5.1 or 5.2 of the Act.