

Bill No. 200
2013

By-law No. A.-_____

A by-law to repeal Council Policy 5(30) entitled "Code of Conduct for Members of Municipal Council" and replace it with a new Council Policy 5(30) entitled "Code of Conduct for Members of Council".

WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS section 10(1) of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS section 10(2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting: in paragraph 2 Accountability and transparency of the municipality and its operations; and in paragraph 7, Services and things that the municipality is authorized to provide under subsection 10(1);

AND WHEREAS section 223.2(1) of the *Municipal Act, 2001* authorizes a municipality to establish a code of conduct for members of the council of the municipality;

AND WHEREAS the establishment of a Code of Conduct is consistent with the Corporation's Accountability and Transparency Policy set out in By-law A.-5161-17, Schedule "F";

AND WHEREAS the establishment of a Code of Conduct is in keeping with the Corporation's Strategic Plan including the Mission "At Your Service: A Respected and Inspired Public Service Partner" and the principles of good government, respect and integrity;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. Council Policy 5(30) entitled "Code of Conduct for Members of Municipal Council" is hereby repealed and replaced with a new Council Policy 5(30) entitled "Code of Conduct for Members of Council" attached hereto as Schedule "A".
2. This by-law comes into force on the date it is passed.

PASSED in Open Council on April 30, 2013.

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First Reading – April 30, 2013
Second Reading – April 30, 2013
Third Reading – April 30, 2013

SCHEDULE "A"

5(30) CODE OF CONDUCT FOR MEMBERS OF COUNCIL

The Corporation of the City of London

Application of the Code

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

Definitions

In this Code of Conduct:

"apparent conflict of interest" means 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;

"child" means 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;

"Code" means this Code of Conduct;

"Corporation" means The Corporation of the City of London;

"Council" means the Council of The Corporation of the City of London;

"family member" means a child, parent or a spouse;

"Member" means a Member of Council and includes the Mayor;

"parent" means 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;

"spouse" means a person to whom the person is married or with whom the person is living in a conjugal relationship outside of marriage;

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*;
- (ii) *Municipal Conflict of Interest Act*;
- (iii) *Municipal Elections Act*;
- (iv) *Municipal Freedom of Information and Protection of Privacy Act*; and
- (v) *Criminal Code of Canada*.

1.3 Members are governed by the *Municipal Conflict of Interest Act* and the provisions of that Act take precedence over any authority given to the Integrity Commissioner to receive or investigate complaints regarding alleged contraventions under that Act when a complaint involving the very same matter has been made under that Act. Where a proceeding has been commenced under the *Municipal Conflict of Interest Act*, the Integrity Commissioner shall suspend any investigation being conducted by him or her with respect to the same matter until the proceeding under the *Municipal Conflict of Interest Act* has been completed.

1.4 Members seeking clarification of any part of this Code should consult with the Integrity Commissioner.

1.5 Any written advice given by the Integrity Commissioner to a Member 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 his or her 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 and diligent manner.

2.2 Members should be committed to performing their functions with integrity and to avoiding the improper use of the influence of their office, and conflicts of interest, including apparent conflicts of interest.

2.3 Members shall not extend 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 - Gifts and Benefits

3.1 No inappropriate gifts 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.

3.2 No Member shall accept, solicit, offer or agree to accept a commission, fee, advance, cash, gift, gift certificate, bonus, reward or benefit that is connected directly or indirectly with the performance of his or her duties of office unless permitted by the exceptions listed in section 3.4 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.

3.3 For the purpose of this Code a commission, fee, advance, cash, gift, 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 of that Member.

3.4 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 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.

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.

3.6 In the case of exceptions claimed under 3.4 (c), (e), (h) and (i), if the value of the gift or benefit exceeds \$300.00, or if the total value of gifts 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 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.

3.7 On receiving a disclosure statement, the Integrity Commissioner shall examine it to ascertain whether the receipt of the gift or benefit might, in his or her 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, he or she shall call upon the Member to justify receipt of the gift or benefit.

Rule 4 - Confidential Information

4.1 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.

4.2 A Member shall not disclose information in contravention of the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*.

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

4.4 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.

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 his or her official duties in the public interest.

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

- (a) use the influence of his or her office for any purpose other than for the exercise of his or her official duties;
- (b) act as an agent before Council, any committee, board or commission of Council or the City's Hearings Officer;
- (c) solicit, demand or accept the services of any corporate employee, or individual providing services on a contract for service, for re-election purposes during hours in which the employee, or individual providing services under a contract for service, is in the paid employment of the Corporation;
- (d) 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;
- (e) place themselves in a position of obligation to any person or organization which might reasonably benefit from special consideration or may seek

- preferential treatment;
- (f) give preferential treatment to any person or organization in which a Member has a financial interest;
- (g) 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
- (h) use the Corporation's property, materials, equipment, services, supplies, facilities, employees, agents or contractors for personal gain, personal purpose or for any private purpose.

5.3 A Member shall not allow the prospect of his or her future employment by a person or entity to detrimentally affect the performance of his or her 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 at Meetings and When Representing the Council or the Corporation

6.1 A Member shall conduct himself or herself with appropriate decorum at all times.

6.2 A Member shall conduct himself or herself 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.

6.3 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 7 - Conduct Respecting Staff

7.1 A Member shall be respectful of the role of the Corporation's employees, individuals contracted by the Corporation on a purchase of service agreement and students on placements 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.

7.2 No Member shall maliciously or falsely injure the professional or ethical reputation, or the prospect or practice of an 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.

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

7.4 No Member shall use, or attempt to use, their authority for the purpose of intimidating, threatening, coercing, commanding or influencing any 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.

Rule 8 – Discreditable Conduct

8.1 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 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/Discrimination Prevention Policy and the Workplace Violence Prevention Policy.

8.2 Upon receipt of a complaint with respect to alleged discreditable conduct of a Member that relates to the Corporation's Workplace Harassment/Discrimination Prevention Policy or Workplace Violence 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.

8.3 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 9 – Requirement to Adhere to Council Policies and Procedures

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

Rule 10 - Integrity Commissioner

10.1 It is a violation of the Code to obstruct the Integrity Commissioner in the carrying out of his or her duties and responsibilities.

10.2 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.

10.3 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.

10.4 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 his or her services as a Member of Council or a local board, as the case may be, for a period of up to 90 days.