

Current information with respect to pertinent legislation related to the legislated role of a Council Member

1. Municipal Council Resolution August 22, 2017
2. A by-law to eliminate the “one-third tax free” allowance for Elected Officials
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4. Remuneration for Elected Officials and Appointed Citizen
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Municipal Council Resolution August 22, 2017

That the following actions be taken with respect to Council compensation:

- a) effective with the commencement of the next term of Council, the annual compensation for serving as a Ward Councillor BE SET at the 2016 median full time employment income for Londoners; it being noted that while 2016 data will not be available until the Fall of 2017, based upon the 2011 National Household Survey data, about 35% of Londoners ages 15 years and over worked full year, full time with employment income in 2010 and had a median employment income of \$47,805 and an average employment income of \$57,112;
- b) NO ACTION BE TAKEN at this time with respect to the provision of additional compensation for the role of Deputy Mayor; it being noted that the level of compensation for this role should be reassessed once the role is more clearly defined and is not reliant on the discretion of each mayor;
- c) NO ACTION BE TAKEN with respect to the provision of additional compensation for Ward Councillors serving as the Chair of a Standing Committee and all Council Members BE ENCOURAGED to serve as Chair throughout the course of their term of office;
- d) the current formula for adjusting Council compensation on annual basis BE CONTINUED;
- e) notwithstanding that there will be a minor budgetary impact by doing so, the City Clerk BE DIRECTED to bring forward the necessary by-law to eliminate the "1/3 tax free" allowance for Council Members, effective for the next Council term;
- f) a review of Council Compensation BE UNDERTAKEN by an independent body, once per Council term, subject to the following:
 - i) the review should be completed no later than twelve months in advance of the date that nominations are accepted for the next municipal election;
 - ii) any adjustments should be effective on the first day of the next Council term;
 - iii) the Task Force should, as much as possible, reflect the diversity of the community and ideally the participants should have knowledge in the areas of municipal government, research, statistics, public engagement and compensation;
 - iv) the Task Force should be limited to no more than five individuals;
 - v) the review should include a review of the major supports required for Council Members to efficiently and effectively carry out their role to the best of their ability as the availability of these supports helps to inform compensation;
 - vi) the review should consider if median full time income remains an appropriate benchmark for Council Member compensation;
 - vii) the review should consider if the current formula for interim adjustments remains appropriate; and
 - viii) public engagement should continue to be a component of the review process and that engagement should be undertaken in a manner which recognizes community preferences and needs;
- g) the Municipal Council BE REQUESTED to consider how it can better educate the public with respect to the legislative and non-legislative roles of Council Members;

- h) the Municipal Council BE REQUESTED to establish and make publicly available a reasonable timeframe for an initial response to an enquiry made by a constituent to a Council Member so that service standards are available to the public, recognizing that staff support should be utilized in a manner that expedites the response process as much as possible;
- i) opportunities BE EXPLORED to determine what support services might be needed in order to ensure that the right conditions are set for a Council Member to perform their policy and constituency duties to the highest level of their ability;
- j) when a review of the adequacy of staff resources is undertaken, that review BE DONE in conjunction with a review of Council Members' annual expense allocation;
- k) NO ACTION BE TAKEN with respect to the consideration of a system of performance-based compensation for Council Members; and
- l) the Mayor BE REQUESTED to send a letter to each of the members of the 2016 Council Compensation Review Task Force to thank them, on behalf of the Municipal Council, for the time and effort they put into fulfilling the Task Force's mandate;

it being noted that the Strategic Priorities and Policy Committee received a verbal overview of the Final Report of the 2016 Council Compensation Task Force from D. Ross, Task Force Chair. (3/15/SPPC)

Bill No. 584
2018

By-law No. A.-7788-492

A by-law to eliminate the “one-third tax free” allowance for Elected Officials.

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, as amended, provides a municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS the Municipal Council of The Corporation of the City of London at its meeting on December 20, 2002 passed a resolution declaring Municipal Council’s intention pursuant to subsection 255(2) of the *Municipal Act, R.S.O. 1990 c. M. 45* to continue to have one-third of council remuneration deemed to be expenses incident to the discharge of his or her duties;

AND WHEREAS the Municipal Council of the Corporation of the City of London at its meetings on May 1, 2006, November 15, 2010, and October 27, 2015 further resolved to continue to deem one third of the remuneration paid to members of Council and its local boards expenses incident to the discharge of their duties and therefore tax exempt pursuant to the provisions of subsection 238 of the *Municipal Act, 2001*;

AND WHEREAS subsection 283 (5) of the *Municipal Act, 2001, S.O. 2001*, provides if a resolution of a municipality under subsection 255(2) or (3) of the old Act is not revoked before January 1, 2003, the resolution shall be deemed to be a by-law of the municipality and one-third of the remuneration paid to the elected members of the council and its local boards is deemed as expenses incident to the discharge of their duties as members of the council or local board;

AND WHEREAS subsection 283 (6) of the *Municipal Act, 2001, S.O. 2001*, provides that Council may repeal a by-law under subsection (5);

AND WHEREAS at its meeting held on August 22, 2017, Municipal Council resolved that the “one-third tax free” allowance for Council members be eliminated effective for the next Council term based on recommendations from the 2016 Council Compensation Review Task Force,

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

1. Municipal Council’s resolution passed on December 20, 2002 that was deemed to be a by-law of the municipality by subsection 283(5) of the *Municipal Act, S.O. 2001* is hereby repealed.
2. Municipal Council’s resolution passed on December 20, 2002 is hereby revoked.

3. That the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer be authorized to take any and all administrative acts that are necessary to eliminate the one third tax free allowance.

4. This by-law shall come into force and effect on January 1, 2019.

Passed in Open Council on October 16, 2018.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading – October 16, 2018
Second Reading – October 16, 2018
Third Reading – October 16, 2018

BODY/POSITION	2015	2016	2017	2018	2018-19 adjustment	2019	2020	2021	Comment
Mayor (paid in their capacity as Head of Council, Chair of the respective committees, Chief Executive Officer of the Corporation and member ex-officio of any local board, commission, or other body)	\$104,258	\$ 104,258	\$ 104,258	\$ 106,030	\$ 138,025	\$ 141,200	\$ 141,200	\$ 142,188	City funded
Councillors	33,465	33,465	33,465	34,034	51,181	52,358	52,358	52,725	City funded
Chair of Standing Committees (only one chair stipend in a given year to a Councillor)	1,249	1,249	1,249	1,270	Stipend eliminated	-	-	-	City funded
London Transit Commission (LTC) (effective 1995, no remuneration to Council Members)	4,648	4,704	4,789	4,870		4,982	4,982	5,017	City funds three positions
Chair (LTC) additional per year (effective 1995, no remuneration to Council Members)	863	874	890	905		926	926	932	City funds one position
Committee of Adjustment (effective 1995, no remuneration paid to Council Members)	6,788	6,870	6,994	7,113		7,277	7,277	7,328	City funds five positions
Chair, Committee of Adjustment (additional per year) (effective 1995, no remuneration paid to Council Members)	883	893	909	925		946	946	953	City funds one position
Court of Revision (Local Improvements & Drainage) – per meeting attended	71	72	73	74		76	76	77	City funds three positions
Chair, Court of Revision (additional per meeting attended)	11	11	12	12		12	12	12	City funds one position
Municipal Election Compliance Audit Committee (begins March 6, 2018) - per meeting attended - no annual increase						100	100	100	City funds 3-7 positions
Hearings Officer (begins May 1, 2020) - per hearing day - no annual increase						100	100	100	City funds five positions
Middlesex-London Health Unit – per meeting attended (no remuneration to Council Members, HPPA, R.S.O. 1990, c.H.7, s.49(11))	147.04	149.50	152.00	151.49					
Upper Thames River Conservation Authority – per meeting attended (+ mileage at \$ 50/km)	59.50	59.50	59.50	59.50		59.50	59.50		
Lower Thames Region Conservation Authority – per meeting attended (+ mileage at \$.55/km)	65	65	65	65		65	65		
Kettle Creek Conservation Authority – per meeting attended (+ mileage at \$.47/km)	86	86	86	86		86	86		
Plumbers and Drain layers Examining Board	100	100	100	100		100	100		
Greater London International Airport Authority, \$10,000 retainer + \$800 for each board meeting and \$500 per committee meeting	10,000	10,000	10,000	10,000		10,000	10,000		
Chair, Greater London International Airport Authority, \$20,000 retainer + \$800 for each board meeting and \$500 per committee meeting	20,000	20,000	20,000	20,000		20,000	20,000		
London Hydro Inc. Board of Directors (plus \$600 per mtg attended)	6,000	6,000	6,120	6,212		6,336	6,432		
Chair, London Hydro Inc. (plus \$600 per meeting attended)	10,000	10,000	10,000	10,353		10,560	10,716		
London Police Services Board (no remuneration for the Mayor, and, effective 1995, no remuneration for other Members of Council)	7,081	7,166	7,295	7,419		7,590	7,590	\$ 7,643	
Chair, London Police Services Board – additional per year	837	847	862	877		897	897	\$ 903	

2021 Increase – 0.7% for Council, 0.7% for appointed, effective January 1st

Remuneration for Elected Officials and Appointed Citizen Members Policy

BY-LAW NUMBER CPOL. -70(a)-408

AS AMENDED BY

Legislative History:

Adopted August 22, 2017 (By-law No. CPOL.-70-302) – review and update of the Council Policy Manual. No substantive change.

Amended July 24, 2018 (By-law No. CPOL.-70(a)-408) – reformatting into the new Council Policy template, review with the gender equity lens and content updates. No substantive change.

Service Area Lead: City Clerk

1. Policy Statement

1.1 This policy establishes how the remuneration for City of London elected officials and appointed citizen members of local boards and commissions, where such remuneration is paid by the City of London, is adjusted.

2. Definitions

2.1 Not applicable.

3. Applicability

3.1 This policy shall apply to City of London elected officials and appointed citizen members of local boards and commissions whose remuneration is paid by the City of London.

4. The Policy

4.1 The remuneration for City of London elected officials and appointed citizen members of local boards and commissions, where stipends are paid by the City of London, shall be adjusted annually on January 1st by the percentage increase reflected in the Labour Index (monthly Index, Table 3), on the understanding that:

- a) if such an index reflects a negative percentage, the annual adjustment to the remuneration for City of London elected officials and appointed citizen members will be 0%; and
- b) if the Labour Index (monthly Index, Table 3) has increased by a percentage greater than the Consumer Price Index, Ontario, the annual percentage increase in the remuneration for elected officials and appointed citizen members will be no greater than the increase in the Consumer Price Index, Ontario; and
- c) in those years where non-union staff wages are frozen, no increase shall be applied.

Appointment of Deputy Mayor Policy

BY-LAW NUMBER CPOL. -54-286

Legislative History: Adopted August 22, 2017 (By-law No. CPOL.-54-286) – review and update of the Council Policy Manual. No substantive change.

Last Review Date: August 10, 2021

Service Area Lead: City Clerk

1. Policy Statement

1.1 This policy establishes the process for the appointment of a Deputy Mayor to assist the Mayor in carrying out their powers and duties and/or act in the place of the head of Council or other member of Council designated to preside at meetings in the municipality's procedure by-law when the head of Council or designated member is absent or refuses to act or the office is vacant. This shall include general business continuity in the absence of, or refusal to act by, the Mayor; attendance at meetings/events on behalf of the Mayor; participation/representation on civic committees, local boards, commissions or agencies and other related organizations and assistance with the Operating and Capital budget process through participation on the Audit Committee.

2. Definitions

2.1 Not applicable.

3. Applicability

3.1 This policy applies to all Ward Councillors.

4. The Policy

4.1 General

- a) All Ward Councillors shall be eligible to serve as Deputy Mayor.
- b) The Deputy Mayor shall be selected by the Mayor, confirmed by a majority vote of the Municipal Council and appointed by by-law.
- c) The Mayor shall be solely responsible for determining which of their powers and duties are to be allocated to the Deputy Mayor and may adjust that allocation from time to time at their discretion.
- d) There shall be no limit to the number of terms a Member of Council can serve as Deputy Mayor.
- e) In the event the head of Council's seat becomes vacant, as defined in section 259 of the *Municipal Act, 2001*, that vacancy shall be filled in accordance with section 263 of the *Municipal Act, 2001*, with the Deputy Mayor to act in the place of the head of Council until such time as the vacant seat is otherwise filled.

4.2 Selection of Deputy Mayor Process

- a) The Mayor's initial selection for Deputy Mayor shall be determined and confirmed at the Inaugural Meeting of Municipal Council, and appointed by by-law.
- b) The term of the Deputy Mayor shall last no longer than the Council term during which the Deputy Mayor was selected.
- c) The Mayor may, at their discretion, change their selection for Deputy Mayor throughout the course of their term as Mayor, in order to allow the Mayor to effectively draw upon the varied skill sets of Council Members.
- d) In the event the Mayor exercises their right under (c) above, any subsequent selection for Deputy Mayor shall be confirmed by Council, and appointed by by-law.

Municipal Act, 2001

Role of council

224 It is the role of council,

- (a) to represent the public and to consider the well-being and interests of the municipality;
- (b) to develop and evaluate the policies and programs of the municipality;
- (c) to determine which services the municipality provides;
- (d) to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council;
- (d.1) to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality;
- (e) to maintain the financial integrity of the municipality; and
- (f) to carry out the duties of council under this or any other Act. 2001, c. 25, s. 224; 2006, c. 32, Sched. A, s. 99.

Role of head of council

225 It is the role of the head of council,

- (a) to act as chief executive officer of the municipality;
- (b) to preside over council meetings so that its business can be carried out efficiently and effectively;
- (c) to provide leadership to the council;
- (c.1) without limiting clause (c), to provide information and recommendations to the council with respect to the role of council described in clauses 224 (d) and (d.1);
- (d) to represent the municipality at official functions; and
- (e) to carry out the duties of the head of council under this or any other Act. 2001, c. 25, s. 225; 2006, c. 32, Sched. A, s. 100.

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING MARCH 19, 2019
FROM:	CATHY SAUNDERS, CITY CLERK
SUBJECT:	IMPLEMENTATION - MODERNIZING ONTARIO'S MUNICIPAL LEGISLATION ACT, 2017

RECOMMENDATION

That, on the recommendation of the City Clerk, with the concurrence of the City Manager and the Managing Director, Corporate Services and City Solicitor, the following actions be taken with respect to the introduction of policies and procedures to implement amendments to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act* as set out in the *Modernizing Ontario's Municipal Legislation Act, 2017*:

- a) the proposed by-law attached as Appendix "A" being "A by-law to repeal and replace By-law No. CPOL.-69-301, as amended, being a By-law entitled "Code of Conduct for Members of Council" and replace it with a new Council policy entitled "Code of Conduct for Members of Council" to incorporate regulations resulting from recent amendments to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act*" BE INTRODUCED at the Municipal Council meeting to be held on March 26, 2019;
- b) the proposed by-law attached as Appendix "B" being "A by-law to enact a new Council policy entitled "Code of Conduct for Local Boards" to implement recent amendments to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act*" requiring a municipality to establish codes of conduct for local boards BE INTRODUCED at the Municipal Council meeting to be held on March 26, 2019;
- c) the proposed by-law attached as Appendix "C" being "A by-law to enact a Council Policy entitled "The Corporation of the City of London Integrity Commissioner Terms of Reference" to provide for a revised Terms of Reference to address recent amendments to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act*" BE INTRODUCED at the Municipal Council meeting to be held on March 26, 2019;
- d) the proposed by-law attached as Appendix "D" being "A by-law to enact a new Council policy entitled "Members of Council Public Registry Declaration of Interest" to implement recent amendments to the *Municipal Conflict of Interest Act*" requiring Members of Council to submit written statements regarding disclosure of interests and the creation of a registry of written statements to be available for public inspection BE INTRODUCED at the Municipal Council meeting to be held on March 26, 2019;
- e) the proposed by-law attached as Appendix "E" being "A by-law to enact a new Council policy entitled "Public Registry Declaration of Interest for Local Boards" to implement recent amendments to the *Municipal Conflict of Interest Act*" requiring Members of Local Boards to submit written statements regarding disclosure of interests and the creation of a registry of written statements to be available for public inspection BE INTRODUCED at the Municipal Council meeting to be held on March 26, 2019; and

- f) the proposed by-law attached as Appendix “F” being “A by-law to enact a new Council policy entitled “Members of Council – Absence – Pregnancy or Parental Leave” to establish a process to recognize a Member of Council’s ability to take pregnancy and parental leave without a Council motion resulting from recent amendments to the *Municipal Act, 2001* BE INTRODUCED at the Municipal Council meeting to be held on March 26, 2019.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

- Item #3 – October 6, 2015 – Corporate Services Committee
Item #4 – July 18, 2017 – Corporate Services Committee
Item #7 – December 5, 2017 – Corporate Services Committee

BACKGROUND

In the summer of 2015, the Province initiated a consultation process to review a number of pieces of Provincial legislation that affect municipal government, including the *Municipal Act, 2001*, the *Municipal Elections Act, 1996*, and the *Municipal Conflict of Interest Act* (MCIA).

The provincial review was focused on the following themes:

1. Accountability and Transparency;
2. Municipal Financial Sustainability; and
3. Responsive and Flexible Municipal Government.

The resulting legislation, Bill 68, “An Act to amend various Acts in relation to municipalities” received Royal Assent on May 30, 2017. The short title of this Act is the “*Modernizing Ontario’s Municipal Legislation Act, 2017*”. A number of the resulting amendments came into effect on January 1, 2018, with the remaining amendments coming into effect March 1, 2019.

A complete copy of Bill 68 can be found at the following link:
http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=4374

The purpose of this report is to bring forward for Municipal Council’s consideration the following proposed policies and procedures to implement the regulations set out in Bill 68 that must be in place by March 1, 2019:

1. A revised code of conduct for Members of Council that reflects changes to the *Municipal Act, 2001* and the MCIA and the related revised complaint protocol (Appendix “A”).
2. A new code of conduct for Members of Local Boards, including Business Improvement Areas (“BIAs”), similar to that established for the Members of Council, along with the related complaint protocol (Appendix “B”).
3. A revised Terms of Reference for the expanded and mandatory role of Integrity Commissioners that includes application to the required codes of conduct and the MCIA, as well as responding to requests from Members of Council and members of local boards for advice respecting their obligations under their respective code of conduct and the MCIA, and providing educational information to the Members of Council, members of local boards, the municipality and the public regarding the codes of conduct and the MCIA (Appendix “C”).

4. A new Council Policy that includes the requirement for municipalities to establish a public registry of declarations of pecuniary interest made by Members of Council (Appendix “D”).
5. A new Council Policy that includes the requirement for municipalities to establish a public registry of declarations of pecuniary interest for members of local boards (Appendix “E”).
6. A new Council policy for pregnancy leaves and parental leaves of Members of Council, whereby a member is not required to obtain authorization from Council to be absent for 20 consecutive weeks or less, if the absence is the result of the member’s pregnancy, the birth of a member’s child or adoption of a child (Appendix “F”).

The Legislative Changes – Municipal Act, 2001

Codes of Conduct for Members of Council and Local Boards

Legislation requires municipalities to establish codes of conduct for members of the council and local boards. The City established a Code of Conduct for Members of Municipal Council in September of 2014. The Code does not apply to the City’s local boards:

<http://www.london.ca/city-hall/city-council/Documents/Code%20of%20Conduct.pdf>

As a result of the Bill 68 amendments, a proposed revised “Code of Conduct for Members of Council” and related Complaint Protocol and a proposed “Code of Conduct for Local Boards” and related Complaint Protocol are attached to this report as Appendix “A” and Appendix “B”, respectively, for Municipal Council’s consideration. The proposed “Code of Conduct for Local Boards” applies to all members of local boards and not just those members that are elected officials.

Local Boards

The Code of Conduct for Local Boards would apply to the following entities:

1. Business Improvement Areas (BIAs)
2. Committee of Adjustment

The Code of Conduct for Local Boards does not apply to:

- A board of health;
- A committee of management of a long-term care home;
- A police services board;
- A library board; or
- A municipal corporation

Integrity Commissioner – Mandatory Appointment and Expanded Duties

- The functions to be performed by an Integrity Commissioner have been expanded considerably with the most significant being the application of, advice related to and the power to conduct inquiries under section 5, 5.1 and 5.2 of the MCIA and the power to make an application to a judge for a determination that a member has contravened those sections of the MCIA.
- Municipalities must appoint an Integrity Commissioner for its members of council and local boards.

- New rules will apply related to processes to be followed for inquiries conducted by an Integrity Commissioner.

Currently, the functions of an Integrity Commissioner are limited by the *Municipal Act, 2001* to the:

- a) application of the code of conduct for members of council and of local boards; and
- b) application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and local boards.

Bill 68 expands the functions of the Commissioner to include new matters, noting that these functions are mandatory:

- a) the application of sections 5, 5.1 and 5.2 of the MCIA to members of council and of local boards;
- b) requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member;
- c) requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behaviour of members;
- d) requests from members of council and of local boards for advice respecting their obligations under the MCIA; and
- e) the provision of educational information to members of council, members of local boards, the municipality and the public about the municipality's codes of conduct for members of council and members of local boards and about the MCIA.

One of the most significant amendments in Bill 68 is the new power granted to Integrity Commissioners to conduct inquiries concerning alleged contraventions of section 5, 5.1 or 5.2 of the MCIA by a member of council or a local board:

- a) an Integrity Commissioner may conduct an inquiry into any such matter if made on the application of an elector or a person demonstrably acting in the public interest;
- b) time restrictions apply with respect to when an application may be made and when the Integrity Commissioner must complete the inquiry;
- c) upon completion of the inquiry an Integrity Commissioner may exercise their discretion and apply to a judge for a determination as to whether the member has contravened section 5, 5.1 or 5.2 of the MCIA; and
- d) the costs of an Integrity Commissioner's application to a judge are to be paid by the municipality or the local board.

Bill 68 includes a number of provisions related to the processes used by Integrity Commissioners when conducting inquiries:

- a) requests for advice and responses given by an Integrity Commissioner must be in writing; and

- b) during the period from nomination day to voting day:
- i) no inquiries may be conducted, including inquiries under the MCI Act;
 - ii) an Integrity Commissioner may not report on any contraventions of the Code; and
 - iii) inquiries not completed before nomination day must be terminated.

Under Bill 68, municipalities are required to appoint an Integrity Commissioner to perform the responsibilities noted above. The following rules will apply:

- a) where a municipality has not appointed an Integrity Commissioner, it must make arrangements for those responsibilities to be performed by a Commissioner of another municipality; and
- b) if a municipality has appointed an Integrity Commissioner but has not assigned to them all of the responsibilities set out in section 223.3(1), the municipality must make arrangements for those responsibilities to be performed by an Integrity Commissioner of another municipality.

The Legislative Changes - Municipal Conflict of Interest Act

New Statement of Principles

- A statement of principles is added to the Act:

Section 1.1

“Principles

1.1 *The Province of Ontario endorses the following principles in relation to the duties of members of councils and of local boards 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.”*

These principles will assist elected officials, the public and the courts in understanding the role of an elected official in promoting confidence in municipal government. Section 1.1 will also guide the courts in interpreting the MCI Act.

New Rules for Disclosure of Pecuniary Interest

- Requirement for members to file a written declaration of pecuniary interest.
- Requirement for municipalities and local boards to establish a registry of members’ pecuniary interests.
- New rules permitting members to participate in discussions where a council is considering suspending a member’s pay as a result of a finding of an Integrity Commissioner.

Members are required to file with the City Clerk or the secretary of the committee or local board as the case may be, a written statement of the pecuniary interest and its general nature. The written statement must be filed at the meeting or as soon as possible afterwards.

In addition to the written statement, members are still required under section 5 to make a verbal disclosure of any pecuniary interest they may have prior to the consideration of the matter at the meeting with all such declarations to be recorded in the minutes of the meeting.

Municipalities and local boards will be required to establish and maintain a registry in which they must keep a copy of each:

- a) declaration of pecuniary interest recorded in the minutes of a meeting; and
- b) written statement of the pecuniary interest filed by a member.

The registry must be available for public inspection in a manner and during the time that the municipality or local board may determine.

New rules apply where a council or local board is considering whether to suspend the remuneration paid to a member as a result of a contravention by the member of the code of conduct. The member may:

- a) take part in any discussion of the matter;
- b) make a submission to council;
- c) attempt to influence the voting on a question with respect to the matter; and
- d) attend any meeting related to the matter that is closed to the public.

The member is not permitted to vote on any question in respect of the matter.

Expansion of prohibited activity where a member has a pecuniary interest

- Expansion of the rule related to prohibited activities where a member has a pecuniary interest to include activities beyond council and committee meetings.

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.

This rule will not apply to a person or body (ie. Council or an Integrity Commissioner) who is considering the exercise of a delegated power under section 223.4(5) of the *Municipal Act, 2001* to impose a penalty for a contravention of a code of conduct.

Court Applications for Alleged Contraventions to Sections 5, 5.1 or 5.2

- Court proceedings for a determination as to whether a member has contravened the MCIA may be commenced by an elector, an Integrity Commissioner, a municipality or a person acting in the public interest.

Currently, standing to make an application to a judge is limited to an elector. The Bill 68 amendments expand standing to an Integrity Commissioner or a person acting in the public interest. Certain rules related to the timing of the application including time limitations and blackout periods between nomination day and Election Day apply.

Expanded Penalties that may be Imposed by a Judge

If a Judge determines that a member or former member has contravened the MCIA, the Judge may do any or all 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;
- 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;
- 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 readily ascertainable, to the municipality.

Proposed Implementation Changes

In order to implement the above noted legislative changes it is recommended that the following documents be adopted by Municipal Council:

1. A revised code of conduct for Members of Council that reflects changes to the *Municipal Act, 2001* and the MCIA and the related revised complaint protocol (Appendix "A").
2. A new code of conduct for Members of Local Boards, including Business Improvement Areas ("BIAs"), similar to that established for the Members of Council, along with the related complaint protocol (Appendix "B").
3. A revised Terms of Reference for the expanded and mandatory role of Integrity Commissioners that includes application to the required codes of conduct and the MCIA, as well as responding to requests from Members of Council and members of local boards for advice respecting their obligations under their respective code of conduct and the MCIA, and providing educational information to the Members of Council, members of local boards, the municipality and the public regarding the codes of conduct and the MCIA (Appendix "C").
4. A new Council Policy that includes the requirement for municipalities to establish a public registry of declarations of pecuniary interests made by Members of Council (Appendix "D").
5. A new Council Policy that includes the requirement for municipalities to establish a public registry of declarations of pecuniary interests for local boards (Appendix "E").

It is noted that the Integrity Commissioner has reviewed the two proposed Codes of Conduct and related Complaint Protocols and the revised Terms of Reference for the Integrity Commissioner and concurs with the recommendation of adoption.

Councillor Eligibility – Absence for Pregnancy or Adoption

Bill 68 also provides that a member does not require authorization from Council to be absent for 20 consecutive weeks or less, if the absence is a result of the member’s pregnancy, the birth of a member’s child or the adoption of a child by the member.

Attached as Appendix “F” to the Report is a proposed Council Policy entitled “Members of Council – Absence – Pregnancy or Parental Leave” for Municipal Council’s consideration.

PREPARED AND RECOMMENDED BY:	CONCURRED BY:
CATHY SAUNDERS CITY CLERK	MARTIN HAYWARD, CITY MANAGER
CONCURRED BY:	
BARRY CARD MANAGING DIRECTOR, CORPORATE SERVICES AND CITY SOLICITOR	

APPENDIX “A”

Bill No. xxx
2019

By-law No. CPOL.-_____

A by-law to repeal and replace By-law No. CPOL.-69-301, as amended, being a By-law entitled “Code of Conduct for Members of Council” and replace it with a new Council policy entitled “Code of Conduct for Members of Council” to incorporate regulations resulting from recent amendments to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act*.

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides a municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS the Council of The Corporation of the City of London wishes to repeal and replace By-law No. CPOL-69-301, being a By-law entitled “Code of Conduct for Members of Council” and replace it with a new Council policy entitled “Code of Conduct for Members of Council” to incorporate regulations resulting from recent amendments to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act*;

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

1. The policy entitled “Code of Conduct for Members of Council”, attached hereto as Schedule “A” is hereby adopted.
2. By-law No. CPOL.-69-301, as amended, being a By-law entitled “Code of Conduct for Members of Council” is hereby repealed.
3. This by-law shall come into force and effect on the date it is passed.

PASSED in Open Council on March 26, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – March 26, 2019
Second Reading – March 26, 2019
Third Reading – March 26, 2019

Schedule “A”

Policy Name: Code of Conduct for Members of Council

Legislative History: Adopted August 22, 2017 (By-law No. CPOL.-69-301); Amended July 24, 2018 (By-law No. CPOL.-69(a)-407), Repealed and Replaced March 26, 2019 (By-law No. CPOL.-_____)

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 their 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 their 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.

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;
- 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 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.

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 3.4 (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 - Requirement to Adhere to Council Policies and Procedures

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

Rule 11 - Use of Municipal Property and Resources

11.1 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 12 - Election-Related Activity

12.1 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. Member 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 13 - Integrity Commissioner

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

13.2 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.

13.3 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.

13.4 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.

13.5 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 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.

13.6 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.

**THE CORPORATION OF THE CITY OF LONDON
CODE OF CONDUCT FOR MEMBERS OF COUNCIL
COMPLAINT PROTOCOL**

AUTHORITY

Section 223.3 of the *Municipal Act, 2001* authorizes a municipality to appoint an Integrity Commissioner who reports to council and who is responsible for performing in an independent manner the powers and duties assigned by the municipality with respect to the application of the Code of Conduct for Members of Council. Sections 223.4 of the *Municipal Act, 2001* provides that an Integrity Commissioner has certain powers duties and protections.

The Code of Conduct for Members of Council was adopted by Council by By-law No. A.-6957-158 on April 30, 2013 and amended by By-law No. CPOL.-_____ on March 26, 2019

This Complaint Protocol was adopted by Council by By-law No. CPOL.-_____ on March 26, 2019.

PART A: INFORMAL COMPLAINT PROCEDURE

Any person or any representative of an organization who has identified or witnessed behaviour or an activity by a Member of Council that they believe is in contravention of the *Code of Conduct for Members of Council* (the "Code") may wish to address the prohibited behaviour or activity themselves as follows:

- (1) advise the Member that the behaviour or activity contravenes the Code;
- (2) encourage the Member to acknowledge and agree to stop the prohibited behaviour or activity and to avoid future occurrences of the prohibited behavior or activity;
- (3) keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information;
- (4) request the Integrity Commissioner to assist in informal discussion of the alleged complaint with the Member in an attempt to resolve the issue;
- (5) 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
- (6) consider the need to pursue the matter in accordance with the formal complaint procedure outlined in Part B, or in accordance with another applicable judicial or quasi-judicial process or complaint procedure.

All persons and organizations are encouraged to initially pursue this informal complaint procedure as a means of stopping and remedying a behaviour or activity that is prohibited by the Code. With the consent of the complaining individual or organization and the Member, the Integrity Commissioner may be part of any informal process. However, it is not a precondition or a prerequisite that those complaining must pursue the informal complaint procedure before pursuing the Formal Complaint Procedure in Part B.

PART B: FORMAL COMPLAINT PROCEDURE:

Integrity Commissioner Requests for Inquiries - Section 1

1. (1) A request for an investigation of a complaint that a Member has contravened the Code (the “complaint”) shall be sent directly to the Integrity Commissioner by mail, e-mail, fax or courier and shall be in writing.
- (2) All complaints shall be signed by an identifiable individual (which includes the authorized signing officer of an organization).
- (3) A complaint shall set out reasonable and probable grounds for the allegation that the Member has contravened the Code. For example, the complaint should include the name of the alleged violator, the provision of the Code allegedly contravened, facts constituting the alleged contravention, the names and contact information of witnesses, and contact information for the complainant during normal business hours.
- (4) Municipal Council may also file a complaint and/or request an investigation of any of its members by public motion.

Initial Classification by Integrity Commissioner - Section 2

2. (1) Upon receipt of the complaint, the Integrity Commissioner shall make an initial classification to determine if the matter is, on its face, a complaint with respect to non-compliance with the Code and not covered by other legislation or other Council Policies as described in subsection (2).
- (2) If the complaint is not, on its face, a complaint with respect to non-compliance with the Code or the complaint is covered by other legislation or a complaint procedure under another Council Policy, the Integrity Commissioner shall advise the complainant in writing as follows:
 - (a) 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;
 - (b) if the complaint on its face is with respect to non-compliance with the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be advised that the matter will be referred for review to the City Clerk;
 - (c) if the complaint on its face is with respect to non-compliance with a more specific Council policy with a separate complaint procedure, the complainant shall be advised that the matter will be processed under that procedure;
 - (d) if the complaint is in relation to a matter which is subject to an outstanding complaint under another process such as a Human Rights complaint or similar process, the Integrity Commissioner may, in their sole discretion and in accordance with legislation, suspend any investigation pending the result of the other process; and,
 - (e) in other cases, the complainant shall be advised that 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.

(3) The Integrity Commissioner may report to Municipal Council that a specific complaint is not within the jurisdiction of the Integrity Commissioner, but shall not disclose information that could identify a person concerned.

(4) The Integrity Commissioner shall report semi - annually to Municipal Council on complaints not within the jurisdiction of the Integrity Commissioner, but shall not disclose information that could identify a person concerned.

Integrity Commissioner Investigation - Sections 3 – 9

3. (1) If the Integrity Commissioner is of the opinion that a complaint is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the Integrity Commissioner shall not conduct an investigation, or, where that becomes apparent in the course of an investigation, terminate the investigation.

(2) Other than in exceptional circumstances, the Integrity Commissioner will not report to Municipal Council on any complaint described in subsection (1) except as part of a semi- annual or other periodic report.

4. (1) If a complaint has been classified as being within the Integrity Commissioner's jurisdiction and not rejected under section 3, the Commissioner shall investigate and in so doing, at any time may attempt to settle the complaint.

(2) Upon receipt of a formal complaint pursuant to the Code, and where the Integrity Commissioner determines that the complaint meets the criteria to be investigated, the Integrity Commissioner may elect to conduct an informal investigation, which may include mediation, or alternatively to exercise the powers of a Commission under sections 33 and 34 of the *Public Inquiries Act, 2009* as contemplated by subsection 223.4(2) of the Act.

(3) When the *Public Inquiries Act, 2009* applies to an investigation of a complaint, the Integrity Commissioner shall comply with the procedures specified in that Act and this Complaint Protocol, but, if there is a conflict between a provision of the Complaint Protocol and a provision of the *Public Inquiries Act, 2009* the provision of the *Public Inquiries Act, 2009* prevails.

5. (1) The Integrity Commissioner will proceed as follows, except where otherwise required by the *Public Inquiries Act, 2009*:

(a) serve the complainant and supporting material upon 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 upon the complainant with a request for a written reply within ten business days.

(2) 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 described in subsections 223.4(3) and (4) of the *Municipal Act*, and may enter any City work location relevant to the complaint for the purposes of investigation and settlement.

(3) The Integrity Commissioner shall not issue a report finding a violation of the Code on the part of any Member unless the Member has had reasonable notice of the basis for the proposed finding and any recommended penalty and an opportunity either in person or in writing to comment on the proposed finding and any recommended penalty.

(4) The Integrity Commissioner may make interim reports to Municipal Council where necessary and as required to address any instances of interference, obstruction or retaliation encountered during an investigation.

(5) If the Integrity Commissioner has not completed an investigation before Nomination Day for a regular election, as set out in the *Municipal Elections Act, 1996*, the Integrity Commissioner shall terminate the inquiry on that day.

If an investigation is terminated in accordance with subsection 223.4(7) of the *Municipal Act, 2001*, the Integrity Commissioner shall not commence another inquiry in respect to the matter unless, within six weeks after Voting Day in a regular election, the complainant who made the request or the Member or former Member whose conduct is concerned makes a written request to the Integrity Commissioner that the investigation be commenced.

(6) The Integrity Commissioner shall retain all records related to the complaint and investigation.

6. Notwithstanding any other provisions of this Protocol, in the year of a regular election the following rules apply during the period starting on Nomination Day for a regular election, as set out in section 31 of the *Municipal Elections Act, 1996* and ending on Voting Day in a regular election, as set out in section 5 of the Act:

(i) there shall be no requests for an inquiry about whether a Member has contravened the Code applicable to the Member;

(ii) the Integrity Commissioner shall not report to the municipality about whether in their opinion, a Member has contravened the Code applicable to the Member; and,

(iii) the municipality shall not consider whether to impose penalties referred to in subsection 223.4(5) of the *Municipal Act, 2001*, on a Member.

7. (1) The Integrity Commissioner shall report to the complainant and the Member generally no later than 90 days after the intake process has been completed and an investigation has been commenced. If the investigation process takes more than 90 days, the Integrity Commissioner shall provide an interim report and must advise the parties of the date the report will be available.

(2) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall also report to Municipal Council outlining the findings, the terms of any settlement or recommended penalty. The City Clerk shall process the report for the next meeting of Municipal Council.

(3) Any recommended corrective action must be permitted in law and shall be designed to ensure that the inappropriate behavior or activity does not continue.

(4) Where the complaint is dismissed, other than in exceptional circumstances, the Integrity Commissioner shall not report to Municipal Council except as part of a semi-annual or other periodic report.

8. If the Integrity Commissioner determines that there has been no contravention of the Code 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 judgment made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.

9. Notwithstanding any other provision of this Protocol, the Integrity Commissioner shall not make any report to Municipal Council or to any other person during the period of time starting on Nomination Day and ending on Voting Day in any year in which a regular municipal election will be held, as set out in the *Municipal Elections Act, 1996*.

Municipal Council Review – Section 10

10. (1) Municipal Council shall consider and respond to the report within 90 days after the day the report is laid before it.

(2) Municipal Council shall not consider whether to impose sanctions on a Member, where the Integrity Commissioner makes a report to the Municipal Council regarding a contravention of the Code, during the period of time starting on Nomination Day and ending on Voting Day in a year in which a regular election will be held, as set out in the *Municipal Elections Act, 1996*.

(3) In responding to the report, Municipal Council may vary a recommendation that imposes a penalty, subject to section 223.4, subsection (5) of the *Municipal Act, 2001*, but shall not refer the recommendation other than back to the Integrity Commissioner.

(4) Upon receipt of recommendations from the Integrity Commissioner, Municipal Council may, in circumstances where the Integrity Commissioner has determined there has been a violation of the Code impose either of two penalties:

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

(5) 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.

(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 the member has contravened sections 5, 5.1 or 5.2 of the Act.

Confidentiality – Section 11

11. (1) A complaint will be processed in compliance with the confidentiality requirements in sections 223.5 and 223.6 of the *Municipal Act*, which are summarized in the following subsections.

(2) 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.

(3) All reports from the Integrity Commissioner to Council will be made available to the public.

(4) Any references by the Integrity Commissioner in a semi-annual or other periodic report to a complaint or an investigation shall not disclose confidential information that could identify a person concerned.

(5) The Integrity Commissioner in a report to Council on whether a member has violated the Code shall only disclose such matters as in the Integrity Commissioner's opinion are necessary for the purposes of the report.

APPENDIX “B”

Bill No. xx
2019

By-law No. CPOL.-_____

A by-law to enact a new Council policy entitled
“Code of Conduct for Local Boards”.

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides a municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS the Council of The Corporation of the City of London wishes to enact a new Council Policy entitled “Code of Conduct for Local Boards” in accordance with regulations resulting from recent amendments to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act* requiring municipalities to codes of conducts for local boards;

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

1. The policy entitled “Code of Conduct for Local Boards”, attached hereto as Schedule “A” is hereby adopted.
2. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on March 26, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – March 26, 2019
Second Reading – March 26, 2019
Third Reading – March 26, 2019

Schedule “A”

Policy Name: Code of Conduct for Local Boards

Legislative History: None

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 **Adjudicative Board** – shall mean a local board as defined in Section 223.1 of the *Municipal Act, 2001* which has the statutory power or right to make a decision;
- 2.2 **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 their private interest;
- 2.3 **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 their family;
- 2.4 **Code** – shall mean this Code of Conduct;
- 2.5 **Corporation** - shall mean The Corporation of the City of London;
- 2.6 **Council** - shall mean the Council of The Corporation of the City of London;
- 2.7 **Family member** - shall mean a child, parent or a spouse;
- 2.8 **Local board** – shall mean a local board as defined in section 223.1 of the *Municipal Act, 2001*;
- 2.9 **Member** - shall mean a Member of an adjudicative board or local board;
- 2.10 **Parent** – shall mean a parent who has demonstrated a settled intention to treat a child as a member of their family whether or not that person is the natural parent of the child;
- 2.11 **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 Members of the City of London’s local boards, including adjudicative boards. Members of Council are bound by the Code of Conduct for 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) *Occupational Health and Safety Act*;
- (vi) *Ontario Human Rights Code*;
- (viii) *Criminal Code of Canada*; and
- (ix) the by-laws and policies of the local board as adopted and amended from time to time.

Rule 2 - General Rules

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

2.2 Members shall be committed to performing their functions with integrity, independence and impartiality and to avoid the improper use of the influence of their position, 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 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 local board.

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

Rule 3 - Confidential Information

3.1 Members of local boards may acquire confidential information from a variety of different resources in the course of their work. Confidential information includes information in the possession of, or received in confidence by the local board, that local board is either prohibited from disclosing, or is required to refuse to disclose under the *Municipal Freedom of Information and Protection of Privacy Act*.

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 the local board.

3.4 A Member shall not misuse any confidential information such that the release thereof may cause detriment to the local board, the Corporation, 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 4 - Conduct at Meetings and When Representing the Local Board

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

4.2 A Member shall conduct themselves at meetings with decorum in accordance with the provisions of the applicable procedures.

4.3 A Member shall make every effort to participate diligently in the activities of the local board.

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:

- i) use the influence of their position for any purpose other than for the exercise of their official duties;
- ii) act as an agent before Council, any committee, board or commission of Council or the City's Hearings Officer;
- iii) use any information gained in the execution of their position that is not available to the general public for any purpose other than for official duties;
- iv) place themselves in a position of obligation to any person or organization which might reasonably benefit from special consideration or may seek preferential treatment;
- v) give preferential treatment to any person or organization in which a Member has a financial interest;
- vi) influence any administrative or local board decision or decision-making process involving or affecting any person or organization in which a Member has a financial interest;
- vii) use the Corporation's or local board's property, materials, equipment, services, supplies, facilities, officers, employees, agents or contractors for personal gain, personal purpose or for any private purpose; or
- viii) 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 local board's or Corporation's officers, employees, individuals contracted by the local board or Corporation on a purchase of service agreement and students on placements role to provide advice based on neutrality and objectivity and without undue influence from any individual Member or faction of the local board.

6.2 No Member shall injure the professional or ethical reputation, or the prospect or practice of an officer or employee of the local board or Corporation, an individual contracted by the local board or 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 or local board to engage in partisan 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 and employee of the local board or Corporation, individual contracted by the local board or 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 7 - Discreditable Conduct

7.1 Members have a duty to treat members of the public, one another, individuals contracted by the local board or Corporation on a purchase of service agreement, students on placement and officers and employees of the local board or 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 local board policies.

7.2 Upon receipt of a complaint with respect to alleged discreditable conduct of a Member, 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.

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 the local board as per the normal procedure respecting such matters.

Rule 8 - Requirement to Adhere to Council and Local Board Policies and Procedures

8.1 Members shall adhere to such by-laws, policies and procedures adopted by the local board and 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 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) 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 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 or, local board 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 - Requirement to Adhere to Council and Local Board Policies and Procedures

10.1 Members shall adhere to such by-laws, policies and procedures adopted by the local board or Council that are applicable to them.

Rule 11 - Use of Municipal or Local Board Property and Resources

11.1 In order to fulfil their position Members have access to municipal or local board resources such as property, equipment, services, staff and supplies. No Member shall use or permit the use of Corporate or local board land, facilities, equipment, supplies, services, staff or other resources for activities other than the purposes connected with the discharger of their position.

Rule 12 - Election-Related Activity

12.1 Members are required to conduct themselves in accordance with the *Municipal Elections Act, 1996* and the local board's policy regarding the use of local board resources during the election campaign period (as required under section 88.18 of the *Municipal Elections Act, 1996*). No Member shall solicit, demand or accept the services of any 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;

12.2 The use of local board resources, both actual property and staff time, for election-related activity is strictly prohibited. The prohibition applies to both the promotion and opposition to the candidacy of a person for election office. Election-related activity applies to campaigns for municipal, provincial and federal office.

Rule 13 - Outside Activities

13.1 Members shall not be a director or hold an executive position with any organization whose objectives and mandates are in conflict with, or may reasonable be perceived to be in conflict with, the objectives and mandates of the local board. Before taking on a new executive position, the member shall inform the Chair of the local board and the Integrity Commissioner to obtain advice about the new circumstances.

Rule 14 - Communications with Adjudicative Boards

14.1 Communications with members of an adjudicative board by a party or their representative must be through the board administrator and/or during the appropriate proceeding.

Written communication to the adjudicative board shall be make through the board administrator and shall be copied to all parties or their representatives as appropriate. Oral communications with the adjudicative board shall take place during formal proceedings of the adjudicative board and in the presence of all parties.

Rule 15 - Independent Nature of Adjudicative Boards

15.1 Members of adjudicative boards operate at arms-length from and independently of Council and the Civic Administration. Members should maintain the board's independence and ensure their actions are consistent with the arms-length, quasi-judicial nature of an adjudicative board.

Rule 16 - Integrity Commissioner

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

16.2 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.

16.3 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.

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

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

16.5 The Integrity Commissioner may also recommend that Council revoke the member's appointment to the local board.

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

**THE CORPORATION OF THE CITY OF LONDON
CODE OF CONDUCT FOR MEMBER OF LOCAL BOARDS
COMPLAINT PROTOCOL**

AUTHORITY

Section 223.3 of the *Municipal Act, 2001* authorizes a municipality to appoint an Integrity Commissioner who reports to council or local board and who is responsible for performing in an independent manner the powers and duties assigned by the municipality with respect to the application of the Code of Conduct for Members of Local Boards.

Section 223.4 of the *Municipal Act, 2001* provides that an Integrity Commissioner has certain powers, duties and protections.

The Code of Conduct for Members of Local Boards was adopted by Council by By-law CPOL.- _____ on March 26, 2019.

This Complaint Protocol was adopted by Council by By-law CPOL.- _____ on March 26, 2019.

PART A: INFORMAL COMPLAINT PROCEDURE

Any person or any representative of an organization who has identified or witnessed behaviour or an activity by a Member of a Local Board that they believe is in contravention of the *Code of Conduct for Members of Local Boards* (the "Code") may wish to address the prohibited behaviour or activity themselves as follows:

- (1) advise the Member that the behaviour or activity contravenes the Code;
- (2) encourage the Member to acknowledge and agree to stop the prohibited behaviour or activity and to avoid future occurrences of the prohibited behavior or activity;
- (3) keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information;
- (4) request the Integrity Commissioner to assist in informal discussion of the alleged complaint with the Member in an attempt to resolve the issue;
- (5) 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
- (6) consider the need to pursue the matter in accordance with the formal complaint procedure outlined in Part B, or in accordance with another applicable judicial or quasi-judicial process or complaint procedure.

All persons and organizations are encouraged to initially pursue this informal complaint procedure as a means of stopping and remedying a behaviour or activity that is prohibited by the Code. With the consent of the complaining individual or organization and the Member, the Integrity Commissioner may be part of any informal process. However, it is not a precondition or a prerequisite that those complaining must pursue the informal complaint procedure before pursuing the Formal Complaint Procedure in Part B.

PART B: FORMAL COMPLAINT PROCEDURE:

Integrity Commissioner Requests for Inquiries - Section 1

1. (1) A request for an investigation of a complaint that a Member has contravened the Code (the “complaint”) shall be sent directly to the Integrity Commissioner by mail, e-mail, fax or courier and shall be in writing.
- (2) All complaints shall be signed by an identifiable individual (which includes the authorized signing officer of an organization).
- (3) A complaint shall set out reasonable and probable grounds for the allegation that the Member has contravened the Code. For example, the complaint should include the name of the alleged violator, the provision of the Code allegedly contravened, facts constituting the alleged contravention, the names and contact information of witnesses, and contact information for the complainant during normal business hours.
- (4) The Local Board may also file a complaint and/or request an investigation of any of its members by public motion.

Initial Classification by Integrity Commissioner - Section 2

2. (1) Upon receipt of the complaint, the Integrity Commissioner shall make an initial classification to determine if the matter is, on its face, a complaint with respect to non-compliance with the Code and not covered by other legislation or other Local Board Policies as described in subsection (2).
- (2) If the complaint is not, on its face, a complaint with respect to non-compliance with the Code or the complaint is covered by other legislation or a complaint procedure under another Local Board Policy, the Integrity Commissioner shall advise the complainant in writing as follows:
 - (a) 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;
 - (b) if the complaint on its face is with respect to non-compliance with the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be advised that the matter will be referred for review to the Head under the Act;
 - (c) if the complaint on its face is with respect to non-compliance with a more specific Local Board Policy with a separate complaint procedure, the complainant shall be advised that the matter will be processed under that procedure;
 - (d) if the complaint is in relation to a matter which is subject to an outstanding complaint under another process such as a Human Rights complaint or similar process, the Integrity Commissioner may, in their sole discretion and in accordance with legislation, suspend any investigation pending the result of the other process; and,
 - (e) in other cases, the complainant shall be advised that 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.

(3) The Integrity Commissioner may report to the Local Board that a specific complaint is not within the jurisdiction of the Integrity Commissioner, but shall not disclose information that could identify a person concerned.

(4) The Integrity Commissioner shall report semi - annually to the Local Board on complaints not within the jurisdiction of the Integrity Commissioner, but shall not disclose information that could identify a person concerned.

Integrity Commissioner Investigation - Sections 3 – 9

3. (1) If the Integrity Commissioner is of the opinion that a complaint is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the Integrity Commissioner shall not conduct an investigation, or, where that becomes apparent in the course of an investigation, terminate the investigation.

(2) Other than in exceptional circumstances, the Integrity Commissioner will not report to the Local Board on any complaint described in subsection (1) except as part of a semi- annual or other periodic report.

4. (1) If a complaint has been classified as being within the Integrity Commissioner's jurisdiction and not rejected under section 3, the Commissioner shall investigate and in so doing, at any time may attempt to settle the complaint.

(2) Upon receipt of a formal complaint pursuant to the Code, and where the Integrity Commissioner determines that the complaint meets the criteria to be investigated, the Integrity Commissioner may elect to conduct an informal investigation, which may include mediation, or alternatively to exercise the powers of a Commission under sections 33 and 34 of the *Public Inquiries Act, 2009* as contemplated by subsection 223.4(2) of the Act.

(3) When the *Public Inquiries Act, 2009* applies to an investigation of a complaint, the Integrity Commissioner shall comply with the procedures specified in that Act and this Complaint Protocol, but, if there is a conflict between a provision of the Complaint Protocol and a provision of the *Public Inquiries Act, 2009*, the provision of the *Public Inquiries Act, 2009* prevails.

5. (1) The Integrity Commissioner will proceed as follows, except where otherwise required by the *Public Inquiries Act, 2009*:

(a) serve the complainant and supporting material upon 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 upon the complainant with a request for a written reply within ten business days.

(2) 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 described in subsections 223.4(3) and (4) of the *Municipal Act*, and may enter any Local Board or if necessary, City work location relevant to the complaint for the purposes of investigation and settlement.

(3) The Integrity Commissioner shall not issue a report finding a violation of the Code on the part of any Member unless the Member has had reasonable notice of the basis for the proposed finding and any recommended penalty and an opportunity either in person or in writing to comment on the proposed finding and any recommended penalty.

(4) The Integrity Commissioner may make interim reports to the Local Board where necessary and as required to address any instances of interference, obstruction or retaliation encountered during an investigation.

(5) If the Integrity Commissioner has not completed an investigation before Nomination Day for a regular election, as set out in the *Municipal Elections Act, 1996*, the Integrity Commissioner shall terminate the inquiry on that day.

If an investigation is terminated in accordance with subsection 223.4(7) of the *Municipal Act, 2001*, the Integrity Commissioner shall not commence another inquiry in respect to the matter unless, within six weeks after Voting Day in a regular election, the complainant who made the request or the Member or former Member whose conduct is concerned makes a written request to the Integrity Commissioner that the investigation be commenced.

(6) The Integrity Commissioner shall retain all records related to the complaint and investigation.

6. Notwithstanding any other provisions of this Protocol, in the year of a regular election the following rules apply during the period starting on Nomination Day for a regular election, as set out in section 31 of the *Municipal Elections Act, 1996* and ending on Voting Day in a regular election, as set out in section 5 of the Act:

(i) there shall be no requests for an inquiry about whether a Member has contravened the Code applicable to the Member;

(ii) the Integrity Commissioner shall not report to the municipality about whether in their opinion, a Member has contravened the Code applicable to the Member; and,

(iii) the municipality shall not consider whether to impose penalties referred to in subsection 223.4(5) of the *Municipal Act, 2001*, on a Member.

7. (1) The Integrity Commissioner shall report to the complainant and the Member generally no later than 90 days after the intake process has been completed and an investigation has been commenced. If the investigation process takes more than 90 days, the Integrity Commissioner shall provide an interim report and must advise the parties of the date the report will be available.

(2) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall also report to the Local Board outlining the findings, the terms of any settlement or recommended penalty. The secretary of the Local Board shall process the report for the next meeting of the Local Board.

(3) Any recommended corrective action must be permitted in law and shall be designed to ensure that the inappropriate behavior or activity does not continue.

(4) Where the complaint is dismissed, other than in exceptional circumstances, the Integrity Commissioner shall not report to Local Board except as part of a semi-annual or other periodic report.

8. If the Integrity Commissioner determines that there has been no contravention of the Code 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 judgment made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.

9. Notwithstanding any other provision of this Protocol, the Integrity Commissioner shall not make any report to the Local Board or to any other person during the period of time starting on Nomination Day and ending on Voting Day in any year in which a regular municipal election will be held, as set out in the *Municipal Elections Act, 1996*.

Local Board Review – Section 10

10. (1) The Local Board shall consider and respond to the report within 90 days after the day the report is laid before it.

(2) The Local Board shall not consider whether to impose sanctions on a Member, where the Integrity Commissioner makes a report to the Local Board regarding a contravention of the Code, during the period of time starting on Nomination Day and ending on Voting Day in a year in which a regular election will be held, as set out in the *Municipal Elections Act, 1996*.

(3) In responding to the report, the Local Board may vary a recommendation that imposes a penalty, subject to section 223.4, subsection (5) of the *Municipal Act, 2001*, but shall not refer the recommendation other than back to the Integrity Commissioner.

(4) Upon receipt of recommendations from the Integrity Commissioner, the Local Board may, in circumstances where the Integrity Commissioner has determined there has been a violation of the Code impose either of two penalties:

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

(5) The Integrity Commissioner may also recommend that Local Board 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.

(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 the member has contravened sections 5, 5.1 or 5.2 of the Act.

Confidentiality – Section 11

11. (1) A complaint will be processed in compliance with the confidentiality requirements in sections 223.5 and 223.6 of the *Municipal Act*, which are summarized in the following subsections.

(2) 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.

(3) All reports from the Integrity Commissioner to Council will be made available to the public.

(4) Any references by the Integrity Commissioner in a semi-annual or other periodic report to a complaint or an investigation shall not disclose confidential information that could identify a person concerned.

(5) The Integrity Commissioner in a report to Council on whether a member has violated the Code shall only disclose such matters as in the Integrity Commissioner's opinion are necessary for the purposes of the report.

APPENDIX “C”

Bill No. xx
2019

By-law No. CPOL.-_____

A by-law to enact a Council Policy entitled “The Corporation of the City of London Integrity Commissioner Terms of Reference”.

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides a municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS the Council of The Corporation of the City of London wishes to enact a Council Policy entitled “The Corporation of the City of London Integrity Commissioner Terms of Reference” to address recent amendments to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act*;

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

1. The policy entitled “The Corporation of the City of London Integrity Commissioner Terms of Reference”, attached hereto as Schedule “A” is hereby adopted.
2. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on March 26, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – March 26, 2019
Second Reading – March 26, 2019
Third Reading – March 26, 2019

Schedule “A”

Policy Name: The Corporation of the City of London

Legislative History: Terms of Reference adopted September 2, 2014

Last Review Date: March 19, 2019

Service Area Lead: City Clerk

1. Policy Statement

This Policy establishes a Terms of Reference for The Corporation of City of London Integrity Commissioner in accordance with section 223.3 of the *Municipal Act, 2001*.

2. Definitions

None.

3. Applicability

This Policy applies to all Members of Council and Local Boards.

4. The Policy

4.1 The Integrity Commissioner is an independent officer, appointed by Council by by-law passed under section 223.3 of the *Municipal Act, 2001*. The Integrity Commissioner reports directly to Council or Local Boards and functions independently of the Civic Administration and Local Board Administration.

4.2 Municipal Council

In accordance with section 223.3(1) of the *Municipal Act, 2001*, the Integrity Commissioner shall carry out the following functions:

1. The application of the code of conduct for members of council and the code of conduct for members of local boards.
2. The application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards.
3. The application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* to members of council and of local boards.
4. Requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member.
5. Requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behaviour of members.
6. Requests from members of council and of local boards for advice respecting their obligations under the *Municipal Conflict of Interest Act*.
7. The provision of educational information to members of council, members of local boards, the municipality and the public about the municipality's codes of conduct for members of council and members of local boards and about the *Municipal Conflict of Interest Act*.

The duties of the Integrity Commissioner with respect to Municipal Council are to:

- a) provide advice to Members of Council on the application of the City's Code of Conduct for Members of Council and any procedures, rules and policies of the municipality governing the ethical behaviour of Members of Council;
- b) provide advice to Members of Council on the application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act*;
- c) receive and conduct such formal or informal processes as may be appropriate (including inquiries or mediations), in accordance with the Council approved Complaint Protocol, concerning complaints by the Council, or any person that a Member of Council has contravened the City's Code of Conduct for Members of Council, the *Municipal Conflict of Interest Act*, or rules and policies of the municipality governing the ethical behaviour of Members of Council;
- d) report to Council, in writing, where an inquiry under part c) has been conducted and the Integrity Commissioner is of the opinion that a Member of Council has contravened the Code of Conduct for Members of Council and/or and include any recommendations with respect to the inquiry for the Council to consider;
- e) report to Council annually, in writing, summarizing any activities undertaken and advice given; and,
- f) provide such training and written reference materials, upon the request of Municipal Council, for distribution to and use by Members of Council and the public regarding the role of the Integrity Commissioner, the obligations and responsibilities of Members of Council under the City's Code of Conduct for Members of Council and under the *Municipal Conflict of Interest Act*, the meaning of the City's Code of Conduct for Members of Council and any procedures, rules and policies of the municipality governing the ethical behaviour of Members of Council under the City's Code of Conduct for Members of Council and the *Municipal Conflict of Interest Act*.

4.3 Local Boards

The duties of the Integrity Commissioner with respect to Local Boards are to:

- a) provide advice to Members of Local Boards on the application of the City's Code of Conduct for Local Boards and any procedures, rules and policies of the Local Boards governing the ethical behaviour of Members of Local Boards;
- b) provide advice to Members of Local Boards on the application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act*;
- c) receive and conduct inquiries, in accordance with the Council approved Complaint Protocol for Local Boards, into requests by Local Boards, a Members of the Local Boards or a member of the public about whether a Member of a Local Board has contravened the City's Code of Conduct for Local Boards;

- d) receive and conduct inquiries or initiate inquiries about whether a Member of a Local Board has contravened the *Municipal Conflict of Interest Act*, in accordance with sections 5, 5.1 and 5.2 of the Act;
- e) report to the Local Board, in writing, where an inquiry has been conducted under part c) and the Integrity Commissioner is of the opinion that a Member of the Local Board has contravened the Code of Conduct for Members of Local Boards and include any recommendations with respect to the inquiry for the Local Board to consider;
- f) report to Local Boards, annually, in writing, summarizing any activities undertaken and advice given; and
- g) provide such training and written reference materials, upon the request of Local Boards, for distribution to and use by Members of Local Boards and the public regarding the role of the Integrity Commissioner, the obligations and responsibilities of Members of Local Boards under the City's Code of Conduct for Members of Local Boards and under the *Municipal Conflict of Interest Act*, the meaning of the City's Code of Conduct for Members of Local Boards and any procedures, rules and policies of the Local Boards governing the ethical behaviour of Members of Local Boards under the City's Code of Conduct for Members of Local Boards and the *Municipal Conflict of Interest Act*.

APPENDIX “D”

Bill No. xx
2019

By-law No. CPOL.-_____

A by-law to enact a Council Policy entitled
“Members of Council Public Registry
Declaration of Interest”.

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides a municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS the Council of The Corporation of the City of London wishes to enact a Council Policy entitled “Members of Council Public Registry Declaration of Interest” in accordance with sections 5.1 and 6.1 of the *Municipal Conflict of Interest Act* requiring Members of Council to submit written statements regarding disclosure of interests and the creation of a registry of written statements to be available for public inspection;

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

1. The policy entitled “Members of Council Public Registry Declaration of Interest”, attached hereto as Schedule “A” is hereby adopted.
2. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on March 26, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – March 26, 2019
Second Reading – March 26, 2019
Third Reading – March 26, 2019

Schedule "A"

Policy Name: Members of Council Public Registry Declaration of Interest

Legislative History: None

Last Review Date: March 19, 2019

Service Area Lead: City Clerk

1. Policy Statement

This Policy establishes a process to implement the requirement for Members of Council to submit written statements regarding disclosure of interests and the creation of a registry of the written statements to be available for public inspection in accordance with sections 5.1 and 6.1 of the *Municipal Conflict of Interest Act*.

2. Definitions

None.

3. Applicability

This Policy applies to all Members of Council.

4. The Policy

- 4.1 Any Member of Council who discloses an interest in accordance with section 5 of the *Municipal Conflict of Interest Act* shall, as soon as possible afterwards, file a written statement of the interest and its general nature, with the City Clerk.
- 4.2 The City Clerk shall establish and maintain a registry in which shall be kept:
 - a) a copy of each statement filed by a Member of Council under section 5.1 of the *Municipal Conflict of Interest Act*;
 - b) a copy of each declaration of interest recorded by the City Clerk, or designate, under section 6 of the *Municipal Conflict of Interest Act* in the minutes of a meeting that is open to the public.
- 4.3 The registry shall be available for public inspection 8:30 AM to 4:30 PM, Monday to Friday, with the exception of statutory holidays or other periods when City Hall is not open to the public.
- 4.4 The registry shall include a copy of each written statement that a Member of Council files with the City Clerk and a copy of each declaration of interest that the Clerk, or designate records in the minutes.
- 4.5 The registry will be made available for public inspection in both hard copy format and an electronic format uploaded to the City of London's website.

APPENDIX “E”

Bill No. xx
2019

By-law No. CPOL.-_____

A by-law to enact a Council Policy entitled
“Public Registry Declaration of Interest for
Local Boards”.

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides a municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS the Council of The Corporation of the City of London wishes to enact a Council Policy entitled “Public Registry Declaration of Interest for Local Boards” in accordance with sections 5.1 and 6.1 of the *Municipal Conflict of Interest Act* requiring Members of Local Boards to submit written statements regarding disclosure of interests and the creation of a register of written statements to be available for public inspection;

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

1. The policy entitled “Registry Declaration of Interest for Local Boards”, attached hereto as Schedule “A” is hereby adopted.
2. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on March 26, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – March 26, 2019
Second Reading – March 26, 2019
Third Reading – March 26, 2019

Schedule "A"

Policy Name: Public Registry Declaration of Interest for Local Boards

Legislative History: None

Last Review Date: March 19, 2019

Service Area Lead: City Clerk

1. Policy Statement

This Policy establishes a process to implement the requirement for Members of Local Boards to submit written statements regarding disclosure of interests and the creation of a registry of the written statements to be available for public inspection in accordance with sections 5.1 and 6.1 of the *Municipal Conflict of Interest Act*.

2. Definitions

None.

3. Applicability

This Policy applies to all Members of Local Boards.

4. The Policy

- 4.1 Any Member of a Local Board who discloses an interest in accordance with section 5 of the *Municipal Conflict of Interest Act* shall, as soon as possible afterwards, file a written statement of the interest and its general nature, with the Secretary of the Local Board.
- 4.2 The Secretary of the Local Board shall establish and maintain a registry in which shall be kept:
 - a) a copy of each statement filed by a Member of a Local Board under section 5.1 of the *Municipal Conflict of Interest Act*;
 - b) a copy of each declaration of interest recorded by the Secretary of the Local Board under section 6 of the *Municipal Conflict of Interest Act* in the minutes of a meeting that is open to the public.
- 4.3 The registry shall be available for public inspection 8:30 AM to 4:30 PM, Monday to Friday, with the exception of statutory holidays or other periods when the Local Board's Office is not open to the public.
- 4.4 The registry shall include a copy of each written statement that a Member of the Local Board files with the Secretary of the Local Board and a copy of each declaration of interest that the Secretary of the Local Board records in the minutes.
- 4.5 The registry will be made available for public inspection in both hard copy format and an electronic format uploaded to the Local Board's website, where applicable.

APPENDIX “F”

Bill No. xx
2019

By-law No. CPOL.-_____

A by-law to enact a Council Policy entitled
“Members of Council – Absence – Pregnancy
or Parental Leave”.

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides a municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS the Council of The Corporation of the City of London wishes to enact a Council Policy entitled “Members of Council – Absence – Pregnancy or Parental Leave” in accordance with Subsections 259(1.1) and 270(1) of the *Municipal Act, 2001* to establish a process to recognize a Member of Council’s ability to take pregnancy or parental leave without a Council motion;

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

1. The policy entitled “Members of Council - Absence – Pregnancy or Parental Leave”, attached hereto as Schedule “A” is hereby adopted.
2. This by-law shall come into force and effect on the date it is passed.

PASSED in Open Council on March 26, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – March 26, 2019
Second Reading – March 26, 2019
Third Reading – March 26, 2019

Schedule "A"

Policy Name: Members of Council – Absence – Pregnancy or Parental Leave

Legislative History: None

Last Review Date: March 19, 2019

Service Area Lead: City Clerk

1. Policy Statement

This Policy establishes a process to recognize a Member of Council's ability to take pregnancy and parental leave without a Council motion in accordance with Subsections 259 (1.1) and 270 (1) of the *Municipal Act, 2001* and to provide for delegated authority that would allow legislative and administrative matters to be addressed in a manner that is consistent with the Council Member's wishes while they are on leave.

2. Definitions

None.

3. Applicability

This Policy applies to all Members of Council.

4. The Policy

Any Member of Council shall provide the City Clerk written notice of an absence of 20 consecutive weeks or less as a result of the Member's pregnancy, the birth of the Member's child or the adoption of a child by the Member in accordance with Subsections 259 (1.1) and 270 (1) of the *Municipal Act, 2001*.

The written notice shall contain the following information:

- a) an indication of the Member(s) of Council whom they wish to delegate the authority to undertake their Ward responsibility during their absence; and
- b) an indication of the Member(s) of Council whom they recommend Council appoint as a Member of any Committee(s) on which the Councillor sits, on an interim basis for the duration of their absence; and
- c) a recommendation to Council that the City Clerk be delegated the authority to approve the payment of costs from their expense account arising from routine expenses, in consultation with the Member(s) of Council to whom delegation has been given in accordance with a) above, and in accordance with the Council Members' Expense Account Policy, if there is sufficient funds in the expense account to do so.

When such written notice is provided, the City Clerk shall forward the written notice forward for Council consideration immediately following the City Clerk's receipt of the written notice.

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON AUGUST 10, 2020
FROM:	CATHY SAUNDERS CITY CLERK
SUBJECT:	COUNCIL PROCEDURE BY-LAW

RECOMMENDATION

That, on the recommendation of the City Clerk, the following actions be taken with respect to Council Procedure By-law:

a) the attached proposed by-law (Appendix “A”) being “A by-law to amend By-law A-50, as amended, being “A by-law to provide for the Rules of Order and Procedure for the Council of The Corporation of the City of London” to facilitate Members of Council electronic participation in meetings and to amend the Terms of Reference from the Strategic Priorities and Policy Committee to include “anti-racism, diversity, inclusion and anti-oppression” in the Committee’s mandate, BE INTRODUCED at the Municipal Council meeting to be held on August 25, 2020; and

b) subject to the approval of a) above, the attached proposed by-law (Appendix “B”) being a by-law to enact a Council Policy entitled “Electronic Participation of Council Members at Council and Standing Committee meetings” BE INTRODUCED at the Municipal Council meeting to be held on August 25, 2020.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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None.

BACKGROUND

Council Members – Electronic Participation

Section 238(2) of the *Municipal Act, 2001*, provides that every municipality shall pass a procedure by-law for governing the calling, place and proceedings of meetings.

On March 17, 2020, the Provincial Government issued a Declaration of Emergency pursuant to section 7.0.1 of the *Emergency Management and Civil Protection Act* related to Novel Coronavirus (COVID-19). On March 19, 2020, the Provincial Government passed Bill 187 which put in place amendments to the *Municipal Act, 2001* to provide a municipality with the ability to amend their Procedural By-law to permit meetings to be held electronically during an emergency declared pursuant to the *Emergency Management and Civil Protection Act*. In response to this, the Municipal Council enacted By-law No. A.-50-20007, being “A by-law to provide for the Rule of Order and Procedure for the Council of The Corporation of the City of London” to provide for electronic participation of Members of Council at Council and Standing Committee meeting during a period of a declared emergency” at the meeting held on March 24, 2020.

Bill 187, permitted electronic participation of Council Members which would count towards quorum and provide for the Council Members to vote and participate in both open and closed sessions of the meeting during a declared emergency.

On July 21, 2020, the Provincial Government gave Royal Assent to Bill 197 “An act to amend various statutes in response to COVID-19 and to enact, amend and repeal various statute”. This Bill included further amendments to the *Municipal Act, 2001* to allow for electronic participation of Council Members at meetings without a declaration of an emergency being required.

Council and Standing Committee meetings currently being held are hybrid in nature with some Council Members physically in attendance and some participating remotely. Given the current direction of the Medical Officer of Health to maintain a physical distance of 2 metres (6 feet) from another individual, it would be difficult to accommodate 15 Council Members and City Clerk’s staff in the Council Chambers. It is recommended that the Civic Administration (with the exception of City Clerk’s staff and Information Technology staff) continue to be in remote attendance at meetings until such time as physical distance requirements are lifted.

In response to this legislative change, the Civic Administration recommends that the previous amendments to the Council Procedure By-law put in place by By-law No. A.-50-20007 remain in place should future Declarations of Emergency occur. In addition, due to the physical limitations of the Council Chambers while maintain physical distancing, the Civic Administration recommends that the attached proposed by-law (Appendix “A”) to amend the Council Procedure By-law to facilitate Members of Council electronic participation in meetings outside of a Declaration of Emergency be enacted. The Civic Administration is also recommending that the corresponding Council Policy attached as Appendix “B” to this report be approved.

Council Member – Proxy Voting

Bill 197 also permits a municipality to choose to allow a member of Council to appoint another member of Council to as a proxy in their place if they are unable to attend a meeting subject to the following conditions:

1. A member shall not appoint a proxy unless the proxy holder is a member of the same council as the appointing member.
2. A member shall not act as a proxy for more than one member of Council at any one time.
3. The member appointing the proxy shall notify the clerk of the appointment in accordance with the process established by the clerk.
4. For the purpose of determining whether or not a quorum of members is present at any point in time, a proxy holder shall be counted as one member and shall not be counted as both the appointing member and the proxy holder.
5. A proxy shall be revoked if the appointing member or the proxy holder requests that the proxy be revoked and complies with the proxy revocation process established by the clerk.
6. Where a recorded vote is requested under section 246, the clerk shall record the name of each proxy holder, the name of the member of council for whom the proxy holder is voting and the vote cast on behalf of that member; and
7. A member who appoints a proxy for a meeting shall be considered absent from the meeting for the purposes of determining whether the office of the member is vacant under section 259(1)(c).

The Civic Administration does not recommend moving forward with changes related to proxy voting at this time as this matter warrants further review and discussion.

Strategic Priorities and Policy Committee Mandate

Municipal Council, at its meeting held on July 21, 2020, resolved the following with respect to the Council Procedure By-law:

“That the following actions be taken with respect to making anti-racism a strategic priority:

- a) the mandate of the Strategic Priorities and Policy Committee BE AMENDED to include “anti-racism, diversity, inclusion and anti-oppression” as a new bullet point under Strategic Initiatives;
- b) the terms of reference for the Diversity, Inclusion and Anti-Oppression Advisory Committee (DIAAC) be amended to replace “Community and Protective Services” with “Strategic Priorities and Policy Committee”: and,
- c) the Civic Administration BE ENCOURAGED to bring forward initial reports by service area responding to the Municipal Council resolution on 16 June 2020 related to the implementation of the equity and inclusion lens to the most relevant standing committee for each service area (e.g. Development and Compliance Services would report to Planning and Environment Committee; Engineering and Environmental Services would report to Civic Works, and so on).”

The proposed by-law attached as Appendix “A” to this report implements part a) of the above-noted Municipal Council direction.

RECOMMENDED BY:
CATHY SAUNDERS CITY CLERK

APPENDIX "A"

Bill No.
2020

By-law No.

A by-law to amend By-law A-50, as amended, being "A by-law to provide for the Rules of Order and Procedure for the Council of The Corporation of the City of London" to facilitate Members of Council electronic participation in meetings and to amend the mandate of the Strategic Priorities and Policy Committee to include "anti-racism, diversity, inclusion and anti-oppression" in the Committee's mandate.

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS the Municipal Council enacted the Council Procedure By-law (By-law No. A-50) on May 31, 2016 to provide for the rules of order and procedure for the Council of The Corporation of the City of London;

AND WHEREAS on July 21, 2020 the Province of Ontario enacted Bill 197 "An Act to amend various statutes in response to COVID-19 and to enact, amend and repeal various statutes, including amendments to the *Municipal Act, 2001* to permit meetings to be held electronically on an ongoing basis outside an emergency declared pursuant to the *Emergency Management and Civil Protection Act*, R.S.O. 1990, Chapter E.9;

AND WHEREAS the Council of The Corporation of the City of London considers the protection of the health and safety of the public to be a paramount concern;

AND WHEREAS The Corporation of the City of London considers it desirable to be able to provide for the electronic participation of Council Members at Council and Standing Committee meetings when it is deemed necessary to do so;

AND WHEREAS the Council of The Corporation of the City of London deems it desirable to make anti-racism a strategic priority;

AND WHEREAS The Corporation of the City of London considers it desirable to demonstrate the Corporation's commitment to end racism by amending the mandate of the Strategic Priorities and Policy Committee to include "anti-racism, diversity, inclusion and anti-oppression" as a new bullet point under Strategic Initiatives;

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

1. Section 5.0 MEETINGS is hereby amended by adding the following new subsection:

5.12 Meetings – Electronic Participation

A Council or standing committee meeting may include electronic participation of members in accordance with Council Policy "Electronic Participation of Council Members at Council and Standing Committee meetings".

2. Section 15.0 COUNCIL – IN CLOSED SESSION, is hereby amended by adding the following new subsection:

15.12 – Meeting In Closed Session – Electronic Meeting Participation

Any part of a meeting held in closed session shall allow for electronic meeting participation by members in accordance with Council Policy “Electronic Participation of Council Members at Council and Standing Committee meetings”.

3. Part 4 – STANDING COMMITTEES, is hereby amended by adding the following new subsection, to Section 26 – MEETINGS:

26.5 – Meetings – Electronic Meeting Participation

All provisions of Sections 5.11 and 15.12 shall apply to Standing Committee Meetings.

4. Schedule “E” – Mandate – Strategic Priorities and Policy Committee, is hereby amended by adding the following matters under “Economic Strategies, Initiatives and Emerging Issues:

- ❖ Anti-racism
- ❖ Diversity
- ❖ Inclusion
- ❖ Anti-oppression

5. This by-law comes into force and effect on the day it is passed.

PASSED in Open Council on August 25, 2020.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – August 25, 2020
Second Reading – August 25, 2020
Third Reading – August 25, 2020

APPENDIX "B"

Bill No. ____
2020

By-law No. CPOL.-_____

A by-law to enact a Council Policy entitled
"Electronic Participation of Council
Members at Council and Standing
Committee meetings."

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides a municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS the Council of The Corporation of the City of London wishes to enact a Council Policy entitled "Electronic Participation of Council Members at Council and Standing Committee meetings" to set out the parameters for the electronic participation of Council Members at Council and Standing Committee meetings, for both open and closed sessions as provided for in the *Municipal Act, 2001*;

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

1. The policy entitled "Electronic Participation of Council Members at Council and Standing Committee meetings", attached hereto as Schedule "A" is hereby adopted.
2. This by-law shall come into force and effect on the date it is passed.

PASSED in Open Council on August 25, 2020

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – August 25, 2020
Second Reading – August 25, 2020
Third Reading – August 25, 2020



London
CANADA

Policy Name: Electronic Participation of Council Members at Council and Standing Committee meetings

Legislative History: n/a

Last Review Date: August 10, 2020

Service Area Lead: City Clerk

1. Policy Statement

1.1 This policy sets out the parameters for the electronic participation of Council Members at Council and Standing Committee meetings, for both open and closed session. The Council Procedure By-law sets out the parameters for the electronic participation of Elected Officials at Council and Standing Committee meetings during a period of a declared state of emergency.

2. Definitions – in accordance with the Council Procedure By-law

2.1 **Electronic Participation** – shall mean the participation of a Council member remotely, via electronic means including telephone, who shall have the same rights and responsibilities as if the Member was in physical attendance.

2.2 **Closed Session** – shall mean any portion of a Council or Standing Committee meeting that is not open to the public, and held in accordance with Section 239 of the *Municipal Act 2001*.

2.3 **Member** – shall mean a member of the Council.

2.4 **Meeting** – shall mean a regular, special or other meeting of the Council or standing committee and shall include meetings in closed session.

3. Applicability

3.1 This policy applies to Council Members.

4. The Policy

4.1 Members may be permitted to participate in Council and Standing Committee by electronic participation, when they are unable to attend the meeting in person.

a) A member requiring to participate electronically shall be required to provide the City Clerk with a minimum of 24 hours' notice of their intention.

b) The meeting Chair shall not be permitted to participate electronically.

c) The permitted participation in meetings electronically shall include closed session for Council and Standing Committees.

d) Meeting record(s) shall reflect which members attended electronically and which members attended physically.

4.2 The administration of electronic participation shall be at the discretion of the City Clerk, recognizing that technology and requirements will vary from time-to-time. This shall include the means by which Members shall vote.