

Report to Corporate Services Committee

To: Chair and Members
Corporate Services Committee
From: Michael Schulthess, City Clerk
Subject: Amendments to Members of Council Proof of COVID-19
Vaccination Policy
Meeting on: January 10, 2022

Recommendation

That on the recommendation of the City Clerk, the attached proposed by-law to amend the “Members of Council Proof of COVID-19 Vaccination Policy”, BE INTRODUCED at the Municipal Council Meeting to be held on January 25, 2022.

Analysis

1.0 Background Information

1.1 Previous Reports Related to this Matter

At the meeting held on December 21, 2021, the Municipal Council resolved:

“That the Civic Administration BE DIRECTED to bring forward an updated Members of Council Proof of COVID-19 Vaccination Policy that incorporates any changes to bring the Council Policy in line with the updated Mandatory Proof of COVID -19 Vaccination Administrative Policy, as verbally noted by the City Manager, to the next Corporate Services Committee.”

At the meeting held on October 5, 2021, the Municipal Council resolved:

“That on the recommendation of the City Clerk, the proposed by-law as appended to the staff report dated September 20, 2021 as Appendix “A” being “A by-law to adopt “Members of Council Proof of COVID-19 Vaccination Policy”, BE INTRODUCED at the Municipal Council Meeting to be held on October 5, 2021;

it being noted that the Corporate Services Committee received a communication dated September 16, 2021 from B. Gauld with respect to this matter.”

At the meeting held on September 14, 2021, the Municipal Council resolved:

“That the following actions be taken with respect to the “Proof of COVID-19 Vaccination Administrative Policy”:

- a) the staff report, dated August 30, 2021, with respect to this matter BE RECEIVED; and,
- b) the Civic Administration BE DIRECTED to bring forward to the next meeting of the Corporate Services Committee a similar COVID-19 Vaccination Council Policy, specifically applicable to the Members of Council, for consideration.”

2.0 Discussion and Considerations

The purpose of this report is to bring forward, in response to the above-noted direction from Municipal Council, a draft policy that incorporates changes required to align the “Members of Council Proof of COVID-19 Vaccination Policy” [“Council Policy”] with the recently updated “Mandatory Proof of COVID-19 Vaccination Administrative Policy” [“Administrative Policy”], for Municipal Council’s consideration. The proposed draft Council Policy is attached as Schedule “A” to the by-law appended to this report.

In accordance with Municipal Council's direction, the attached draft Council Policy brings the current Council Policy "in line" with the updated Administrative Policy.

The significant change is found at s.4.2(d) of Schedule "A" and applies to Members that have submitted an Attestation. Such Members would be required to develop a COVID-19 Plan, which includes but is not limited to COVID-19 Rapid Antigen Testing. This amendment brings the Council Policy "in line" with the Administrative Policy, as directed by Municipal Council on December 21, 2021.

A definition for "Rapid Antigen Testing" was added in accordance with the Administrative Policy and the requirement to obtain a COVID-19 test prior to re-entering the workplace was removed.

The proposed revised Council Policy retains the implementation protocol in which the Integrity Commissioner would be called upon to undertake an investigation of any potential non-compliance of the Council Policy.

5.0 Conclusion

The proposed attached by-law, being a by-law to amend the "Members of Council Proof of COVID-19 Vaccination Policy", is being recommended for introduction at the Municipal Council Meeting to be held on January 25, 2022.

Prepared by: Michael Schulthess, City Clerk
Submitted by: Michael Schulthess, City Clerk
Recommended by: Michael Schulthess, City Clerk

Bill No.
2022

By-law No. CPOL.-

A by-law to amend By-law No. CPOL.-407-321, being “Members of Council Proof of COVID-19 Vaccination Policy” by deleting and replacing Schedule “A”.

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 Municipal Council of The Corporation of the City of London wishes to amend By-law No. CPOL.-407-321, being “Members of Council Proof of COVID-19 Vaccination Policy”, by deleting and replacing Schedule “A”;

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

1. By-law No. CPOL.-407-321, being “Members of Council Proof of COVID-19 Vaccination Policy”, is hereby amended by deleting Schedule “A” to the By-law in its entirety and by replacing it with the attached new Schedule “A”.
2. This by-law shall come into force and effect on the date it is passed.

PASSED in Open Council on January 25, 2022

Ed Holder
Mayor

Michael Schulthess
City Clerk

First Reading – January 25, 2022
Second Reading – January 25, 2022
Third Reading – January 25, 2022

Schedule “A”



London
CANADA

Members of Council Proof of COVID-19 Vaccination Policy

Policy Name: Members of Council Proof of COVID-19 Vaccination Policy

Legislative History: Enacted October 5, 2021 (By-law No. CPOL.-407-321); Amended January 25, 2022 (CPOL.-_____)

Last Review Date: January 25, 2022

Service Area Lead: City Clerk or their written designate

1. Policy Statement

The purpose of the Members of Council Proof of COVID-19 Vaccination Policy (“Policy”) is to reduce the risk of COVID-19 in The Corporation of the City of London workplace and to provide a safe environment for Members of Council, Corporate employees, volunteers and the public to access and use City facilities and services. COVID-19 is a highly contagious virus that spreads through respiratory droplets and aerosols. The City of London, as an employer, has an obligation under the *Occupational Health and Safety Act* to take every precaution reasonable in the circumstances to create a safe workplace.

In addition to the current health and safety precautions (personal protective equipment, physical distancing, frequent hand washing and hand sanitizing, frequent cleaning of high touch areas, COVID-19 screening, etc.), which will be maintained and revised in accordance with public health guidance, the City of London requires all Members of Council to:

- a) Provide proof of full vaccination against COVID-19; or
- b) Provide a written attestation of a medical reason(s) or Ontario Human Rights Code reason(s) for not being fully vaccinated against COVID-19.

The Policy which is indefinite in nature, is to address the risks and impacts of the COVID-19 Pandemic, noting the duration of the Pandemic is unknown. The Policy will be reviewed upon Council direction and/or at the initiative of the Civic Administration, as new information, data, and public health guidance regarding the COVID-19 pandemic evolves.

2. Definitions

“**Active Screening**” means the Province of Ontario COVID-19 self-assessment for COVID-19 symptoms.

“**Attestation of a medical reason(s) or Ontario Human Rights Code reason(s)**” means a written statement that sets out that the Member cannot be vaccinated against COVID-19 submitted to the City Clerk or their written designate on the “Proof of a Medical Reason(s) or an Ontario Human Rights Code Reason(s) for not being Vaccinated Against COVID-19” form attached to this Policy as Appendix “A”.

“**Council**” shall mean the Council of The Corporation of the City of London.

“**Fully vaccinated**” means having received the full series of a COVID-19 vaccine or a combination of COVID-19 vaccines approved by Health Canada or the World Health

Organization; and having received the final dose of the COVID-19 vaccine at least 14 days ago.

“Member” shall mean a Member of Council and includes the Mayor.

“Proof of full vaccination against COVID-19” means the COVID-19 vaccination receipt issued by the Ontario Ministry of Health confirming the Member is fully vaccinated.

“Rapid Antigen Testing” means the test that detects protein fragments specific to the Coronavirus that can be done at home and has a quick turnaround time for results. Rapid Antigen Testing should be used for screening and should not be used to diagnose COVID-19 infection.

“Vaccinated” means to be “fully vaccinated”.

“Vaccination Receipt” means paper or e-receipt that individuals receive after vaccination. This receipt is also available for download on the provincial website.

3. Applicability

This Policy applies to all Members of Council of The Corporation of the City of London and includes the Mayor.

4. The Policy

4.1 Legislative Framework

This Policy operates together with, and as a supplement to the following legislation that governs the conduct of Members:

- a) *Human Rights Code*, R.S.O. 1990 c. H. 19 (“Ontario Human Rights Code”)
- b) *Municipal Act, 2001*, S.O. c. 25 (“Municipal Act”)
- c) *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990 c. M.56 (“MFIPPA”)
- d) *Occupational Health and Safety Act*, R.S.O. 1990, c.0.1
- e) Code of Conduct for Members of Council (“Code of Conduct”)
- f) Integrity Commissioner Terms of Reference
- g) Respectful Workplace Policy (Anti-Harassment/Anti-Discrimination)
- h) Applicable by-laws and policies of Council as adopted and amended from time to time

4.2 Application of the Policy

- a) All Members to whom the Policy applies shall comply with one of the following:
 - i) provide proof of full vaccination against COVID-19 by October 20, 2021 to the City Clerk or written designate; or
 - ii) provide a written attestation of a medical reason(s) or Ontario Human Rights Code reason(s) for not being vaccinated against COVID-19 by October 20, 2021 submitted to the City Clerk or their written designate on the “Proof of a Medical Reason(s) or an Ontario Human Rights Code Reason(s) for not being Vaccinated Against COVID-19” form attached to this Policy as Appendix “A”; or
 - iii) where a Member has not received any dose of the COVID-19 vaccine or has received one dose and has not yet received their second dose, the Member shall receive their first dose of the COVID-19 vaccination series by October 20, 2021, submitting proof to the City Clerk or written

designate, and provide proof of full vaccination against COVID-19 by November 19, 2021 to the City Clerk or written designate.

- b) Regardless of vaccination status, all Members shall:
 - i) complete daily Active Screening for COVID-19 symptoms; and
 - ii) where the Member fails Active Screening, advise the City Clerk or written designate and not enter City facilities/buildings until they have provided written verification to the City Clerk or written designate that enables the City Clerk or written designate to confirm their ability to return to in-person attendance at City facilities/buildings, prior to attending City facilities/buildings. Verification includes, but is not limited to, a negative COVID-19 test result.
- c) Members who have submitted an Attestation are required to develop a COVID-19 Plan that will include adherence to additional health and safety measures including, but not limited to, on-going COVID-19 Rapid Antigen Testing.
- d) Members who are on a leave of absence are not required to comply with sections 4.1 a) and b) so long as they remain on a leave of absence. Members must comply with this Policy prior to returning to their duties.
- e) Members are required to comply with this Policy. The Code of Conduct requires that Members “shall adhere to such by-laws, policies and procedures adopted by Council that are applicable to them”. The City of London’s Integrity Commissioner may consider complaints of non-compliance of this Policy by Members and review such complaints in accordance with “The Corporation of the City of London Code of Conduct for Members of Council Complaint Protocol” as set out in the Code of Conduct. The Integrity Commissioner may make recommendations regarding sanctions to Council in accordance with s.223.4(5) of the *Municipal Act, 2001* and the Code of Conduct.
- f) All Members must continue to adhere to all policies, procedures and directions related to COVID-19. These include, but are not limited to, personal protective equipment, physical distancing of at least two (2) metres where possible, frequent hand washing and hand sanitizing, frequent cleaning of high touch areas, and active COVID-19 screening.

4.3 Collection of Information and Privacy Considerations

All information gathered as part of the Policy, including personal health information, will be collected by The Corporation of the City of London and be retained and treated in compliance with the *Municipal Freedom of Information and Protection of Privacy Act*.

4.4 Ontario Human Rights Code Accommodations

Members requiring accommodations under the Ontario Human Rights Code within the context of the Policy may make such requests by advising the City Clerk or written designate. The City of London is committed to fulfilling its obligations under the Ontario Human Rights Code.

4.5 Policy Implementation

Implementation of this Policy will be in accordance with applicable Council and/or Corporation by-laws, policies and procedures, and legislation.

All Members to whom the procedure applies shall provide proof of full vaccination or attestation of an Ontario Human Rights Code reason(s) or medical reason(s) in

accordance with this Policy to the City Clerk or their written designate, by email, or in person.

Proof of full vaccination, written attestation of a medical reason(s) or an Ontario Human Rights Code reason(s) will be recorded in a secure City of London database and retained for one year, at a minimum. The person's communication and copy of the vaccination receipt will be destroyed once entered into the secure City of London database. All information, including personal health information, will be treated in compliance with the *Municipal Freedom of Information and Protection of Privacy Act*.

Regardless of vaccination status, all Members attending in person at City facilities/buildings shall:

- a) complete daily, the Active Screening by means of the Province of Ontario COVID-19 self-assessment for COVID-19 symptoms; and
- b) where the Member fails Active Screening, advise the City Clerk or written designate and not enter City facilities/buildings until they have provided written verification to the City Clerk or written designate that enables the City Clerk or written designate to confirm the Member's ability to return to in-person attendance at City facilities/buildings, prior to attending City facilities/buildings. Verification includes, but is not limited to, a negative COVID-19 test result.

Members requiring any Ontario Human Rights Code accommodations under this Policy may request accommodations by advising the City Clerk or written designate. The City of London is committed to fulfilling its obligations under the Ontario Human Rights Code.

Should the City Clerk or their written designate believe that a Member may be in non-compliance with this Policy, the City Clerk or their written designate shall forward the concern to the Integrity Commissioner for determination.

APPENDIX "A"



Proof of a Medical Reason(s) or an Ontario Human Rights Code Reason(s) for not being Vaccinated Against COVID-19 – Members of Council

Last Name:	
First Name:	

- I, _____ make oath or solemnly affirm and say that I have an Ontario Human Rights Code reason(s) for not being fully vaccinated against COVID-19 based on the following ground(s):

- I, _____ make oath or solemnly affirm and say that I have a medical reason(s) for not being fully vaccinated against COVID-19.

I am requesting that I be exempted from the vaccination requirements under the City of London "Members of Council Proof of COVID-19 Vaccination Policy".

Signature of Member

Date

As a reminder, your declaration is subject to expectations as set out in the Code of Conduct for Members of Council.

Thank you for your assistance.

City of London

NOTICE OF COLLECTION OF PERSONAL INFORMATION

The personal information collected on this form is collected under the authority of the *Municipal Act, 2001*, S.O. 2001, c. 25, and the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1 and will only be used to administer and implement the City of London's Members of Council Proof of COVID-19 Vaccination Policy. Questions about this collection should be addressed to the Manager, Records and Information Services at 300 Dufferin Ave., London, ON N6A 4L9. Tel: 519-661-2489 x5590, email: eskalski@london.ca.