



City of Hamilton

CITY COUNCIL ADDENDUM

22-001

Wednesday, January 19, 2022, 9:30 A.M.

Due to the COVID-19 and the Closure of City Hall (CC)

All electronic meetings can be viewed at:

City's Website: <https://www.hamilton.ca/council-committee/council-committee-meetings/meetings-and-agendas>

City's YouTube Channel: <https://www.youtube.com/user/InsideCityofHamilton> or Cable 14

4. COMMUNICATIONS

- *4.14. Correspondence from Malcolm Buchanan, the motion respecting Support of legal challenge to Bill 21 in the Province of Quebec.
- Recommendation: Be received and referred to the consideration of Item 6.2, Support of legal challenge to Bill 21 in the Province of Quebec.
- *4.15. Correspondence from Principles Integrity respecting Local Board Code of Conduct.
- Recommendation: Be received and referred to the consideration of Item 5.8(b) Code of Conduct for Boards and Committees - Integrity Commissioner Work Plan (FCS21081(a)).

- *4.16. Correspondence from Frank Jalsevac respecting the correspondence from David Bronskill, Goodmans LLP (Item 4.10) regarding 310 Frances Avenue, City of Hamilton, Municipal Comprehensive Review/Official

Plan Review - Draft Urban Hamilton, Official Plan Amendment - Conformity Amendment and Draft Rural Hamilton, Official Plan Amendment - Firm Urban Boundary (PED21067(a)).

Recommendation: Be received and referred to the consideration of of Item 5.8(a), Municipal Comprehensive Review / Official Plan Review – Draft Urban Hamilton Official Plan Amendment and Draft Rural Hamilton Official Plan Amendment – Firm Urban Boundary (PED21067(a)).

5. COMMITTEE REPORTS

5.8. STAFF REPORTS

- *5.8.b. Code of Conduct for Boards and Committees - Integrity Commissioner Work Plan (FCS21081(a)) (City Wide) (referred to Council by General Issues Committee on January 17, 2022)

Pilon, Janet

Subject: Quebec Bill 21

From: Malcolm Buchanan

Sent: January 11, 2022 3:40 PM

To: Office of the Mayor <Officeofthe.Mayor@hamilton.ca>

Subject: Fw: Quebec Bill 21

**OPEN LETTER TO MAYOR FRED EISENBERGER AND CITY OF HAMILTON
COUNCILLORS**

January 11, 2022.

Mayor Eisenberger has heeded a call from Brampton Mayor Patrick Brown to fight against Quebec's Bill 21, *An Act respecting the laicity of the state*. He has requested staff to review all available means, including a financial contribution to support a legal challenge to Bill 21. The notice of motion will be discussed at a future meeting in January.

Bill 21, the 2019 law that prohibits public employees in a position of authority from wearing religious symbols. The law according to Premier Francois Legault's government is necessary to ensure that Quebec remains secular.

The concern about Bill 21 erupted only when the public outside of Quebec learned that the ban about the wearing of religious clothing also applies to public school teachers, which has led to the reassignment to a non-classroom position for a grade three instructor who refused to remove her hijab.

Mayor Eisenberger is correct in stating that Bill 21 "violates the basic Charter of Rights and Freedoms " of Canadians. He has also stated that Bill 21 is a "clear demonstration of Islamophobia". Other opponents are on record as saying that Bill 21 also targets Sikhs, Jews and Christians, many of whom wear religious symbols as an expression of their identity.

There is no question that Bill 21 violates the Canadian Charter of Rights and Freedoms and the Quebec Charter of Human Rights and Freedoms. The Charter of Rights and Freedoms is a national document and the rights guaranteed in it are guaranteed by all Canadians. The Legault government recognizes that, which is why it took the extreme step of invoking both Charters' notwithstanding clauses. Invoking the notwithstanding clause effectively protects Bill 21 from being overturned by the courts. Accordingly any legal action being successful is extremely unlikely and would be a waste of taxpayers money.

The unfortunate reality is that Bill 21 is extremely popular in Quebec. If a large number of municipalities and other organizations outside of Quebec openly criticize and help finance legal action against Bill 21 it may be counterproductive in rescinding the law in the near future. It will be viewed by many as a Canada-versus-Quebec situation that concerns Montreal Mayor Valerie Plante who is quoted as saying that she's "uncomfortable" with city councils from Ontario and beyond wading waist-deep into the fray. For the record, Montreal City Council unanimously condemned Bill 21.

Yes, Hamilton City Council should be on the record opposing Bill 21 and all similar laws and regulations that violate the Canadian Rights and Freedoms of Canadians. The battle to overturn Bill 21 will be political. It is a battle that has to occur within Quebec itself.

Hamilton City Council has to be mindful that Ontario also has its own religious discriminatory practices that are also a violation the Canadian Charter of Rights and Freedoms. To clarify: *Fundamental Freedoms Section 2 Everyone has the following fundamental freedoms a] freedom of conscience and religion; b] freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication; c] freedom of peaceful assembly; and d] freedom of association. Since 1882, the Charter has given these freedoms constitutional protection.*

Currently in Ontario, publicly funded Roman Catholic School Boards have the right to demand that candidates for teaching positions within their respective school boards submit a Pastoral Reference from their parish priest.

Specifically, the Hamilton Wentworth Catholic District School Board requires candidates for teaching positions to have a completed Faith Reference Portfolio. Catholic teachers are employed in schools with the expectation that they will take seriously the practice and development of the faith both in themselves and in their students. The required Faith Reference Form states the following: [1] It is required that a teaching candidate requesting a Faith Reference be interviewed by his/her Pastor; [2] It is required that the teaching candidate is a member of good and moral character consistent with the expectations of the Catholic Church.

If the parish priest is satisfied with the teaching candidate's responses outlined in the Faith Reference Form and his interview with the candidate a Pastoral Letter of Reference will be issued.

Non-Catholic teaching candidates need not apply on the grounds that they are non-practicing Catholics.

The requirement that a non-Catholic teaching candidate cannot obtain a teaching position in a publicly funded institution is clearly a violation of the individuals Charter of Rights and Freedoms and the Ontario Human Rights Code both of which prohibit discrimination on the basis of religion. However, publicly funded Catholic School Boards have repeatedly been able to hold onto unique discriminatory provisions that go back to 1867. In effect, religious discriminatory hiring practices have become normalized which in itself cries out to be changed.

Conclusion.

The Hamilton City Council speak out against the Quebec Bill 21 as it violates an individual's Charter of Rights and Freedoms.

That the Hamilton City Council send messages of solidarity to those Quebec organizations involved in the legal challenge against Bill 21.

That the Hamilton City Council not contribute tax payers money in support of a legal challenge on Bill 21 as the notwithstanding clause protects the legislation from legal challenges.

That the Hamilton City Council speak out against the current religious discriminatory hiring practices of Ontario's publicly funded Catholic school boards.

Malcolm Buchanan

January 18, 2022

Mayor and Members of Council
City of Hamilton
71 Main Street West
Hamilton, Ontario
L8P 4Y5

Re: Local Board Code of Conduct

At the General Issues Committee meeting of January 17, 2022 we undertook to provide commentary for Rule No. 5, Election Campaigns, in the proposed Code of Conduct for Local Boards.

The Rule and the proposed commentary are set out below:

Rule 5: Election Campaigns

No member, while identifying themselves as a member of a Local Board, shall undertake any election campaign or election-related activities or work on, fund-raise, endorse or otherwise contribute to the election campaign of any person running in the municipal election for the municipality where the member serves on the Local Board.

Commentary

This Code does not limit a person's right to participate fully in an electoral process so long as they do so without using their status as a Member of the local board for such purposes. For example, it would not be contrary to the Code for a person to:

- *Stand for Election;*
- *Contribute to an election campaign;*
- *In their own name, exhibit an intention to support one party or platform over another;*
- *While standing for election, indicate on their election material (without in any way suggesting endorsement) that they have served on a City of Hamilton local board amongst their other credentials and experiences.*

It was also brought to the Committee's attention that the fifth paragraph under 'Guiding Principles' in the proposed Code was redundant. Accordingly, it is recommended that the following entry be deleted:

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

All of which is respectfully submitted.

Sincerely,

Principles Integrity
Integrity Commissioner for
the City of Hamilton

Pilon, Janet

Subject: HIGH PRIORITY FOR TOMORROWS COUNCIL MEETING

Dear Honourable Mayor & Council

RE: Agenda Item 4.10.

Correspondence from David Bronskill, Goodmans LLP respecting 310 Frances Avenue, City of Hamilton, Municipal Comprehensive Review/Official Plan Review - Draft Urban Hamilton, Official Plan Amendment - Conformity Amendment and Draft Rural Hamilton, Official Plan Amendment - Firm Urban Boundary (PED21067(a)).

Recommendation: Be received and referred to the consideration of Item 5.8(a), Municipal Comprehensive Review / Official Plan Review – Draft Urban Hamilton Official Plan Amendment and Draft Rural Hamilton Official Plan Amendment – Firm Urban Boundary (PED21067(a))

I wholeheartedly disagree with Mr. Bronskill's assertion that "The above-noted proposed policy addition to the UHOP is imposing a policy that conflicts with and is inconsistent with the current zoning for the Property". In fact, I believe the opposite is true.

Mr. Bronskill's letter raises some questions I have in regards to why the site-plan process for this development application has not identified the need for the applicant to submit an Official Plan amendment from the outset. Prior to considering the exemption requested in the Council correspondence, please note the following:

(a) Yes, there was a Zoning amendment approved in 2010. There was also a site specific amendment to the *old Stoney Creek Official Plan* made at that time which gave effect to that unprecedented ZBLA. There was not however an amendment made to the Urban Hamilton Official Plan as has been implied in Mr. Bronskill's letter. Comparable approvals made under the old Stoney Creek Official Plan have had to undergo a 2nd OPA process when the UHOP was eventually approved by the Ministry due to the revocation of the SCOP.

There has been no explanation provided as to why this land has been exempt from re-application and inconsistent with other lands.

(b) Yes, the UHOP designates this land as 'Neighbourhoods'. Yes, the ZBA in 2010 included a minimum density of 585 units / hectare and no maximum height. However, 'Neighbourhoods' also are capped at 200 units / hectare in the UHOP. Another block of land of this subdivision also had a minimum density and no maximum density however, in 2016 when Phase 2 was being proposed, that block of land had to undergo an OPA in order to exceed the 200 unit cap of our High Density 'Neighbourhoods' UHOP policy. (Reference: Page 4 of 31 : <https://pub-hamilton.escribemeetings.com/filestream.ashx?DocumentId=118828>)

There has been no explanation provided as to why this development has been undergoing the site plan & minor variance application process at a density far greater than 585 units without the need to apply for a site specific Official Plan amendment to our governing High Density Neighbourhoods designation of 200 units / hectare.

In reviewing the intent of our Urban Hamilton Official Plan, the wording of the site specific MUC-4 Zoning, the intent of Stoney Creek Zoning By-law 3692-92 and based on my calculations, the amendment proposed by Staff to add a 30 storey height limit in our Official plan would effectively result in the current zoning being more consistent with the density limits in our Official Plan.


As such, I'm requesting Council deny any requests to exempt this land from the proposed Official Plan changes.

Sincerely,

Frank Jalsevac



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
 City Clerk's Office

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	January 17, 2022
SUBJECT/REPORT NO:	Code of Conduct for Boards and Committees - Integrity Commissioner Work Plan (FCS21081(a)) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Andrea Holland (905) 546-2424 Ext. 5409
SUBMITTED BY:	Andrea Holland City Clerk, Office of the City Clerk
SIGNATURE:	

RECOMMENDATION(S)

- (a) That the By-law "Code of Conduct for Local Boards", contained in Appendix "A" attached to Report FCS21081(a), which has been prepared in a form satisfactory to the City Solicitor, be passed;
- (b) That, subject to the approval of Recommendation (a) of Report FCS21081(a), all entities listed in Appendix "B" attached to Report FCS21081(a) replace their current Code of Conduct with the Code of Conduct for Local Boards, attached as Appendix "A" to Report FCS21081(a);
- (c) That, subject to the approval of Recommendation (a) of Report FCS21081(a), the Code of Conduct for Local Boards, attached as Appendix "A" to Report FCS21081(a), apply to all entities created in the future which meet the definition of "Local Board" within the Code of Conduct for Local Boards;
- (d) That, subject to the approval of Recommendation (a) of Report FCS21081(a), the draft By-Law "To Amend By-law 21-021, a By-law to Govern the Proceedings of Council and Committees of Council", attached as Appendix "C" to Report FCS21081(a), which has been prepared in a form satisfactory to the City Solicitor, be passed;
- (e) That, subject to the approval of Recommendation (a) of Report FCS21081(a), the City Clerk be authorized and directed to delete Appendix "G" of the Advisory

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

SUBJECT: Code of Conduct for Boards and Committees - Integrity Commissioner Work Plan (FCS21081(a)) (City Wide) - Page 2 of 5

Committee Procedural Handbook and make the necessary edits in the Handbook to reflect the new Code of Conduct for Local Boards; and,

- (f) That, subject to the approval of Recommendation (a) of Report FCS21081(a), the City Clerk be directed to develop and deliver a training program, with the Integrity Commissioner, for all current Members of the entities listed in Appendix "B" attached to Report FCS21081(a) on the new Code of Conduct for Local Boards.

EXECUTIVE SUMMARY – N/A

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Work conducted by the Integrity Commissioner is currently budgeted in account 300400.

Staffing: The preparation and delivery of the training program with the Integrity Commissioner will be completed using existing staffing compliment.

Legal: n/a

HISTORICAL BACKGROUND

At the Council meeting on October 13, 2021; Council approved the following motion:

- (a) That the City Clerk be directed to circulate the draft Code of Conduct, attached as Appendix A to all entities listed in Appendix B, established by Council and whose membership is appointed by Council;
- (b) That the City Clerk coordinate all feedback on the draft Code of Conduct, and it be directed to the Integrity Commissioner; and
- (c) That the City Clerk arrange for a Special General Issues Committee meeting for the Integrity Commissioner to present the feedback received and the draft Code of Conduct, attached as Appendix A.

In October 2021, Clerks staff circulated an email to all staff liaisons for circulation to council appointed committee members with the following information as per Council's direction:

- The draft Code of Conduct for their review and feedback;

SUBJECT: Code of Conduct for Boards and Committees - Integrity Commissioner Work Plan (FCS21081(a)) (City Wide) - Page 3 of 5

- [GIC October 6, 2021 - agenda](#)
 - [Code of Conduct for Boards and Committees - Integrity Commissioner Work Plan \(FCS21081\) \(City Wide\)](#)
 - [Appendix A - Draft Code of Conduct](#)
- All members were asked to comment and direct any questions directly to Principles Integrity, the Integrity Commissioner, through their contact information **by November 30, 2021**;
 - Principles Integrity would be presenting the draft code of conduct and all feedback received (any comments will be anonymized), at a Special GIC meeting;
 - At this meeting, committee would be deliberating the draft code of conduct and any members of the public would be provided the opportunity to register to delegate at the meeting. This date would be provided to all appointees once it was scheduled.

On or about November 3, 2021 Clerks staff circulated an email to all staff liaisons for circulation to council appointed committee members confirming that the Special GIC meeting had been scheduled for January 17, 2022; their opportunity to provide correspondence to Committee; a link to the Request to Speak to Committee of Council Form and the original email with all of the materials; contact information for the Integrity Commissioner and that they still had until the end of November to provide their feedback.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Under the *Municipal Act, 2001*, as amended, municipalities are required to establish codes of conduct for Local Boards:

Code of conduct

223.2 (1) A municipality shall establish codes of conduct for members of the council of the municipality and of its local boards.

The Hamilton Advisory Committee/Task Force Code of Conduct (the “Current Code of Conduct”) is included as Appendix I of By-law 21-021, a By-law to Govern the Proceedings of Council and Committees of Council. Staff are recommending that Appendix I be deleted and the new Code of Conduct for Local Boards, attached as Appendix “A” to Report FCS21081(A), become a stand-alone By-Law as it is not related to meeting procedures.

The Current Code of Conduct is included as Appendix “G” of the Advisory Committee Procedural Handbook (the “Handbook”). Staff are recommending that Appendix “G” be

deleted from the Handbook and the necessary edits be made to reflect the new Code of Conduct for Local Boards.

The Procedural By-law is also being amended to reflect the new process for declaring interests.

RELEVANT CONSULTATION

As per Council direction, the Draft Code of Conduct for Local Boards was circulated to all members identified in Appendix “B” of Report FCS21081 in October of 2021 and feedback was gathered by the Integrity Commissioner.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Staff are recommending that the draft By-law, “Code of Conduct for Local Boards” contained in Appendix “A” of Report FCS21081(A) be approved and enacted and that it be applied to all ‘Local Boards’ including ‘Adjudicative Boards’ which function as Tribunals (“Tribunals”) as listed in Appendix “B” of this report, together with any entities created in the future which meet the definition of ‘Local Board’ contained within the Code of Conduct for Local Boards. While Tribunals are governed by the *Statutory Powers and Procedures Act* together with any enabling legislation, and while some of the Tribunals listed in Appendix “B” have adopted their own Code of Conduct, for consistency staff are recommending all citizens appointed by Council to Local Boards including Tribunals be held to the same Code of Conduct.

The listing of entities to which the Code of Conduct for Local Boards would apply, has been limited to Local Boards including Tribunals that have been created by, are governed by, and whose Member are appointed by Council.

ALTERNATIVES FOR CONSIDERATION – N/A

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” –Draft By-law, “Code of Conduct for Local Boards”

**SUBJECT: Code of Conduct for Boards and Committees - Integrity Commissioner
Work Plan (FCS21081(a)) (City Wide) - Page 5 of 5**

Appendix "B" – Citizen Member Local Boards and Adjudicative Boards

Appendix "C" – Draft By-Law to Amend By-law 21-021, a By-law to Govern the Proceedings of Council and Committees of Council

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Authority: Item,
Report (FSC21081(a))
CM:
Ward: City Wide

Bill No.

CITY OF HAMILTON

BY-LAW NO.

To ESTABLISH A CODE OF CONDUCT FOR LOCAL BOARDS

WHEREAS sections 8, 9 and 10 of the *Municipal Act*, 2001 authorize the City of Hamilton to pass by-laws necessary or desirable for municipal purposes; and

WHEREAS subsection 223.2(1) of the *Municipal Act*, 2001 requires the City of Hamilton to establish a code of conduct for members of its local boards;

NOW THEREFORE the Council of the City of Hamilton enacts the following Code of Conduct for Local Boards:

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. The Code of Conduct for Local Boards shall be as set forth in Schedule 1 to this By-law.
2. This By-law comes into force on the day it is passed.

PASSED this _____, 2022.

Fred Eisenberger
Mayor

Andrea Holland
City Clerk

Schedule 1

CITY OF HAMILTON
CODE OF CONDUCT FOR LOCAL BOARDS

Part 1

General Introduction, Framework, and Interpretation
Guiding Principles

- 1: Avoidance of Conflicts of Interest
- 2: Gifts, Benefits and Hospitality
- 3: Confidential Information
- 4: Use of City Resources
- 5: Election Campaigns
- 6: Improper Use of Influence
- 7: Business Relations
- 8: Member Conduct
- 9: Media Communications
- 10: Respect for the Town By-laws and Policies
- 11: Respectful Workplace
- 12: Conduct Respecting Staff
- 13: Reprisals and Obstructing
- 14: Acting on Advice of Integrity Commissioner

Part 2

Adjudicative Boards

- 15: Additional Requirements for Members of Adjudicative Boards
- 16: Communications with Parties
- 17: Independent Nature of Adjudicative Tribunals

Part 3

Complaint Protocol
Consequences of Failure to Adhere to Code of Conduct

Part 1

General Introduction, Framework, and Interpretation

This document is a Code of Conduct for members of Local Boards, both adjudicative and non-adjudicative. Local Boards, sometimes referred to as committees or tribunals, are as defined in s.223.1 of the *Municipal Act* and as identified by the municipality.

This Code of Conduct is to be given broad, liberal interpretation in accordance with applicable legislation and the definitions set out herein. Commentary in this Code is illustrative and not exhaustive.

Members shall seek to serve the public interest by upholding both the letter of the law and the spirit of the laws and policies established by the Federal parliament, Ontario legislature, and by City Council. The provisions of this Code are intended to be applied in concert with existing legislation and go beyond the minimum standards of behaviour set out in current federal and provincial statutes.

Guiding Principles

Members shall act with honesty and integrity, serving in a diligent manner, and performing their duties in a manner which promotes public confidence.

Members are expected to perform their duties as a member of the Local Board and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny.

Members shall serve the public in a conscientious and diligent manner.

Members should be committed to performing their functions with integrity, impartiality and transparency.

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

There is a benefit to municipalities 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.

Definitions:

“Adjudicative Board” means a Local Board that functions as a tribunal

“Council” means the Council of the City of Hamilton

“Family” includes “child”, “parent” and “spouse” as those terms are defined in the *Municipal Conflict of Interest Act*, and also includes

- step-child and grand-child;
- siblings and step-siblings;

- aunt/uncle, and niece/nephew
- in-laws, including mother/father, sister/brother, daughter/son
- any person who lives with the Member on a permanent basis.

“Local Board” means a Local Board as defined in s.223.1 of the *Municipal Act*, or s. 1 of the *Municipal Conflict of Interest Act*, and includes citizen advisory committees and other bodies established by Council whose members are appointed by Council;

“Member” means a member of a City of Hamilton Local Board;

“Staff” includes employees, seasonal and contract workers, and volunteers of the City of Hamilton and/or of a City of Hamilton Local Board;

Rule 1: Avoidance of Conflicts of Interest

In this Rule:

1. A disqualifying interest is an interest in a matter regarding which a reasonable person fully informed of the facts and circumstances would conclude that the Member could not participate impartially in the decision-making process related to the matter either because to do so would not be in compliance with the *Municipal Conflict of Interest Act*, or, because the Member’s relationship to persons or bodies involved in the matter or affected by the decision is so close, a reasonable person would conclude that the Member could not effectively carry out their public duty with impartiality.

2. A non-disqualifying interest is an interest in a matter that, by virtue of the relationship between the Member and other persons or bodies associated with the matter, is of such a nature that a reasonable person fully informed of the facts and circumstances would conclude that the Member could still participate impartially in the decision-making processes related to the matter only so long as:

The Member fully discloses the interest so as to provide transparency about the relationship; and

The Member states why the interest does not prevent the Member from making an impartial decision on the matter.

3. Members shall not participate in the decision-making processes associated with their role or position when they have a disqualifying interest in a matter. Participation includes attempting to influence an outcome, whether the decision to be made is to be made by the Local Board or a member of staff with delegated authority or operational responsibility.

4. Members may participate in the decision-making process related to a matter in which they have a non-disqualifying interest provided they file at their earliest opportunity a Transparency Disclosure in a form and manner established by the City Clerk acting in consultation with the Integrity Commissioner.

5. Members shall avoid participating in or influencing a proceeding when the member, or another person with whom the member has a close personal or professional relationship,

has a financial or other private interest that may be affected by the proceeding or its outcome.

6. Members shall not appear before their Local Board on their own behalf or as a representative on behalf of any party.

7. Members shall not contract with the Local Board for the sale, rental or purchase of supplies, services, material or equipment, and shall not engage in the management of a business or otherwise profit directly or indirectly from a business that relies on an approval from the Local Board.

Commentary

Members of BIAs will frequently have an interest in common with other members of the BIA in matters that come before the Board, and as such would be exempted from the obligation to declare a disqualifying interest. Care should be taken however to recognize the existence of a disqualifying interest when the Member stands to gain or otherwise benefit in a manner that can be differentiated from others in the BIA. For example, while all members of the BIA would similarly benefit from the holding of a festival, any BIA member who supplies goods or services to the festival at a profit or loss would have a disqualifying interest in the event. The display of merchandise or the promotion of services at an event would not amount to a disqualifying interest.

Where a Member contributes to an event 'at cost', a disqualifying interest would not arise.

Rule 2: Gifts, Benefits and Hospitality

No Member shall accept any fee, gift or benefit that is connected, directly or indirectly, with the performance of the Member's duties, except as permitted by one or more of the exceptions listed below:

- compensation authorized by law;
- such gifts or benefits that can be considered incidental mementos or tokens of appreciation

Rule 3: Confidential Information

Confidential information includes any discussion that takes place between members of the Local Board when it is in a closed meeting; and includes information in the possession of, or received in confidence by, that the board or the City is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act* ("MFIPPA").

No Member shall disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except when required by law, or authorized to do so by the Local Board or, if applicable, by Council.

No Member shall use confidential information for personal or private gain, or for the gain of relatives or any person or corporation, either directly or indirectly.

Rule 4: Use of City Resources

No Member should use municipal equipment , or permit the use of Local Board or City land, facilities, equipment, supplies, services, staff or other resources (for example, Local Board or City-owned materials, websites, Local Board and City transportation delivery services,) for activities other than the business of the Local Board or the City; nor should any member obtain personal financial gain from the use or sale of Local Board or City-developed information, intellectual property (for example, inventions, creative writings and drawings), computer programs, technical innovations, or other items capable of being patented, since all such property remains exclusively that of the Local Board or City.

Rule 5: Election Campaigns

No member, while identifying themselves as a member of a Local Board, shall undertake any election campaign or election-related activities or work on, fund-raise, endorse or otherwise contribute to the election campaign of any person running in the municipal election for the municipality where the member serves on the Local Board.

Rule 6: Improper Use of Influence

No member shall use the influence of his or her position for any purpose other than the duties as a member of the Local Board.

Rule 7: Business Relations

No member shall allow the prospect of future employment by a person or entity to affect the performance of his/her duties as a member of the Local Board.

Rule 8: Member Conduct

Members shall conduct themselves with decorum at all times.

Members shall maintain proper control over meetings demonstrating respect for everyone who is involved in the meeting.

Members are expected to attend all meetings of the Local Board. If a member misses more than three consecutive (3) meetings during their term, the Chair, after hearing and considering any explanation provided by the member, may ask the member to resign, or request that Council remove the member.

Commentary

Members recognize the importance of cooperation and shall endeavour to create an atmosphere that is conducive to solving the issues before the Board, listening to various points of view and using respectful language and behaviour in relation to all those in attendance.

Rule 9: Media Communications

Members shall accurately communicate recommendations and proceedings of their Local Board.

If a member is contacted directly by the media, the member should refer the media to the Chair, or in the absence of the Chair, to the Vice-Chair.

Commentary

A Member may state that they did not support a decision, or voted against the decision, however a Member must refrain from making disparaging comments about other Members or staff, or about the Board's processes and decisions, in doing so.

When communicating with the media, a Member should at all times refrain from speculating or reflecting upon the motives of other Members in respect of their actions on the Board.

Members who engage in social media should recognize that the rules around decorum and respect apply regardless of the communications medium used. Because social media posts attract participation by others, Members hosting such sites or accounts should consider articulating and posting their own policy of addressing how frequently they will monitor the site for the purpose of identifying and removing disparaging, abusive or hateful comments.

Rule 10: Respect for the Town By-laws and Policies

Members shall adhere to and encourage public respect for the Local Board, the municipality and its by-laws, policies and procedures.

Commentary

A Member must not encourage disobedience of a City by-law in responding to a member of the public, as this undermines confidence in the City and in the Rule of Law.

Rule 11: Respectful Workplace

Members are governed by the workplace harassment and workplace violence policies in place for staff, recognizing that integrity commissioner is responsible for the administration and investigation of complaints.

All Members have a duty to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation and to ensure that their work environment is free from discrimination and harassment.

Rule 12: Conduct Respecting Staff

Members shall be respectful of the role of staff to advise based on political neutrality.

Members shall respect the professionalism of staff, and not exert undue influence on staff.

No Member shall maliciously or falsely impugn or injure the professional or ethical reputation or the prospects or practice of staff, and all Members shall show respect for the professional capacities of the staff of the City.

Commentary

It is inappropriate for a Member to attempt to influence staff to circumvent normal processes in a matter, or overlook deficiencies in a file or application. It is also inappropriate for Members to involve themselves in matters of administration or departmental management which fall within the jurisdiction of the City Manager.

Rule 13: Reprisals and Obstructing

It is a violation of this Code of Conduct to obstruct the Integrity Commissioner in the carrying out of their responsibilities, or to engage in any activity in retaliation against any person because they made a complaint to or otherwise communicated with the Integrity Commissioner.

Rule 14: Acting on Advice of Integrity Commissioner

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

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

Part 2

ADDITIONAL REQUIREMENTS APPLICABLE TO MEMBERS OF ADJUDICATIVE LOCAL BOARDS

Rule 15: In addition to the provisions applicable to Members of Non-adjudicative Local Boards, the following additional requirements are applicable with respect to the referenced rule:

Rule 2: Gifts, Benefits and Hospitality

Members should recuse themselves from any hearing, to avoid any perception of bias or conflict of interest which may arise as a result of a gift, benefit or hospitality which the Member may have received, from any of the parties or participants potentially affected by the decision of the Local Board.

Rule 5: Election Campaigns

Members of Adjudicative Local Boards are prohibited from fundraising for, endorsing, or otherwise contributing to the election campaign of any person running for a seat on Council.

Rule 9: Media Communications

Members of adjudicative boards should generally not comment to the media in relation to any decision made by the board or the rationale behind such decision. On the rare occasion when a comment may be appropriate, only the Chair shall serve as a media contact and all enquiries shall be referred to them.

Rule 16: Communications with Parties

Written communication to an adjudicative board shall take place only through the Secretary of the board or the appropriate municipal staff assigned to such board, and shall be copied to all parties or their representatives as appropriate. Oral communications with the adjudicative board about current proceedings shall take place only in the presence of or with the consent of all parties.

Where a party is represented by a representative, all communication between the adjudicative board and the party shall be through the representative, with the exception of notices of hearing, which shall be served upon all parties and their representatives known to the adjudicative board as appropriate.

Rule 17: Independent Nature of Adjudicative Boards

The Chairs of adjudicative boards should ensure that the actions of any member, as well as Council members and staff attending adjudicative board meetings, are consistent with the arm's-length, quasi-judicial nature of the adjudicative board. Any actions compromising this position should be immediately dealt with by the Chair or panel chair.

An adjudicative board is required by the applicable laws to operate at arm's-length from and independently of Council. Members should therefore not request members of Council to intervene on applications considered by the adjudicative board. Members should refrain from seeking advice on their roles and responsibilities from Council members. In clarifying their roles and responsibilities, members should seek advice from appropriate staff.

Part 3**COMPLAINT PROTOCOL**

The Complaint Protocol contained in the Council Code of Conduct applies with necessary modifications to complaints regarding members of Local Boards.

CONSEQUENCES OF FAILURE TO ADHERE TO CODE OF CONDUCT

Members who are found by the Integrity Commissioner to have failed to comply with the Code of Conduct for Local Boards may be subject to the following sanctions:

- (a) a reprimand; or
- (b) suspension of remuneration paid to the member in respect of his or her services as a member of the Local Board (if any).

Members may also be subject to such other remedial actions recommended by the Integrity Commissioner that directly flow from the action or behaviour of the member of the Local Board.

Members are subject to removal from the Local Board, or removal as Chair of the Local Board, by Council.

Name
Development Charges Stakeholders Sub-Committee
HMRP/HWRF Pension Administration
Physician Recruitment and Retention Steering Committee
Expanding Housing and Support Services for Women and Transgender Community Sub-Committee
Wentworth Lodge Heritage Trust Fund Sub-Committee
Advisory Committee for Persons with Disabilities
Business Improvement Area (BIA) Advisory Committee
Business Improvement Area Boards: <ul style="list-style-type: none"> • Ancaster Village BIA; • Barton Village BIA; • Concession Street BIA; • Downtown Dundas BIA; • Downtown Hamilton BIA; • International Village BIA; • King West BIA; • Locke Street BIA; • Main West Esplanade BIA; • Ottawa Street BIA; • Westdale Village BIA
Capital Projects Work In-Progress Review Sub-Committee
Cleanliness and Security in the Downtown Core Task Force
Agriculture and Rural Affairs Advisory Committee
Cross-Melville District Heritage Committee (Dundas)
Hamilton Municipal Heritage Committee

Name
Rental Housing Sub-Committee
Glanbrook Landfill Co-ordinating Committee
Hamilton Utilities Corporation Joint Advisory Committee
Mayor's Intelligent Community Sub-Committee
Heritage Permit Review Sub-Committee
Hess Village Pedestrian Mall Authority
Advisory Committee for Immigrants and Refugees
Committee Against Racism
Hamilton Aboriginal Advisory Committee
Hamilton Women and Gender Equity Committee
Lesbian, Gay, Bisexual, Transgender and Queer Advisory Committee (LGBTQ)
Mundialization Committee
Food Advisory Committee
Hamilton Veterans Committee
Housing and Homelessness Advisory Committee
Seniors Advisory Committee
Arts Advisory Commission
Hamilton Cycling Committee
Keep Hamilton Clean and Green Committee
Waste Management Advisory Committee

Name
Hamilton Future Fund Board of Governors
Committee of Adjustment
Fence Viewers
Knowles Bequest Trust
Property Standards Committee
Community Benefits Protocol Advisory Committee
Election Compliance Audit Committee
Mayor's Task Force on Economic Recovery

Authority: Item,
Report (FSC21081(a))
CM:
Ward: City Wide

Bill No.

**CITY OF HAMILTON
BY-LAW NO.**

**To Amend By-law No. 21-021, A BY-LAW TO GOVERN THE PROCEEDINGS OF
COUNCIL AND COMMITTEES OF COUNCIL**

WHEREAS Council enacted a Code of Conduct for Local Boards; and

WHEREAS to provide clarity and ease of reference, Council for the City of Hamilton has determined that it is desirable to amend By-Law 21-021; by amending sections 3.15 and 5.16, by amending section (g) of Appendix "H", by deleting Appendix I – Hamilton Advisory Committee/Task Force Code of Conduct, and by amending section 3 of Appendix "J";

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. The amendments in this By-law include any necessary indexing, grammatical, numbering and lettering changes.
2. That Section 3.15 of By-law No. 21-021, be deleted in its entirety and the following be substituted:

3.15 Declarations of Interest

(1) In this Section:

(a) An "Interest" means a 'disqualifying interest' or a 'non-disqualifying interest' as such terms are defined within the Council approved Code of Conduct to which the member is bound.

(2) Where a member has declared an Interest at a meeting in accordance with a Council approved Code of Conduct to which the member is bound, the member, shall file a written statement with the Clerk.

(3) Where a member, has disclosed an Interest and filed a written statement with the Clerk, as required by subsection 3.15(2), the Clerk, shall:

(a) file the written statement by the member in the Declarations of Interest Registry;

- (b) record the Interest in the minutes of the meeting;
- (c) file a record of the Interest recorded in the minutes of the meeting in the Declarations of Interest Registry; and
- (d) make the Declarations of Interest Registry available for public inspection.

3. That Section 5.16 of By-law No. 21-021, be deleted in its entirety and the following be substituted:

5.16 Declarations of Interest

- (1) In this Section:

(a) An "Interest" means a 'disqualifying interest' or a 'non-disqualifying interest' as such terms are defined within the Council approved Code of Conduct to which the member is bound.

(2) Where a member has declared an Interest at a meeting in accordance with a Council approved Code of Conduct to which the member is bound, the member, shall file a written statement with the Clerk.

(3) Where a member, has disclosed an Interest and filed a written statement with the Clerk, as required by subsection 5.16(2), the Clerk, shall:

- (a) file the written statement by the member in the Declarations of Interest Registry;
- (b) record the Interest in the minutes of the meeting;
- (c) file a record of the Interest recorded in the minutes of the meeting in the Declarations of Interest Registry; and
- (d) make the Declarations of Interest Registry available for public inspection.

4. Section (g) of Appendix H "Criteria for the Creation of Advisory Committees or Task Forces" is hereby deleted in its entirety and replaced with the following:

(g) Appointees shall seek to serve the public interest in accordance with the Council approved Code of Conduct for Local Boards.

5. Appendix I "Hamilton Advisory Committee/Task Force Code of Conduct" is hereby deleted.

6. Section 3 of Appendix "J" "Hearing Procedures for Development Charge Complaints-Section 20" is hereby deleted in its entirety and replaced with the following:

3. Interests

(1) In this Section:

(a) An "Interest" means a 'disqualifying interest' or a 'non-disqualifying interest' as such terms are defined within the Council approved Code of Conduct to which the member is bound.

(4) Where a member has declared an Interest at a meeting in accordance with a Council approved Code of Conduct to which the member is bound, the member, shall file a written statement with the Clerk.

(5) Where a member, has disclosed an Interest and filed a written statement with the Clerk, as required by section 3(2), the Clerk, shall:

(a) file the written statement by the member in the Declarations of Interest Registry;

(b) record the Interest in the minutes of the meeting;

(c) file a record of the Interest recorded in the minutes of the meeting in the Declarations of Interest Registry; and

(d) make the Declarations of Interest Registry available for public inspection.

7. This By-law comes into force on the day it is passed.

PASSED this _____ , 2022.

Fred Eisenberger
Mayor

Andrea Holland
City Clerk

CITY OF HAMILTON MOTION

Council: January 19, 2022

MOVED BY COUNCILLOR N. NANN.....

SECONDED BY COUNCILLOR M. WILSON.....

**Code of Conduct for Boards and Committees - Integrity Commissioner Work Plan
(FCS21081(a)) (City Wide)**

- (a) That Report FCS21081(a), respecting the Code of Conduct for Boards and Committees - Integrity Commissioner Work Plan be REFERRED back to staff for a participatory model of consultation and education that is designed to enable input and feedback from local boards and committees to help finalize a revised Code of Conduct, with a report back to the General Issues Committee; and,
- (b) That an upset limit of \$30,000 for the consultation and education process on the Code of Conduct, to be funded through the Tax Stabilization Reserve account 110046, be approved.

CITY OF HAMILTON AMENDMENT

Council: January 19, 2022

MOVED BY COUNCILLOR R. POWERS.....

SECONDED BY MAYOR / COUNCILLOR

New Code of Conduct for Boards and Committees – Training and Enforcement

That staff be directed to include, in their forthcoming report back to the General Issues Committee, respecting the new Code of Conduct for City Boards and Committees, a commencement timeframe for both the training and enforcement of the new Code of Conduct, to begin within the next term of Council.