



**SUBJECT: Bill 68, Modernizing Ontario's Municipal Legislation Act,
2017 Policies**

TO: Mayor and Members of Council

FROM: Clerks Department

Report Number: CL-03-19

Wards Affected: All

File Numbers:

Date to Committee: n/a

Date to Council: February 25, 2019

Recommendation:

Approve Appendix A, clerks department report CL-03-19, a policy for Pregnancy and Parental leave of Council Members; and

Approve Appendix B, clerks department report CL-03-19, a code of conduct for local boards; and

Approve Appendix C, clerks department report CL-03-19, a policy for staff and council relations; and

Direct the City Clerk to advise local boards (as defined in Appendix B) of the code of conduct and the legislative requirements related to the Disclosure of Pecuniary Interest. (CL-03-19)

Purpose:

An Engaging City

- Good Governance

Background and Discussion:

In June 2015, the Ontario Provincial Government announced a review of the main pieces of legislation that govern municipalities in Ontario, such as the *Municipal Act, 2001*, *Municipal Elections Act, 1996* (MEA), the *Municipal Conflict of Interest Act*, and

other Acts such as the *Development Charges Act* and *Planning Act*. The Province is required to review the *Municipal Act, 2001* every five (5) years. To support the review, the province released the “Municipal Legislation Review Public Consultation Discussion Guide” which was discussed and considered three main themes: accountability and transparency; municipal financial sustainability; and responsive and flexible municipal government. In November 2016, Bill 68 was tabled by the provincial government following a period of public consultation.

Many of the amendments being implemented with the passage of Bill 68 are based on the feedback from municipalities, the public and other organizations during the consultation period. Bill 68 received Royal Assent on May 30, 2017.

The amendments introduced through Bill 68 will:

- Increase fairness and reduce barriers for parents elected to municipal governments and school boards by allowing time off for pregnancy or parental leave;
- Enhance local government accountability and integrity across the Province by requiring municipalities to have a Code of Conduct for members of municipal Councils and Local Boards; and
- Ensure the public and Members of Council have access to Integrity Commissioners with a broadened role related to conflicts of interest and municipal Codes of Conduct.

Strategy/process

This report outlines and provides a description on some of the key features of Bill 68.

The purpose of this report is to address the amendments to *the Municipal Act, 2001* and the *Municipal Conflict of Interest Act* that require municipalities to enact changes by March 1, 2019.

This report focuses on the following areas to ensure that the City of Burlington has the necessary policies in place for March 1, 2019:

- Members of Council Pregnancy and Parental Leave Policy
- Staff Council Relations Policy
- Local Board Code of Conduct
- Implement practice of Disclosure of Pecuniary Interest at Committee and Council

Pregnancy and Parental Leave:

Prior to Bill 68, a Council Member was required to obtain a resolution of Council for an extended leave of absence due to pregnancy, the birth of a child or adoption of a child.

Section 259 of the Act provides that a Member's seat becomes vacant if the Member is absent from Council meetings for three successive months without being authorized to do so by a Council resolution.

Bill 68 provided an exemption to the above noted provision indicating that no resolution of Council is required to grant an extended leave of absence for a Member if the absence is related to pregnancy or parental leave for twenty (20) consecutive weeks or less.

Section 259 of the *Municipal Act, 2001* now includes the following exception to the rules for when a Council member's seat becomes vacant: *"(1.1) Clause (1) (c) does not apply to vacate the office of a member of council of a municipality who is absent for 20 consecutive weeks or less if the absence is a result of the member's pregnancy, the birth of the member's child or the adoption of a child by the member"*.

The draft policy attached as Appendix A, meets the requirements of the Act to allow an absence of up to 20 weeks for pregnancy and parental leave. This requirement under the Act will take effect on March 1, 2019.

The policy was drafted to ensure as much flexibility as possible for Members of Council, recognizing their unique representative role.

Of note is the following:

- A member reserves the right to participate as an active Member of Council at any time during his or her leave;
- A Member shall continue to receive all remuneration, reimbursements and benefits, afforded to all Members of Council.

Disclosure of Conflict / Pecuniary Interest

Through Bill 68 Modernizing Ontario's *Municipal Legislation Act, 2017*, the *Municipal Conflict of Interest Act*, included the added responsibility for members of Council to submit a written disclosure of interest statement when declaring a conflict of interest at a meeting.

According to the *Municipal Conflict of Interest Act*:

- 5.1 At a meeting at which a member discloses an interest under Section 5, or as soon as possible afterwards, the member shall file a written statement of the interest and its general nature with the clerk of the municipality or the secretary of the committee or local board as the case may be.
- 5.2 (1) Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter that is being considered by an officer or employee of the municipality or local board, or by a person or body to which the

municipality or local board has delegated a power or duty, the member shall not use his or her office in any way to attempt to influence any decision or recommendation that results from consideration of the matter.

As in the past the Clerk must record the disclosures in the minutes of Committee and Council meetings. However, in addition to having the disclosure recorded in the minutes the Clerk must also keep all written disclosures and there is also an additional requirement under the *Municipal Conflict of Interest Act*, section 6, that every municipality and local board establish and maintain a registry of all disclosures.

Section 6 of the *Municipal Conflict of Interest Act* states:

- 6.1(1) Every municipality and local board shall establish and maintain a registry in which shall be kept,
 - (a) a copy of each statement filed under section 5.1; and
 - (b) a copy of each declaration recorded under section 6.
- (2) The registry shall be available for public inspection in the manner and during the time that the municipality or local board, as the case may be, may determine.

The clerk's department has prepared a disclosure form for Council and Committee members to complete prior to each meeting and are also working to create an online registry to satisfy the registry requirement and provide transparency to the public.

Local Boards are also required to use a disclosure form and registry for all Board meetings and minutes for Board meetings and are to do so by May 1, 2019.

Code of Conduct

On April 23, 2018 Council approved its Code of Good Governance. Following this approval, on June 18, 2018, the City of Burlington's Council appointed *Principles Integrity* to act as its Integrity Commissioner providing accountability services to the City.

Bill 68, Modernizing Ontario's Municipal Legislation Act, 2017 a requirement was that by March 1, 2019 each municipality establish a Code of Conduct for Council members and appoint an independent Integrity Commissioner.

The role of the Integrity Commissioner is to act in an independent manner on the application of the Code of Good Governance and other rules and procedures governing the ethical behaviour of members of council.

Bill 68, Modernizing Ontario's Municipal Legislation Act, 2017 also prescribes municipalities have their local boards adopt a Code of Conduct by March 1, 2019.

In accordance with the *Municipal Act, 2001* section 223.1 defines local boards for the purpose of applying the requirements of a Code of Conduct as follows:

“Local Board” means a local board other than... (e) a board as defined in section 1 of the Public Libraries Act; (g) such other local boards as may be prescribed.

Therefore, Burlington Public Library is excluded from the local board definition as per the Municipal Act, 2001 due to the Public Libraries Act.

The Business Improvement Areas (BIA's) in section s.204 (2.1) provides that a Board of Management of a BIA is considered a local board of the municipalities, as well the Burlington Museums and the Committee of Adjustment are considered Local Boards.

The City of Burlington traditionally has referred to many partners as local boards. The Burlington Performing Arts Centre, Burlington Economic Development Corporation and the Burlington Art Gallery, for example, and although the City does have relationship agreements with these partners they are not as defined in the Ontario *Municipal Act, 2001* Local Boards.

Partners who currently have existing agreements with the City may wish to incorporate this Code of Conduct into their operations going forward however, legislatively they are not required to.

The Code of Conduct for the City of Burlington's Locals Boards attached as Appendix B is the code recommended by Principles Integrity, the Integrity Commissioner for the City of Burlington.

Staff Council Relations

Bill 68 also requires that Municipal Council's approve a policy on Council – Employee Relations that address the responsibilities of the municipal staff and their interactions with Council. Section 224 and 227 of the *Municipal Act, 2001* defines the roles and responsibilities of Council and the municipal administration respectively.

The City of Burlington has had a staff/council relations policy in place since 1999. This policy has served us well and has recently been used by many municipalities as a model for the development of their own policies. The policy attached as Appendix C is based on the policy that was adopted in 1999. It has been updated to include a complaint section which did not exist in the previous policy, in addition, outdated terminology and practices have been removed such as reference to the General Manager position, information on agenda printing deadlines and some sections that are included in other policies such as the staff code of conduct and Council Code of Good Governance.

Connections:

As a result of these policies impacting staff, Council and local boards, the clerk's department will provide notice to the local boards of the Code of Conduct and the Disclosure requirements that apply to them. As well, information related to the registry for Council's disclosure of pecuniary interest will be posted to the City's website.

Public Engagement Matters:

Staff consulted with the legal department and human resources department on the attached policies.

Conclusion:

Bill 68, the Modernizing Ontario's Municipal Legislation, Act, 2017 provides for a number of amendments to the *Municipal, Act, 2001* and the *Municipal Conflict of Interest Act*, these amendments lead to further open government practices and transparency for staff, Council and the public.

Respectfully submitted,

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Appendices:

- A. Policy for Pregnancy and Parental leave of Council Members
- B. Code of Conduct for Local Boards
- C. Staff Council Relations Policy

Report Approval:

All reports are reviewed and/or approved by Department Director, Director of Finance and Director of Legal. Final approval is by the City Manager.