

Authority: Item 6.3 Council
CM: February 9, 2022
Ward: City Wide

Bill No. 018

CITY OF HAMILTON

BY-LAW NO. 22-018

To Amend By-law No. 16-290, Council Code of Conduct

WHEREAS Section 223.2(1) of the *Municipal Act, 2001* requires the City of Hamilton to establish By-law No.16-290 - Council Code of Conduct;

WHEREAS, the Council Code of Conduct provides that Members shall avoid “conflicts of interest, both apparent and real”;

WHEREAS when a Member is disqualified from participating in the discussion of, or voting on any question in respect of a matter due to a pecuniary interest, direct or indirect, under the *Municipal Conflict of Interest Act*, their disclosure of that interest is recorded in Council and Committee minutes, and a written statement of the interest and its general nature must be filed with the Clerk and included in a registry required to be made available to the public, which is posted on the City’s website;

WHEREAS, there are occasions when Members of Council have an interest in a matter, but such an interest does not disqualify them from participating; and

WHEREAS, the public interest is best served by disclosing both disqualifying and non-disqualifying interests of Members of Council;

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 By-law No. 16-290 be amended by adding the following provisions under Section 8 “Conduct in Office, Including at Council and Committees”:

8.(2) In this Section:

- (a) 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.

(b) 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:

- (i) the Member fully discloses the interest so as to provide transparency about the relationship; and
- (ii) the Member states why the interest does not prevent the Member from making an impartial decision on the matter.

8.(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 Council or a member of staff with delegated authority or operational responsibility.

8.(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.

- (i) Transparency Disclosures are public documents and shall be available for public viewing on the City of Hamilton’s website.
- (ii) On receipt of a proper request, the Integrity Commissioner shall determine whether an interest is a disqualifying interest or a non-disqualifying interest.

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

PASSED this 9th day of February, 2022.

F. Eisenberger
Mayor

A. Holland
City Clerk