

2022 – 2026 City Council Orientation

Statutory Legislative
Overview

November 15, 2022

Accountability and Transparency

Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)

Access

Provides the public with the right to access City records with limited and specific exemptions (e.g. Freedom of Information requests).

Privacy

The City has an obligation to protect personal information (e.g. names, telephone numbers, email addresses, etc.) in its custody or control.

Recordkeeping

Reasonable measures must be put in place to preserve records (e.g. records retention by-law).

Accountability and Transparency

Access and Privacy

Access to information by Councillors

Councillors have the same rights of access to City records as a member of the public.

Access to Councillor records

Records created or kept by Councillors relating to City business are subject to the public access and privacy rules contained in the Municipal Freedom of Information and Protection of Privacy Act.

Freedom of Information

All FOI requests are received and processed by the City Clerk's Office.

Accountability and Transparency

City versus constituency records

City records are subject to MFIPPA and the City's records retention by-law. These are records created, sent or received while conducting the official business of Council. A destruction form must be completed and approved prior to destroying any City records.

Constituency records are **not** subject to MFIPPA or the City's records retention by-law. These are records created, sent or received by Councillors when acting on behalf of a constituent/representing the interests of a constituent.

Councillors are strongly encouraged to store City and constituency records separately.

Accountability and Transparency

Code of Conduct

Council has approved a Code of Conduct for Members of Council and Local Boards which establishes rules relating to:

- Gifts and benefits
- Confidentiality
- Use of corporate resources
- Current and prospective employment
- Business relations
- General conduct
- Influence on staff
- Improper use of influence
- Complaints regarding alleged violations

Accountability and Transparency

Code of Conduct Highlights

- Most gifts over \$300 must be disclosed to the City Clerk
- Members may not disclose confidential information
- Members may not use City property or equipment for personal purposes
- Members may not unduly influence staff
- Only Council, as a whole, may direct staff

Accountability and Transparency

Conflicts of Interest

- The Municipal Conflict of Interest Act requires that all members declare conflicts of pecuniary interest
 - Staff cannot provide advice about whether a member has a direct or indirect pecuniary interest
- Conflicts of pecuniary interest must be declared in writing and a public registry must be maintained by the City Clerk
- After declaring a conflict of interest, members may not debate, vote or attempt to influence a vote on the topic their conflict of interest relates to
 - Additional considerations for declarations related to closed session items

Accountability and Transparency

Conflicts of Pecuniary Interest

[Online Conflict of Interest
Registry](#)

[Online Conflict of Interest Submission](#)

Accountability and Transparency

Integrity Commissioner

- The City of Guelph has appointed Aird and Berlis LLP as its Integrity Commissioner
- The Integrity Commissioner can provide advice to members regarding the Code of Conduct
- The Integrity Commissioner can provide advice to members regarding the Municipal Conflict of Interest Act
- Members of the public, City staff and members of City Council may file formal complaints with the Integrity Commissioner for alleged contraventions of the Code of Conduct or Municipal Conflict of Interest Act
- All costs associated with the Integrity Commissioners involvement in providing advice or investigations relating to the Code of Conduct or Municipal Conflict of Interest Act are funded by the City's budget

Accountability and Transparency

Additional Accountability Measures

- The Ontario Ombudsman has oversight of all of Ontario's 444 municipalities as an office of last resort for complaints
- The appointment of an auditor general for municipalities is discretionary and City Council has not appointed an auditor general, although Internal Audit provides many similar functions
- The establishment of a lobbyist registry is discretionary, only Ontario's largest municipalities have established lobbyist registries
- Policies regarding the procurement and services of goods, the relationship between staff and members of Council, and delegation of duties, among others, are also required

Accountability and Transparency

Committee of the Whole Governance Model

- City Council has established a Committee of the Whole governance model
- The Committee of the Whole makes recommendations to City Council but does not have approval authority
- Most regular agenda items go to a Committee of the Whole meeting for debate and discussion before going to City Council for final approval

Accountability and Transparency

Committee of the Whole Governance Model

- Service Areas (CS, PS, IDE, Governance and Audit) report to the Committee of the Whole on alternating months
- City Council appoints Service Area Chairs and Vice-Chairs to chair Committee of the Whole meetings related to particular service areas
- Chairs are appointed every two years (twice per term)

Accountability and Transparency

Open Meetings

- Committee of the Whole
 - First Tuesday of every month
 - Generally, reports from staff go to the Committee of the Whole for initial debate and discussion
- Regular City Council
 - Fourth Tuesday of every month
 - Generally, the Committee of the Whole makes recommendations which go to City Council for final approval

Accountability and Transparency

Open Meetings

- Council Planning
 - Second Tuesday of every month
 - Generally, reports from staff that require statutory approval under the Planning Act are brought to Council Planning
- Special City Council Meetings
 - Scheduled as required
 - Includes all budget meetings
 - Generally, items which require a significant amount of time or are specific to a single topic/subject are brought to Special City Council meetings
 - Includes most City Council orientation sessions

Accountability and Transparency

Open Meetings

- Shareholder of Guelph Junction Railway Ltd.
 - City Council meets periodically as required as the Shareholder of GJR Ltd
 - Comprised of all members of City Council
- Shareholder of Guelph Municipal Holdings Inc.
 - City Council meets periodically as required as the Shareholder of GMHI
 - Comprised of all members of City Council
- Committee of Management for the Elliott
 - City Council meets periodically as required as the Committee of Management for the Elliott
 - Comprised of all members of City Council

Accountability and Transparency

Closed Meetings

- All Council/Committee meetings take place in public, usually in the Council Chambers, and are recorded
- Closed meetings are meetings that are not open to the public
- Meetings can only be closed in accordance with s. 239 of the Municipal Act
- The Closed Meeting Protocol, and ultimately the Municipal Act, establish the procedures that govern closed meetings

Accountability and Transparency

Closed Meetings

- Exceptions to the open meeting requirements include:
 - Security of the property of the municipality
 - Personal matters about identifiable individuals
 - Proposed/pending acquisition or disposition of land by the municipality
 - Labour relations or employee negotiations
 - Litigation or potential litigation
 - Advice subject to solicitor-client privilege
 - Information shared in confidence by the federal or provincial government
 - Trade secret or technical information shared in confidence which could jeopardize a competitive position or contractual negotiation
 - Trade secret or technical information belonging to the municipality that has monetary value
 - A position, plan, procedure, criteria or instruction to be applied to a negotiation

Accountability and Transparency

Closed Meeting Investigator

- The City of Guelph has appointed Local Authority Services Ltd. as Guelph's closed meeting investigator, Local Authority Services Ltd. has appointed Aird and Berlis LLP to conduct closed meeting investigations on its behalf
- Any member of the public can request an investigation into whether the City of Guelph has complied with the open meeting requirements of the Municipal Act

Accountability and Transparency

Information Items

- The weekly Information Items are published every Friday afternoon
- The Information Items include items for City Council's attention which do not require a specific action or decision
- Members of City Council may pull an item included on the Information Items to have it included on the appropriate Committee of the Whole or City Council agenda

Accountability and Transparency

Procedural By-law

- Council has approved a Procedural By-law which governs proceedings at committee and City Council meetings as well as most other agencies, boards, committees and commissions created by City Council
- The Procedural By-law, required by the Municipal Act, establishes rules of order which govern the setting of agendas, chairing, voting, notices of motion, decorum and delegations
- The Clerk provides procedural advice to the Chair and to City Council but the Chair rules on procedural matters

Advisory Committees and Local Boards

Advisory Committees of Council

- Advisory Committees are run by City of Guelph staff and can be discretionary (created by City Council) or statutory (mandated by provincial legislation)
- Members of the public apply to serve on advisory committees and are appointed by City Council
- Councillors do not serve on advisory committees (statutory or discretionary)
- Public appointments to advisory committees are made by City Council on a rotating basis as needed or mandated
- Advisory committees are legislatively required to follow the same open meeting requirements as City Council

Local Boards and Advisory Committees

Advisory Committees of Council

- Examples include:
 - Committee of Adjustment
 - Public Art Advisory Committee
 - Heritage Guelph
 - Accessibility Advisory Committee
 - Planning Advisory Committee
- Some advisory committees have authority to make decisions, but most provide advice to City Council and City staff
- A new advisory committee framework is being developed in 2023

Local Boards and Advisory Committees

Local Boards and Shared Services

- City Council makes appointments to a variety of local boards which are established by provincial legislation and are not run by City staff
- City Councillors and members of the public are appointed to local boards, based on legislative requirements
- Examples of local boards/shared services include:
 - Guelph Police Services Board
 - Guelph Public Library Board
 - Grand River Conservation Authority Board of Directors
 - Downtown Guelph Business Association
 - County of Wellington Social Services