

CITY OF SASKATOON COUNCIL POLICY

NUMBER
C01-026

| | | |
|---|---|--|
| POLICY TITLE <i>Indemnification Policy – Members of City Council</i> | ADOPTED BY: <i>City Council</i> | EFFECTIVE DATE <i>April 26, 2010</i> |
| | | UPDATED TO <i>October 21, 2013</i> |
| ORIGIN/AUTHORITY <i>Clause 8, Report No. 5-2010 of the Executive Committee; and Clause 1, Report No. 13-2010 of the Executive Committee; Item 4a) Matters Requiring Public Notice, October 21, 2013</i> | CITY FILE NO. <i>CK. 280-1</i> | PAGE NUMBER <i>1 of 3</i> |

1. PURPOSE

To provide for the indemnification of members of City Council for civil actions or proceedings brought against them in the performance of their duties as set out in this Policy and to the extent permitted by law.

2. POLICY

2.1 Where a civic action or proceeding is brought against a member of City Council (“Member”) that arises by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by the Member pursuant to or in the exercise or supposed exercise of any power conferred by *The Cities Act* or regulations, or in the carrying out or supposed carrying out of any duty imposed by *The Cities Act* or regulations, The City of Saskatoon (“City”) shall indemnify the Member as set out in this Policy and to the extent permitted by law.

2.2 A Member who is served with or becomes aware of a civil action or proceeding brought against him or her shall immediately report in writing and provide a copy of same to the City Manager and the City Solicitor. The City Solicitor shall immediately refer the matter to an Indemnification Review Committee (“IRC”) which shall consist of three persons appointed by the Dean of the University of Saskatchewan College of Law. The IRC shall immediately request a report and recommendation from the City Solicitor or outside counsel which shall consider the circumstances of the claim, and in particular, shall consider whether the matter arose out of the Member acting in good faith and within the duties of a Member as set out above.

CITY OF SASKATOON COUNCIL POLICY

NUMBER

C01-026

| POLICY TITLE | EFFECTIVE DATE | UPDATED TO | PAGE NUMBER |
|---|-----------------------|---------------------------|--------------------|
| <i>Indemnification Policy – Members of City Council</i> | <i>April 27, 2010</i> | <i>September 29, 2010</i> | <i>2 of 4</i> |

2.3 If the IRC is of the opinion that the matter falls within this Policy:

- (a) the City shall pay reasonable legal costs and expenses incurred in the defending of the Member, unless and until the IRC shall decide otherwise in accordance with this Policy;
- (b) subject to the approval of the IRC, the City may pay a settlement of the matter;
- (c) subject to a review by the IRC in accordance with this Policy, the City may pay any judgement or costs ordered against the Member; and
- (d) if the matter is dismissed with costs, any costs collected shall belong to the City.

2.4 Where a matter is being defended under this Policy:

- (a) the City Solicitor shall monitor the matter, and only reasonable defence costs and expenses shall be paid;
- (b) upon receipt of new or additional information, the IRC may review its determination as to whether the matter, including the payment of defence costs, damages or costs, falls within this Policy;
- (c) if after receipt of new or additional information, or after a court or tribunal judgment or decision is received, the IRC determines that the Member was not acting in good faith and within the duties of a Member as set out above, any amount already paid by the City on behalf of the Member is a debt due and owing from the Member to the City, and the City may take such steps as necessary in order to collect the same; and
- (d) the Risk Manager shall decide which of the City's risk management reserves is appropriate to fund the legal expenses, damages or costs payable under this Policy.

CITY OF SASKATOON COUNCIL POLICY

NUMBER

C01-026

| POLICY TITLE | EFFECTIVE DATE | UPDATED TO | PAGE NUMBER |
|---|-----------------------|---------------------------|---------------|
| <i>Indemnification Policy – Members of City Council</i> | <i>April 27, 2010</i> | <i>September 29, 2010</i> | <i>3 of 4</i> |

3. DECISION OF INDEMNIFICATION REVIEW COMMITTEE IS FINAL

Any decision of the Indemnification Review Committee made under this Policy is final and binding upon the Member and the City, and there shall be no appeal therefrom to City Council.

4. CONFLICT OF INTEREST AND OTHER DISQUALIFICATIONS FROM COUNCIL

The above Policy provisions shall not apply to an action against a Member pursuant to s. 121 of *The Cities Act*. In that case, s. 124(1) of *The Cities Act* shall apply, which reads as follows:

“Reimbursement

124(1) The council may reimburse the person with respect to whom an application pursuant to this Part was made for any costs and expenses that the council considers reasonable, other than costs that have already been awarded to the person by the judge, if:

- (a) the application is dismissed; or
- (b) an order is issued declaring the person able to remain a mayor or councillor.”

5. APPLICATION TO FORMER MEMBERS OF COUNCIL

This Policy also applies to Members after they leave Saskatoon City Council, provided the incident out of which a claim or demand or damage arose occurred during the time the Member was a member of Saskatoon City Council (“Former Members”).

6. RETROACTIVE APPLICATION

This Policy applies to Members and Former Members who have had outstanding claims and similar matters brought against them.

CITY OF SASKATOON COUNCIL POLICY

NUMBER
C01-026

| POLICY TITLE | EFFECTIVE DATE | UPDATED TO | PAGE NUMBER |
|---|-----------------------|---------------------------|---------------|
| <i>Indemnification Policy – Members of City Council</i> | <i>April 27, 2010</i> | <i>September 29, 2010</i> | <i>4 of 4</i> |

7. FRIVOLOUS OR VEXATIOUS MATTERS

Notwithstanding the forgoing, where, in the opinion of the City Solicitor, a civil action, proceeding or matter against or in relation to a Member or, without limiting the generality of the forgoing, a subpoena issued to a Member, is not *bona fide*, is frivolous, vexatious or otherwise abusive, and there is no conflict between the positions of the Member and the City, the City Solicitor, with the consent of the Member, may represent the Member in the matter at the expense of the City.

8. RESPONSIBILITIES

4.1 Executive Committee is responsible for:

- a) Considering amendments to the policy.

4.2 City Council is responsible for:

- a) Approving updates to this policy.