

# Saskatoon Municipal Review Commission: Municipal Code of Conduct Committee Report

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Saskatoon, Saskatchewan  
February 11, 2016

**Saskatoon Municipal Review Commission Membership**

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## **PART I: EXECUTIVE SUMMARY**

### **1 (a). Summary**

This report<sup>1</sup> discusses the Saskatoon Municipal Review Commission's (SMRC) investigation and recommendations for policy improvement<sup>2</sup> to the *Saskatoon Code of Conduct for Members of Council*<sup>3</sup> (the Code). The SMRC found that the Code requires redevelopment, and that recent amendments to *The Cities Act*<sup>4,5</sup> and *The Municipalities Act*<sup>6,7</sup> require it.

The Code's revision into bylaw must include greater attention to the spirit of the law and use the standards of a modern code of conduct. The SMRC makes 21 recommendations that would bring clarity to the behavior expected of members of City Council, all without radical change. The recommended revisions would also synchronize the Code with the *City of Saskatoon's Strategic Plan*<sup>8</sup> and make it more understandable and useful to the public and elected officials.

The SMRC recommendations address all of the stated areas of concern voiced by Council. Many small policy adjustments are recommended that lead to a stronger whole. The recommendation most notable to elected officials in daily life is the promotion of respectful conduct to fellow Council Members, City staff, media, and the public. In this, the SMRC address missed concerns about content absent from the Code and from the *Respectful Workplace Policy*<sup>9</sup>. Most important is the recommendation is for the creation of an Integrity Commissioner. This would boost the City's transparency and accountability, as well as fairness and predictability in investigations of complaints and in enforcement. These principles are considered by the SMRC to be at the heart of an effective Code as they are instrumental in promoting respect and thoughtful behaviour.

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<sup>1</sup> \*All documents referenced in the footnotes are described in the Appendix (see page 38).

References provide page numbers, and include hyperlinks to online documents or attachments.

<sup>2</sup> The City of Saskatoon. Bylaw No. 9242. *The Saskatoon Municipal Review Commission Bylaw, 2014*, page 7.

<sup>3</sup> The City of Saskatoon. *Saskatoon Code of Conduct for Members of Council*. Reproduced in the Appendix.

<sup>4</sup> Government of Saskatchewan, Ministry of Government Relations. "Information Bulletin - Amendments to the Cities Act". Nov. 2015.

<sup>5</sup> Government of Saskatchewan. *The Cities Act*.

<sup>6</sup> Government of Saskatchewan, Ministry of Government Relations. "Information Bulletin - Amendments to the Municipalities Act". Nov. 2015.

<sup>7</sup> Government of Saskatchewan. *The Municipalities Act*.

<sup>8</sup> The City of Saskatoon. *The City of Saskatoon Strategic Plan 2013-2023, Our Corporate Values*, page.15. Reproduced in the Appendix.

<sup>9</sup> The City of Saskatoon: *Respectful Workplace Policy A04-002*.

The City of Saskatoon has specifically requested the SMRC to address the following topics:<sup>10</sup>

- *the roles and obligations of members of Council;*
- *the standard of conduct for members of Council, including during municipal elections and by-election campaigns;*
- *the investigation and enforcement of standards;*
- *guidelines for use, disclosure, and access to confidential information;*
- *the use of City assets and receipt of gifts or benefits by members of Council; and*
- *the conduct of members campaigning for re-election.*

### **1 (b). Recommendations**

Having completed its review and research, the SMRC makes the following recommendations. These are separated into discrete categories corresponding to those identified in the Table of Contents.

#### **The Spirit and Letter of the Law** (see page 14)

1. That in its revision of Code, the City:

- (a) Pay special attention to the inclusion of the City's values and principles, as described in *The City of Saskatoon's Strategic Plan*<sup>11</sup>, to inform the spirit of the new bylaw<sup>12</sup>;
- (b) Include a statement of intent for interpretation and commitment to periodic review at the end of each term of office;
- (c) Provide extensive definitions<sup>13</sup> to clarify terminology, to ease interpretation, and to remove ambiguity;
- (d) Write the Code in plain language, to ensure that it is appropriate for a public audience and elected representatives, whatever their background.

2. That the Code be brought forward for periodic review at the end of each term of Council, to include ongoing clarification and commentary<sup>14</sup> so that the Code becomes a "living document".

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<sup>10</sup> The City of Saskatoon. *Bylaw No. 9242, The Saskatoon Municipal Review Commission Bylaw, 2014*, page 7.

<sup>11</sup> The City of Saskatoon. *The City of Saskatoon Strategic Plan 2013-2023, Our Corporate Values*, page.15. Reproduced in the Appendix.

<sup>12</sup> The RM of Sherwood No. 159. *Final Report of the Inspection and Inquiry into the RM of Sherwood No. 159, Part IV Recommendations, Code of Ethics*, page 146.

<sup>13</sup> The City of Barrie: *Council Code of Conduct, Definitions*, section 4.

<sup>14</sup> The RM of Sherwood No. 159. *Final Report of the Inspection and Inquiry into the RM of Sherwood No. 159, Part IV Recommendations, Code of Ethics Commentary*, page 146.

3. That the revised Code be drafted in a format that follows the structure recommended by the SMRC (see page 16).
4. That a mandatory ethics course be provided at the beginning of each term of office, to ensure Council members understand the Code and to provide them with an opportunity to ask questions and access additional resources.

**Compliance** (see page 18)

5. That, in its revision of the Code, the City provide detailed information and materials on informal and formal complaint procedures within the Code, as well as investigation procedures.
6. That, in its revision of the Code, Section 7B of the Saskatoon Code, *Breach of Confidentiality regarding subsection 65(e) of The Cities Act and/or the Confidential Information Section of this Policy* be repealed as the sanctions may be legally challenged.
7. That the City create the position of an Integrity Commissioner taking into account the following considerations:
  - (a) The position be subject to a proscribed mandate and enumerated duties;
  - (b) The hiring of the Integrity Commissioner be done through a committee that includes a member of Council, a member from the office of the City Solicitor, and an independent member of the public who is familiar with that position in either federal, provincial, or municipal government;
  - (c) The Integrity Commissioner be contracted for a specified period of time with an option for renewal, and be held on retainer;
  - (d) The City Council commit to following the advice of the Integrity Commissioner.

**Good Governance, Roles, and Duties** (see page 25)

8. That, in its revision of the Code, the City reflect good governance practices by providing meaningful links between the duties of elected officials and the expectations and key principles of public service, and the City's values.
9. That, in its revision of the Code, section 2(A), *Statutory Obligations: Statutory Offenses<sup>15</sup> with Penalties* be repealed.

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<sup>15</sup> The City of Saskatoon: *Code of Conduct for Members of Council, Statutory Offenses with Penalties, section 2A*. Reproduced in the Appendix.

10. That in section 5 of the Code, *Statutory Obligations, Actions During Civic Election Periods*<sup>16</sup>, the Code clarify that during election campaigns Councillors continue to be held to the same standards of conduct as they normally would.

**Privacy** (see page 27)

11. That, in its revision of the Code, section 2 (C), *Confidential Information*, provide clear explanation by way of definitions and policy discussion, as well as ongoing and updated commentary on this topic.

12. That the subject of the use of personal information and freedom of information be addressed within the Code.

**Respectful Conduct** (see page 28)

13. That in its revision of the Code, the City provide new content that specifically addresses the following topics:

- (a) The conduct expected of Councillors at Council and Committee Meetings;
- (b) A Council-Staff Protocol;
- (c) Communications with Public & Media Relations;
- (d) Respect for the Municipality;
- (e) A Respectful Workplace Policy;
- (f) An Anti-Harassment Policy.

14. That the content within the *Respectful Workplace Policy A04-002*<sup>17</sup> be modified to ensure that the respectful conduct of Councillors be extended to include other elected officials.

15. That in accordance with Bill 186, section 85.1,<sup>18</sup> any revision to the Code include that the provisions regarding respectful conduct apply to Civic Boards, Commissions, Authorities and Committees appointed by Council<sup>19</sup>, and that that their members be made aware of those provisions of the Code.

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<sup>16</sup> The City of Saskatoon: *Code of Conduct for Members of Council, Actions During Civic Election Periods*, section 5. Reproduced in the Appendix.

<sup>17</sup> The City of Saskatoon: *Respectful Workplace Policy A04-002*.

<sup>18</sup> Government of Saskatchewan. *Bill 186, Municipal Conflict of Interest Amendment Act, 2015*, section 85.1.

<sup>19</sup> The City of Saskatoon: *Policy C01-003: Appointments to Civic Boards, Commissions, Authorities, and Committees*.



**Property** (see page 30)

16. That, in its revision of the Code, to keep in line with contributions on election spending, the SMRC recommends that the City:

(a) Adjust the \$750 threshold of value considered as an exception to the reporting of a gift or benefit as presently found in section 4 (a), *Gifts and Benefits*, of the Code. The exceptions should be readjusted to \$100, which would correspond with the limit recommended by the SMRC and approved by Council, with respect to disclosure of election campaign contributions;

(b) Review the exceptions in Gifts and Benefits for appropriateness;

(c) Remove section 2(B), *Appropriate Use of City Assets and Services: Expectation of Privacy*, and replace it with a reference to *Policy A02-035, Computer Acceptable Use*, with attention to the sensitive nature of Councillor privilege and conduct;

(d) Address reimbursable expenses and support for charities.

**Influence** (see page 35)

17. That in its revision of the Code, the subject of improper use of influence be included and addressed in full.

18. That it be made mandatory for Members of Council to receive training on the amended rules concerning Conflict of Interest found in *The Cities Act* as amended.

**Elections** (see page 36)

19. That to avoid any real or perceived conflict of interest, a Councillor who chooses to run for federal or provincial elected office must request a leave of absence from the time that the writ is dropped or when they file their nomination papers, whichever is earlier.

20. That to avoid any real or perceived conflict of interest, any Councillor who is elected to another level of government must immediately resign their position on Council, the day after their election is confirmed. If this recommendation is found to not be within City's jurisdiction, the City should request that the Province amend legislation to enforce this ruling.

**Final Recommendation** (see page 37)

21. That the recommendations contained in this report be incorporated into an entirely new, rather than revised Code, with the understanding that the City will be required to enact a bylaw that gives the new Code the force of law.

## **PART II: INTRODUCTION**

### **2. Overview**

In 2014, Saskatoon City Council created the Saskatoon Municipal Review Commission (SMRC)<sup>20</sup> to examine public policy issues relating to the administration of city elections, councillor ethical conduct, and councillor remuneration. The City of Saskatoon has indicated that the *Saskatoon Code of Conduct for Members of Council*<sup>21</sup> (the Code) requires redevelopment. This report discusses the SMRC's investigations and recommendations for policy improvement.

At the outset, it must be said that criticisms of the policy do not reflect on the behaviour of elected officials or staff. In fact, the critique reflects the desire for improved governance on the part of those directed by it. City Council is to be commended for recognizing the need for such a policy revision.

### **3. Methodology**

In fulfilling its mandate, in the summer of 2015 the SMRC engaged in a series of broad public consultations to examine public opinion of the Code of Conduct. The opinions voiced in those consultations are incorporated in this report.

The SMRC researched Council Codes of Conduct and the supporting policies of Canadian public organizations, including federal, provincial, and municipal governments. Literary reviews on cases of Council misconduct were also undertaken. The greatest focus was placed on the investigation the Council Codes of Conduct of the 40 largest (by population) Canadian municipalities, (Saskatoon being the 21<sup>st</sup> largest). Such a wide range of investigation was necessary to understand the full scope of practices and their effects, and to reveal the leaders in this policy field.

The SMRC would also like to thank the Saskatchewan Conflict of Interest Commissioner and Registrar of Lobbyists, the Honourable Ronald L. Barclay Q.C.. The Commissioner's investigation into the RM of Sherwood 159<sup>22</sup>, regarding a case of conflict of interest was an important source of information on how such breaches should be handled. That research also led to the development of the RM's new Council Code of Conduct<sup>23</sup>, which was developed with the aid of the Province, and does much to illustrate the SMRC's recommendations.

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<sup>20</sup> The City of Saskatoon. *Saskatoon Code of Conduct for Members of Council*. Reproduced in the Appendix.

<sup>21</sup> The City of Saskatoon. *Bylaw No. 9242. The Saskatoon Municipal Review Commission Bylaw, 2014*.

<sup>22</sup> The RM of Sherwood No. 159. *Final Report of the Inspection and Inquiry into the RM of Sherwood No. 159*.

<sup>23</sup> The RM of Sherwood No. 159. *Bylaw No. 04-15 Code of Conduct for Members of Council*.

## **4. Background**

### **4 (a). Function of a Code of Conduct**

Municipal Council Codes of Conduct (Codes) are used extensively throughout the world, and are considered an essential piece of legislation within public organizations. An effective code of conduct discusses the ethical principles behind it, the organization's values, and personal accountability – how staff are to take responsibility for their own actions, ensure appropriate use of information, exercise diligence and duty of care, fulfill obligations, and avoid conflicts of interest.

An effective code sets standards for compliance and expectations of commitment to the organization. The code should prescribe the investigative process and disciplinary actions, including complaint handling and specific penalties for violations of the code.

The scope of misconduct is often underestimated and has many hidden costs. Depending on the offense, misconduct may damage relationships – reducing, trust, respect, and morale; it may decrease productivity - wasting time, energy, and resources; and it may be expensive – creating legal costs and damages.

The SMRC literature review suggests that in many municipalities, cases of elected official misconduct are very damaging. As Code processes may lack transparency and accountability, and as there may not be an independent body to impartially address complaints, cases of misconduct often do not reach the public. Municipalities across Canada are coming to realize the high costs and failings of weak conduct policy, and are adopting more effective strategies.

### **4 (b). History and Legislation**

Modern Canadian Council Code of Conduct requirements were first developed in the Province of Ontario, and were based on federal and provincial policies. The requirements became widespread when Ontario legislated *The Municipal Act, 2001*<sup>24</sup>, making codes of conduct mandatory for Council and employees. Quebec soon adopted the same strategy,<sup>25</sup> and this format is now used widely.

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<sup>24</sup> Government of Ontario. *The Municipal Act, 2001. Part 5 – Accountability and Transparency.*

<sup>25</sup> Government of Quebec. *Commissaire à l'éthique et à la déontologie: Code of Ethics and Conduct of the Members of the National Assembly of Québec.*

Following the inquiry into the proposed Wascana Village development scandal in the RM of Sherwood No. 159<sup>26</sup>, the Government of Saskatchewan passed legislative amendments to *The Cities Act*<sup>27,28</sup> and *The Municipalities Act*.<sup>29,30,31</sup> These changes referenced the City of Mississauga Council Code of Conduct<sup>32</sup>, possibly the most thorough Code in Canada. The RM of Sherwood No. 159's new Council Code of Conduct also referenced Mississauga's code, and was developed with support of the Conflict of Interest Commission.<sup>33</sup>

Bill 186, *Municipal Conflict of Interest Amendment Act, 2015*. Section 55.1 (1)<sup>34</sup> states that the City of Saskatoon council must adopt a bylaw incorporating a code of ethics that applies to all members of Council. The current Code is not a bylaw, and the terms "ethics" reflects a change in tone. This tone is further explored in section 66.1 (1)<sup>35</sup> of the Bill, which states that the code of ethics must define the standards and values that Council expects its members to comply with in their dealings with each other, employees of the city and the public. Revising the policy to demonstrate corporate values facilitates the *City of Saskatoon Strategic Plan*<sup>36</sup> and will bring Saskatoon's elected officials more in line with provincial and federal standards and practices, and demonstrate dedication to the values of the overall public service.

## 5. Assessment and Discussion

Policy, business, and human resources literature are in general agreement in what makes an effective code of conduct, but the Saskatoon Code does not fulfill this criteria. The Code does not address respectful behaviour, good governance, or influence. Topics normally addressed within Codes are absent, and topics not normally found within a Code are present. Further, the Code has problems with language, structure, and approachability. The spirit of the law is almost absent from the Code and the letter of the law demonstrates some weaknesses.

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<sup>26</sup> The RM of Sherwood No. 159. *Final Report of the Inspection and Inquiry into the RM of Sherwood No. 159*.

<sup>27</sup> Government of Saskatchewan. *The Cities Act, Chapter C-11.1\* of the Statutes of Saskatchewan, 2002*.

<sup>28</sup> Government of Saskatchewan, Ministry of Government Relations. "Information Bulletin -Amendments to the Cities Act", Nov. 2015, page 2.

<sup>29</sup> Government of Saskatchewan. *The Municipalities Act*.

<sup>30</sup> Government of Saskatchewan. *Bill 186, Municipal Conflict of Interest Amendment Act, 2015*.

<sup>31</sup> Government of Saskatchewan, Ministry of Government Relations. "Information Bulletin -Amendments to the Municipalities Act". Nov. 2015.

<sup>32</sup> The City of Mississauga. *Council Code of Conduct*.

<sup>33</sup> The RM of Sherwood No. 159. *Bylaw No. 04-15 Code of Conduct for Members of Council*.

<sup>34</sup> Government of Saskatchewan. *Bill 186, Municipal Conflict of Interest Amendment Act, 2015. Section 55.1 (1)*.

<sup>35</sup> Government of Saskatchewan. *Bill 186, Municipal Conflict of Interest Amendment Act, 2015. Section 66.1 (2)*.

<sup>36</sup> The City of Saskatoon. *The City of Saskatoon Strategic Plan 2013-2023, Our Corporate Values, page.15*. Reproduced in the Appendix.

With regard to the Council Code’s complimentary policies,<sup>37,38,39</sup> these do not amount to a comprehensive body of work that meets the required criteria of the amendments now found in *The Cities Act*, not *The Municipalities Act*. Recent amendments to this provincial legislation may also require the revision of other policies that are informed by the Code, including *Policy C01-003*<sup>40,41</sup> and those policies that comprise the City of Saskatoon’s employee code of conduct<sup>42</sup>.

## 6. **Moving Forward**

The focus of this report now shifts to a discussion of material essential to a Council Code of Conduct, and how to address problems within the current Code. In doing so, the SMRC hopes to satisfy the specific issues raised by Council, while setting up strong support for future policy reform and development.

The SMRC first discusses the foundational tenements of a Code that inform the “spirit of the law”<sup>43</sup> (values and principles, and good governance and respectful conduct), and then the “letter of the law” (accountability and transparency, and investigation and compliance). With these established, this report moves on to more specific topics, including roles and duties, elections, privacy, property, and influence.

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<sup>37</sup> The City of Saskatoon. *Anti-Harassment Policy C01-025*.

<sup>38</sup> The City of Saskatoon. *Respectful Workplace Policy A04-002*.

<sup>39</sup> The City of Saskatoon. *Policy A02-035, Computer Acceptable Use Policy*.

<sup>40</sup> The City of Saskatoon. *Policy C01-003: Appointments to Civic Boards, Commissions, Authorities, and Committees*.

<sup>41</sup> Government of Saskatchewan. *Bill 186, Municipal Conflict of Interest Amendment Act, 2015, Section 66.1, sub-section 6(a)*.

<sup>42</sup> Government of Saskatchewan. *Bill 186, Municipal Conflict of Interest Amendment Act, 2015, Section 85.1*.

<sup>43</sup> The RM of Sherwood No. 159. *Final Report of the Inspection and Inquiry into the RM of Sherwood No. 159, Part IV Recommendations*.

### **PART III: REQUIREMENTS**

#### **7. The Spirit and Letter of the Law**

This section of the report addresses in a general manner the principles of accountability, transparency, fairness and predictability which the SMRC considers essential to any new or revised Code of Conduct adopted by Council. More specific considerations are addressed later in this report.

##### **7 (a). Values and Principles**

The public is entitled to expect the highest standards of conduct from the members that it elects, and adherence to these standards will protect and maintain the City's reputation and integrity. *The City of Saskatoon Strategic Plan*<sup>44</sup> requires that all policies reflect the values of trust, integrity, respect, honesty, and courage, as well as the principles of accountability and transparency. A new or revised Code should be considered a bastion of these values.

When complaints of misconduct do occur, they are rarely simple cases, and sometimes the rules do not cover what to do in a specific situation. When there is ambiguity legal professionals often rely on following the "spirit of the law", which is based on the intention of the law. Such a spirit is far easier to ascertain when strong values and principles are already set. Having established clear motivation and intent, decisions are more easily rendered and have much more legitimacy.

##### **7 (b). Accountability and Transparency**

The Conflict of Interest Commissioner for the Province of Saskatchewan, the Honourable Ron. L. Barclay Q.C., recommends that a Council Code of Conduct reflect the values of the municipality, and carefully focus on the principles of accountability and transparency<sup>45</sup>. Councillors must be able to reference the Code and know how to conduct themselves in a host of challenging situations and choices. The Code must be thorough and thoughtful, with a clear emphasis on values so that the Councillor may easily and naturally follow the spirit of the code.

If a Code is meant to be transparent, the public must be able to access the Code and understand it easily. When the public examine the logic and spirit of the Code, the manner in which Councillors conduct themselves is better appraised. Additionally, when the processes of compliance favors the public interest, trust grows. Without fair and predictable rules regarding complaint investigation and sanction enforcement, elected representatives are not held appropriately accountable.

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<sup>44</sup> The City of Saskatoon. *The City of Saskatoon Strategic Plan 2013-2023, Our Corporate Values*, page.15. Reproduced in the Appendix.

<sup>45</sup> The RM of Sherwood No. 159. *Final Report of the Inspection and Inquiry into the RM of Sherwood No. 159, Part IV Recommendations*.

### **7 (c). Validity and Efficiency**

Unlike the spirit of the law, which relies heavily on interpretation, the letter of the law relies on what is specifically written. When these aspects are well described and demonstrate explicit terminology and clearly defined roles, responsibilities, and procedures, the Code is said to have high validity. When a Code's content appropriately addresses behaviour in a manner consistent with intent and other policies, it is considered efficient.

If a Code lacks validity it may be easily challenged in a court of law, and offenders may not receive sanctions. If a Code lacks efficiency it will fail to achieve the outcomes of good governance and respectful conduct, and offenders may continue to act inappropriately, either through ignorance of standards, or through calculated assessment of the restrictions placed upon them.

### **7(d). Comprehension and Support**

There is no universal standard of "common knowledge, values, or understanding" and being explicit is absolutely necessary. When policy is weak and Council misconduct issues arise, complaints fail due to ambiguous textual descriptions of standards or terminology.

To address problems of comprehension, the majority of Codes reviewed contained sections for definitions,<sup>46</sup> something the City of Saskatoon lacks in its Code. Cities are also taking care to write their policies in plain language, rather than a legalese style, which requires training to interpret. The Code must be written using clear, common language and include definitions. It must be explicit and thorough, and present a logical flow for any processes it recommends, such as investigation and compliance.

#### **7(d)(i). Living Documents**

The Cities of Mississauga<sup>47</sup> and Toronto<sup>48</sup> treat their Codes as "living documents". The Code is brought forward for review at the end of each term of Council, when relevant legislation is amended, and at other times when appropriate to ensure that it remains current and continues to be a useful guide to Members of Council. Commentary and examples used in these Codes of Conduct are illustrative and not exhaustive. From time to time additional commentary and examples may be added to the documents and supplementary materials may also be produced, as deemed appropriate.

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<sup>46</sup> The City of Barrie. *Council Code of Conduct, Definitions, section 4.*

<sup>47</sup> The City of Mississauga. *Council Code of Conduct.*

<sup>48</sup> The City of Toronto: *Code of Conduct for Members of Council – Annotated Version.*

### 7 (d) (ii). Structure and Content

Based on its investigation and research, the SMRC has developed an ideal Code of Conduct content format. It incorporates effective practices, thoroughness and sound policy considerations.

**Table 1. Effective Council Code of Conduct Policy Contents**

<b>TABLE OF CONTENTS</b>
<b>General</b>
1. Policy Statement, Preamble, Interpretation, and Periodic Review
2. Statements of Principles and Purpose
3. Authority and Related Policies
4. Application (Those affected by the policy)
5. Definitions
<b>Good Governance, Roles, and Duties</b>
6. Transparent, Accountable and Good Governance
7. Statutory Obligations (City Councillors and the Mayor)
<b>Privacy</b>
8. Confidential Information
9. Confidential Information - Personal Information
<b>Respectful Conduct</b>
10. Respectful Conduct of Members and Harassment
11. Conduct for Council and Committee Meetings
12. Council-Staff Protocol.
13. Communications with Public & Media Relations
<b>Property</b>
14. Gifts and Benefits
15. Councillor Expenses
16. Appropriate Use of City Assets and Services
<b>Influence</b>
17. Improper Use of Influence
18. Employment of Council Relatives/Family Members
<b>Elections</b>
19. Actions During Civic Election Periods
20. Leaves of Absence: Exclusive to the City of Saskatoon
<b>Compliance</b>
21. Compliance with Code of Conduct
22. Investigations



### **7(d)(iii)). Training and Resources**

Most levels of government and large public organizations now offer mandatory ethics courses to ensure understanding, address questions, and prevent cases of misconduct. These courses often require periodic refreshers, which may occur annually, by term, or by contract. Many municipalities also provide ethics resources, such as annual FAQs<sup>49</sup>, to complement their codes of conduct.

### **7(e). Recommendations**

To ensure that any new or revised Code of Conduct reflects both the “spirit of the law” and the “letter of the law”, the SMRC recommends as follows:

1. That in its revision of the Code, the City:
  - (a) Pay special attention to the inclusion of the City’s values and principles, as described in *The City of Saskatoon’s Strategic Plan*<sup>50</sup>, to inform the spirit of the new bylaw<sup>51</sup>;
  - (b) Include a statement of intent for interpretation and commitment to periodic review at the end of each term of office;
  - (c) Provide extensive definitions<sup>52</sup> to clarify terminology, to ease interpretation, and to remove ambiguity;
  - (d) Write the Code in plain language, to ensure that it is appropriate for a public audience and elected representatives, whatever their background.
2. That the Code be brought forward for periodic review at the end of each term of Council, to include ongoing clarification and commentary<sup>53</sup> so that the Code becomes a “living document”.
3. That the revised Code be drafted in a format that follows the structure recommended by the SMRC (see page 14).

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<sup>49</sup> Government of Ontario - Office of the Integrity Commissioner. *Encouraging a Culture of Integrity, Annual Report 2014-15*.

<sup>50</sup> The City of Saskatoon. *The City of Saskatoon Strategic Plan 2013-2023, Our Corporate Values, page.15*. Reproduced in the Appendix.

<sup>51</sup> The RM of Sherwood No. 159. *Final Report of the Inspection and Inquiry into the RM of Sherwood No. 159, Part IV Recommendations, Code of Ethics*, page 146.

<sup>52</sup> The City of Barrie: *Council Code of Conduct, Definitions, section 4*.

<sup>53</sup> The RM of Sherwood No. 159. *Final Report of the Inspection and Inquiry into the RM of Sherwood No. 159, Part IV Recommendations, Code of Ethics Commentary, page 146*.

4. That a mandatory ethics course be provided at the beginning of each term of office, to ensure Council members understand the Code and to provide them with an opportunity to ask questions and access additional resources.

## **8. Compliance**

This section of the report responds to the specific request of Council for the SMRC to review the investigation and enforcement of standards.

The most difficult challenge in drafting a Code of Conduct is to adequately address the issues of complaint investigation and compliance. Problems with each occur when there is weak policy, no oversight, little transparency or accountability, and when personal self-interest and bias trump the public interest. When an organization's senior officials have the power to reward or police themselves there is a temptation to keep rules of conduct loose and to keep the ability to be judged out of the hands of those not easily influenced.

### **8 (a). Investigations and Compliance**

Section 7B of the Saskatoon Code, *Breach of Confidentiality regarding subsection 65(e) of The Cities Act and/or the Confidential Information Section of this Policy*, is unique. No other Municipality reviewed addressed confidentiality, or other forms of misconduct, with proscribed sanctions. By setting strict sanctions for breaches of confidentiality, the Council locks in penalties that may not be the favored course of action. Most importantly, *The Cities Act* warns that compliance with such customs is not technically legal, and may be challenged.

The procedures discussed in Code section 7A, C, and D appear clear and impartial, possess little ambiguity and a logical flow, and provide processes for complaint receiving, investigation, judgement, and enforcement. Although these processes are similar to other Cities, the Saskatoon Code lacks detailed information and materials on informal and formal complaint procedures, as well as investigation procedures, and has no forms or materials attached. Such details are very important to Councillors and the public as they assure fairness, predictability, and confidentiality.

Code section 7A *Statutory Offences with Penalties* structures the Executive Committee in such a way that it has the choice to accept or reject the complaints against its members, with or without the advice of an independent body. When a complaint is received regarding a Councillor, the Executive Committee decides, in-camera, as to the legitimacy of the complaint, and they are not required to report the number, types, or sources of complaint. Further, the body rendering judgement on the accused is also the Executive Committee, and they determine the type and extent of sanctions against the accused if found guilty.

Members of the Executive Committee face a serious conflict of interest in these cases. They are expected to render impartial judgement on people whom they work closely with in politically charged relationships, and in an arena that is normally intensely political. Members of the Executive Committee may be very close to the issue at hand, and may personally benefit from a biased decision.

The temptation to reject complaints is strong when an Integrity Commissioner is not in place. The process of hiring a new investigator creates delays in justice, is expensive, and the Executive Committee may feel that they can deal with the issue without these complications. As complaints may be slow, arduous, and politically unfavorable, members may wish to act in favor of the accused and reject the complaint, simply to avoid the process of investigation and enforcement.

Executive Committee members may also worry that if a complaint is registered against them personally, an independent adjudication may not favor them as well as one conducted by their peers. There may be great anxiety experienced by Councillors forced to render negative judgement on their friends, allies, and respected peers. There is also potential for personal bias against another member, as they are political rivals or may simply be at odds with one another. Overall, Executive Committee members with complaints against them may unjustly face less or greater scrutiny.

### **8 (b). Integrity Commissioners**

Extensive literature on government policy demonstrates that the public appreciates assurance in the form of an institutionalized independent body for the occasions when a complaint does arise as it improves confidence in the system of Council justice. When such a body is in place, the guarantee of a swift, impartial case resolution lessens public concern of influenced or biased judgements, and adds important layers of transparency and accountability.

Conflict of Interest complaints and misconduct complaints are often intertwined and Saskatchewan's Conflict of Interest Commissioner and Registrar of Lobbyists, the Honourable Ron. L. Barclay Q.C. occasionally addresses them. When consulted by the SMRC, the Conflict of Interest Commissioner stated that provincial law was not in conflict with an Integrity Commissioner position as described by the *Ontario's Municipal Act, 2001*<sup>54</sup>.

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<sup>54</sup> Government of Ontario. *Ontario's Municipal Act, 2001*, Section 223.3(1).

In 2015, jurisdictions within each of the Prairie Provinces began using Integrity Commissioners (the RM of Sherwood, SK<sup>55</sup>; Calgary, AB (Council voted 13-1 in favour of creating the position Feb.9, 2016<sup>56</sup>); and Winnipeg, MB<sup>57</sup>). The creation of an Integrity Commissioner has been described as good organizational hygiene – the position demonstrates due process (accountability), independent advisement (transparency), and the City's values. The framework for the position has demonstrated great validity and efficiency, and receives strong public and staff support.

### **8(b)(i). Integrity Commissioner Mandate and Duties**

The suggested mandate and duties of an Integrity Commissioner are outlined below, using the five categories of advisory function, complaint investigation, complaint adjudication, educational function, and additional duties and functions.

#### *(i) Advisory Function*

- To provide written and oral advice on request of Council respecting the Code, *The Cities Act*, and any other Acts, by-laws, or policies governing the ethical behaviour of Members.
- To provide written and oral advice to individual Members of Council at their request regarding situations covered under the Code, *The Cities Act*, and any other Acts, by-laws, or policies governing the ethical behaviour of Members.
- To provide Council with specific and general opinions on Acts, by-laws, policies, or protocols that regulate the behaviour of members of Council, and issues of compliance with those Acts, by-laws, policies, or protocols.
- To provide advice to Members of Council on issues of ethics and integrity including codes of conduct, policies, and protocols, and to emphasize the importance of ethics for public confidence in municipal government.
- To report directly to Council on matters related to the Code of Conduct for Members of Council and/or local boards or organizations under its authority.

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<sup>55</sup> The RM of Sherwood No. 159. *Bylaw No. 04-15 Code of Conduct for Members of Council*.

<sup>56</sup> Calgary Sun, Feb 9, 2016. "Integrity Commissioner to oversee Calgary Councillors; New booze rules ratified."

<sup>57</sup> The City of Winnipeg. *Office of Integrity Commissioner to be established for Winnipeg City Council*. Appendix A – Jurisdictional Review, page 12. Dec 2, 2015.

*(ii) Complaint Investigation*

- To assess, investigate and conduct inquiries into a request made by Council, a member of Council, or a member of the public, into whether a Member of Council has contravened the Code of Conduct, any applicable by-law, policy, or Act, and to report to Council on its findings.

*(iii) Complaint Adjudication*

- To oversee any or all of the policy matters surrounding the enforcement of the Code of Conduct for elected officials and/or members of local boards.
- To determine whether a member of Council has, in the Integrity Commissioner's opinion, violated the Code of Conduct, any applicable by-law, policy of Act, and to report to Council.
- To make recommendations on appropriate penalties if applicable.

*(iv) Educational Function*

- To provide to the City Clerk for publication, an annual report on the work of the Office of the Integrity Commissioner, including in general terms, examples of advice rendered and complaints received and disposed of for the preceding year.
- To make all reports public while maintaining confidentiality regarding personal identity information.
- To provide outreach programs for Council and staff on legislation, protocols and office procedures emphasizing the importance of ethics for public confidence in municipal government and disseminating information to the public on the City's website.

*(v) Additional Duties and Functions*

- To assist in the development of the policies and processes for the Integrity Commissioner's Office, including input into the development of a thorough Code of Conduct for Members of Council.
- To perform any other functions council deems appropriate and that are compatible with the role of an Integrity Commissioner.

8b.2. Integrity Commissioner Recruitment

Three further considerations for the City to consider are the hiring practice, term of office, and remuneration for an Integrity Commissioner. The SMRC has reviewed various options which are summarized below:

(i) *Hiring Process*

Municipalities may delegate the hiring of the Integrity Commissioner to a committee; to the City Clerk and City Solicitor under the guidance of specific hiring criteria; or through a formal Request for Proposal (RFP) process. Committees appear to be the preferred method, and may combine a member of council, a member from the office of the City Solicitor, and an independent member of the public who is familiar with the Integrity Commissioner position in either federal, provincial, or municipal government.

(ii) *Term of Office*

Municipalities often set a defined term for the Integrity Commissioner's office to ensure the security of tenure as well as flexibility for the Integrity Commissioner to establish an appropriate working relationship with Council. Many choose to appoint their Integrity Commissioner on a one year term with an optional renewal for a one or five-year term. Some Cities place five-year limits on the amount of time an Integrity Commissioner may be contracted to ensure independence. No evidence was found of Canadian municipalities removing the Integrity Commissioner position once the policy was implemented.

(iii) *Remuneration*

In many municipalities, Integrity Commissioners are hired on a contract basis with either a flat annual fee or are retained with a base fee and an agreed hourly rate for investigations and educational sessions. Support staff may be provided by the Integrity Commissioner, or by the City Clerk as needed. In contrast, larger cities hire on a full-time basis with support staff, often assigning additional duties such as managing whistleblower policy and/ or lobbyist registrars.

Table 2 below gives a recent sample of publically declared retainer and hourly costs, as well as terms of office for Integrity Commissioners. There is considerable variation in costs due to the highly individualized scope of each municipality's requirement.

**Table 2. Integrity Commissioner Terms and Costs** <sup>58,59</sup>

<b>Municipality</b>	<b>Term of Office</b>	<b>Cost</b>
Barrie	Held on Retainer	Retainer: \$1000/year; Hourly Rate: \$125 + Expenses
Brampton	One year	\$150,000/year
Guelph	Held on Retainer	Retainer: \$5000/year; Hourly Rate: \$235
Kitchener	Held on Retainer	Retainer: \$20,000/year; Hourly Rate: \$150
Markham	Held on Retainer	Retainer: \$20,000/year; Hourly Rate: \$509
Mississauga	5 year, non-renewable	\$100,000/ year (2012)
Ottawa	One year, option to renew for a 5 year term	Retainer: \$25,000/year; Hourly Rate: \$200 (maximum \$1,000/day)
Town of Richmond Hill	Held on Retainer	Retainer: \$25,000/year; Hourly Rate: Unknown. Annual maximum \$40,000
Sault St. Marie	No ongoing contract	Used for one investigation
St. Catharine's	Held on Contract	No Annual Retainer; Hourly Rate: \$150
Toronto	5 year, non-renewable	\$300,000/year (2014)
Vaughan	2 or 4 year terms	Up to \$200,000/year
Waterloo	Held on Retainer	Retainer: \$2000/year; Hourly Rate: \$150 + Expenses
Windsor	Held on Retainer	Retainer: \$12,000/year; Hourly Rate: \$300/hour
Winnipeg	Held on Retainer	\$100,000/year

<sup>58</sup> The City of Winnipeg. *Office of Integrity Commissioner to be Established for Winnipeg City Council. Appendix A – Jurisdictional Review*, page 12. Dec 2, 2015.

<sup>59</sup> The City of Greater Sudbury. *Integrity Commissioner Report to City Council. Appointment of the Integrity Commissioner. Remuneration. Greater Sudbury, June 10, 2014.*

### **8(c). Recommendations**

Based on its research, the SMRC makes the following recommendation with respect to compliance with the Code of Conduct and any relevant by-laws, policies or legislation.

5. That, in a new or revised Code, the City provide detailed information and materials on informal and formal complaint procedures within the Code, as well as investigation procedures.
6. That Section 7B of the Saskatoon Code, *Breach of Confidentiality regarding subsection 65(e) of The Cities Act and/or the Confidential Information Section of this Policy* be repealed as the sanctions may be legally challenged.
7. That the City create the position of an Integrity Commissioner taking into account the following considerations:
  - a) The position be subject to a prescribed mandate and enumerated duties;
  - b) The hiring of the Integrity Commissioner be done through a committee that includes a member of Council, a member from the office of the City Solicitor, and an independent member of the public who is familiar with that position in either federal, provincial, or municipal government;
  - c) The Integrity Commissioner be contracted for a specified period of time with an option for renewal, and be held on retainer;
  - d) The City Council commit to following the advice of the Integrity Commissioner.



## **PART IV: CODE OF CONDUCT**

### **9. Good Governance, Roles, and Duties**

This section of the report responds to the specific request of Council for the SMRC to review the principles of good governance and the statutory obligations of Council members, including their roles and obligation

The City of Saskatoon's Code does little to address respectful conduct or good governance. The preamble of the Code states "Citizens of Saskatoon expect high standards of conduct from all government officials. The quality of the City of Saskatoon's public administration and governance, as well as its reputation and integrity, depend on the highest standards of conduct from its elected representatives." "Ethics and integrity are at the core of public confidence in government and in the political process."<sup>60</sup> What constitutes good conduct and what ethics standards is not discussed in the Code.

#### **9 (a). Good Governance**

Good governance policy identifies the key principles of appropriate conduct, and provides a strong baseline of expectations for members of Council, such as:

- Serving constituents in a conscientious and diligent manner;
- Performing their functions with integrity and avoiding the improper use of the influence of their office, and conflicts of interest;
- Performing their duties in office and arranging their private affairs in a manner that promotes public confidence and in a manner that will bear close public scrutiny;
- Upholding both the letter and the spirit of the laws and policies established by the Federal Parliament, Provincial Legislature, and Council.

These basic assumptions must be clearly expressed in a Code in order to communicate public expectations and to hold Members of Council accountable. Several of these key principles are expressed in *Statutory Duties of City Councillors and the Mayor*<sup>61</sup>, but these details are mostly functionary and do not reflect the spirit of the Code.

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<sup>60</sup> The City of Saskatoon. *Saskatoon Code of Conduct for Members of Council*. Reproduced in the Appendix.

<sup>61</sup> The City of Saskatoon: *Code of Conduct for Members of Council, Statutory Duties of City Councillors and the Mayor*, section 2B. Reproduced in the Appendix.

### **9 (b). Statutory Duties of City Councillors and the Mayor**

As requested, the SMRC reviewed and addressed the roles and obligations of members of Council.

The SMRC found that section 5 (B) of the Code defined Roles and Obligations,<sup>62</sup> *Statutory Duties of City Councillors and the Mayor*, in a manner that was consistent with the Codes of other cities<sup>63</sup>, *The Cities Act*,<sup>64</sup> and *Bill 186*<sup>65</sup>, but it did not reflect the spirit of the Code. Other Codes often provided meaningful links between the conduct, corporate values<sup>66</sup>, and duties of elected officials (see Good Governance).

Section 5 (A) of the Code, *Statutory Offenses with Penalties*,<sup>67</sup> discusses the legal requirements for being elected to and for holding office. This section is unusual as this material was not found in other Codes, and is now found in the amendments to *The Municipalities Act*<sup>68</sup>. As above, variations of this material are often described in documents that describe the requirements of office, the election process, etc.

### **9(c). Recommendations**

The SMRC, based on the forgoing rationale, makes the following recommendations regarding good governance and the roles and obligations of Members of Council:

8. That, in its revision of the Code, the City reflect good governance practices by providing meaningful links between the duties of elected officials with the expectations and key principles of public service, and the City's values.

9. That, in its revision of the Code, section 2(A), *Statutory Obligations: Statutory Offenses with Penalties* be repealed.

10. That in section 5 of the Code, *Statutory Obligations, Actions During Civic Election Periods*<sup>69</sup>, the Code clarify that during election campaigns Councillors continue to be held to the same standards of conduct as they normally would.

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<sup>62</sup> The City of Saskatoon: *Code of Conduct for Members of Council, Statutory Duties of City Councillors and the Mayor*, section 2B. Reproduced in the Appendix.

<sup>63</sup> The City of Markham. *Council Code of Conduct, Roles and Obligations*, section 5.

<sup>64</sup> Government of Saskatchewan. *The Cities Act, Chapter C-11.1\* of the Statutes of Saskatchewan*, 2002.

<sup>65</sup> Government of Saskatchewan. *Bill 186, Municipal Conflict of Interest Amendment Act*, 2015.

<sup>66</sup> The City of Saskatoon. *The City of Saskatoon Strategic Plan 2013-2023, Our Corporate Values*, page 15. Reproduced in the Appendix.

<sup>67</sup> The City of Saskatoon: *Saskatoon Code of Conduct for Members of Council, Statutory Offenses with Penalties*, section 2A. Reproduced in the Appendix.

<sup>68</sup> Government of Saskatchewan, Ministry of Government Relations. "*Information Bulletin -Amendments to the Municipalities Act*". Nov. 2015.

<sup>69</sup> The City of Saskatoon: *Code of Conduct for Members of Council, Actions During Civic Election Periods*, section 5. Reproduced in the Appendix.

## **10. Privacy**

This section of the report responds to the request of Council for the SMRC to review guidelines for the use, disclosure and access to confidential information

Conduct policy and literature, as well as the policies of other municipalities and organizations give considerable emphasis to issues of confidentiality and personal information. It was found that information sharing problems were universal, complex, and frequent. As such, most government offices now require strong policy and mandatory training<sup>70</sup>.

### **10 (a). Confidentiality**

The City of Saskatoon has experienced how ambiguities in policy may create problems, and accordingly may understand why some municipalities have devoted many pages of their Codes to this topic. It is with this consideration that the SMRC recommends that a revised code provide extensive coverage in definitions, policy discussion, and ongoing commentary on all topics, as well as mandatory training on conduct expected of elected officials, including expectations with respect to privacy and confidentiality.

### **10 (b). Personal Information**

The City of Markham's Code specifically addresses the use of personal information, often under the jurisdiction of the City Clerk's Office. In other jurisdictions, it has been found that occasionally elected officials will abuse their access to City documents, and use confidential files, protected under the *Freedom of Information and Protection of Privacy Act*,<sup>71</sup> for their personal business advantage. The legal and breach of public trust consequences for such misconduct is often underestimated, and bears special consideration.

### **10 (c). Recommendations**

With respect to privacy issues, the SMRC recommends as follows:

11. That, in its revision of the Code, section 2 (C), *Confidential Information*, provide clear explanation by way of definitions and policy discussion, as well as ongoing and updated commentary on this topic.

12. That the subject of personal information and freedom of information be addressed within the Code.

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<sup>70</sup> Government of Ontario - Office of the Integrity Commissioner. *Encouraging a Culture of Integrity, Annual Report 2014-15*.

<sup>71</sup> Government of Saskatchewan. *Freedom of Information and Protection of Privacy Act. Chapter F-22.01 of the Statutes of Saskatchewan*

## 11. Respectful Conduct

This section of the report responds to the request of Council for the SMRC to review the standard of conduct for members of Council, including during municipal elections and by-election campaigns.

Conduct policy specialists recognize the complexity of conduct, and recommend that mandatory training and resources<sup>72</sup> be provided to avoid behaviour that damages relationships, productivity, morale, and public confidence. The Government of Saskatchewan now requires oaths of office,<sup>73,74</sup> to promote respectful behaviour and dedication to the public service. Respectful conduct is universally considered essential, but is absent from Saskatoon's Code.

The City has somewhat addressed this issue through the implementation of the *Respectful Workplace Policy*<sup>75</sup> and the *Anti-Harassment Policy*<sup>76</sup>. These policies sufficiently address the conduct of staff and administration's conduct, but neither refers to the conduct of elected officials. Elected officials are bound to the *Anti-Harassment Policy* in an indirect way, through the *Council Policy*,<sup>77</sup> but this policy does not refer to the Respectful Workplace Policy.

### 11 (a). Council and Committee Meetings

Setting clear expectations and tone for meetings is important. Municipalities that institute clear rules regarding meetings find that this policy changes the change in tone in meetings – making them much more positive and productive.

### 11 (b). Council-Staff Protocol

A major concern addressed by Codes is Councillors' interactions with staff. The influence and authority a Councillor has deserves special attention. When weak standards and procedures are in place, staff may have little recourse against inappropriate conduct, and submitting complaints places the administration in a difficult position. Cases such as these often go unreported unless an impartial investigation can be guaranteed by a trusted and reliable independent body, such as an Integrity Commissioner.<sup>78</sup>

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<sup>72</sup> Government of Ontario - Office of the Integrity Commissioner. *Encouraging a Culture of Integrity, Annual Report 2014-15*.

<sup>73</sup> Government of Saskatchewan. *Bill 186, Municipal Conflict of Interest Amendment Act, 2015*.

<sup>74</sup> Government of Saskatchewan, Ministry of Government Relations. *"Information Bulletin - Amendments to the Cities Act"*. Nov. 2015.

<sup>75</sup> The City of Saskatoon: *Respectful Workplace Policy A04-002*.

<sup>76</sup> The City of Saskatoon: *Anti-Harassment Policy C01-025*.

<sup>77</sup> The City of Saskatoon: *Policy C01-003: Appointments to Civic Boards, Commissions, Authorities, and Committees*.

<sup>78</sup> The City of Mississauga: *Integrity Commissioner*.

### **11 (c). Communications with the Public and Media**

It is important for elected officials to remember that they are responsible to their constituents, and to maintaining the public trust in the City. Cities that implement communication policies have guidelines regarding expectations of respectful conduct, and often provide training and/or independent advice on appropriate ways to discuss challenging topics.

### **11(d). Recommendations**

With respect to respectful conduct, the SMRC recommends:

13. That in its revision of the Code, the City provide new content that specifically addresses;

- (d) The conduct expected of Councillors at Council and Committee Meetings;
- (e) A Council-Staff Protocol;
- (f) Communications with Public & Media Relations;
- (g) Respect for the Municipality;
- (h) Respectful Workplace Policy;
- (i) Anti-Harassment Policy.

14. That the content within the *Respectful Workplace Policy A04-002*<sup>79</sup> be modified to ensure that the respectful conduct of Councillors be extended to include other elected officials.

15. That in accordance with *Bill 186*, section 85.1<sup>80</sup>, any revision to the Code include that the provisions regarding respectful conduct apply to Civic Boards, Commissions, Authorities and Committees appointed by Council<sup>81</sup>, and that that their members be made aware of those provisions of the Code.

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<sup>79</sup> The City of Saskatoon: *Respectful Workplace Policy A04-002*.

<sup>80</sup> Government of Saskatchewan. *Bill 186, Municipal Conflict of Interest Amendment Act, 2015, section 85.1*.

<sup>81</sup> The City of Saskatoon: *Policy C01-003: Appointments to Civic Boards, Commissions, Authorities, and Committees*.

## 12. Property

This section of the report responds to the specific request of Council for the SMRC to review the use of City assets and receipt of gifts or benefits by members of Council.

### 12 (a). Gifts and Benefits

The City of Saskatoon's Code was quite comparable to other Cities in its *Gifts and Benefits* section<sup>82</sup> requirements. All Cities reviewed had codes that agreed with the spirit of the law in the quote from the City of Brampton's Code;

*"Members of Council are entrusted to make decisions based on an impartial and objective assessment of each situation, free from the real or perceived influence of gifts, hospitality or benefits. Regardless of monetary value, the gift, hospitality or benefit could be seen as an instrument of influence, favouritism and bias on the part of the elected official. To promote transparency and accountability to the public, Members of Council will continue to set a high standard of conduct and be prepared to openly disclose all gifts and benefits that have been received in carrying out their official duties"*<sup>83</sup>.

In most Cities surveyed, the individual or annual acceptable value of gifts must be reported subject to a threshold for gifts that do not exceed a certain value. The following is an excerpt from Saskatoon's Code of Conduct regarding Gifts and Benefits setting out the threshold in this City:

*"The following are recognized as exceptions:*

- (a) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation, provided that the value of the gift or benefit does not exceed \$750.00."*

An analysis of sixteen other Codes of Conduct requiring the reporting of such information reveals that the City of Saskatoon's Gifts and Benefits Code stands out, as the value of the gifts and benefits that it recognizes as not worthy of reporting far exceed that of other Cities. A Gift valued at \$750 far exceeds the norm (average \$253<sup>84</sup>) and the SMRC does not consider this amount to be appropriate<sup>85</sup>. Further, other Cities' Codes often discuss in depth the limitations on the acceptance of gifts, concerning food and beverages, lodging, transportation, event tickets and entertainment. Further clarification on these matters may be desired by Council.

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<sup>82</sup> The City of Saskatoon. *Saskatoon Code of Conduct for Members of Council. Gifts and Benefits, section 4.*

<sup>83</sup> The City of Brampton. *Code of Conduct for the Members of Council.*

<sup>84</sup> This average does not include Saskatoon.

<sup>85</sup> The City of Saskatoon. *Saskatoon Code of Conduct for Members of Council. Gifts and Benefits, section 4.*

**Table 3. Municipal Council Gifts and Benefits Policy Reporting Exceptions**

<b>Municipality</b>	<b>Annual Acceptable Value of Gift</b>
<b>City of Saskatoon</b>	<b>\$750</b>
City of Barrie	\$250
City of Brampton	\$0, report all
City of Hamilton	\$200
City of Kitchener	\$300
City of London	\$300
City of Markham	\$350
City of Mississauga	\$500
City of Ottawa	\$100
City of St. Catharines	\$500
City of Surrey	\$0, cannot accept
City of Sydney	\$0, cannot accept
City of Toronto	\$300
City of Vaughan	\$500
City of Winnipeg	\$200
City of Windsor	\$200
Town of Richmond Hill	\$350
<b>Average Annual Acceptable Value of Gift: \$253.00</b>	

The gifts and benefits policies of other Prairie Province cities are not included, as these Cities do not publically display their Council Codes of Conduct / Ethics. Instead, these municipalities hold their Members of Council to the standards of their employee code of conduct, if one exists, or to provincial standards of conduct.

As of 2016, municipal codes of conduct are now mandatory, and refer to provincial legislation;

- *The Cities Act*, section 85.1<sup>86,87</sup>
- *The Municipalities Act*, section 111.1<sup>88,89</sup>
- *The Northern Municipalities Act, 2010*, section 127.1<sup>90</sup>

Employee codes of conduct standards, as set by the Province of Saskatchewan, do not allow the acceptance of any gifts, considering them to be Conflicts of Interest. Any gifts considered ceremonial tokens must be immediately reported.

<sup>86</sup> Government of Saskatchewan. *The Cities Act*, section 85.1

<sup>87</sup> Government of Saskatchewan, Ministry of Government Relations. "Information Bulletin - Amendments to the Cities Act". Nov. 2015.

<sup>88</sup> Government of Saskatchewan. *The Municipalities Act*, section 111.1.

<sup>89</sup> Government of Saskatchewan, Ministry of Government Relations. "Information Bulletin -Amendments to the Municipalities Act". Nov. 2015.

<sup>90</sup> Government of Saskatchewan. *The Northern Municipalities Act, 2010*, section 127.1.

## 12 (b). Appropriate Use of City Assets and Services

Other municipalities provide principles of regulation similar to that of Saskatoon regarding the appropriate use of city assets and services. However, the commentary provided by the City of Mississauga captures the unique opportunity for potential abuse by elected officials, which is overlooked in many policies (see below).<sup>91</sup>

“Members, by virtue of their position, have access to a wide variety of property, equipment, services and supplies to assist them in the conduct of their City duties as public officials. This privilege should not be seen to be abused. In recognizing that members are held to a higher standard of behavior and conduct, members should not use such property for any purpose other than for carrying out their official duties. Careful attention should be given to the provisions of the City’s Councillor policy which identifies approved allowable expenses.”<sup>92</sup>

## 12 (c). Reimbursable Expenses

The reimbursable expenses that an elected official may claim appear in some Codes of Conduct, but are not addressed in the Saskatoon Code. The reason that these expenses should appear alongside Gifts and Benefits is to aid in public accountability and transparency. Questioning what gifts are appropriate leads naturally to questions as to what expenses are appropriate. Further, the use of specific sources of funds, such as the Communications Allowance should be addressed. The use of specific sources of funds, such as the Communication’s Allowance, will be addressed in a subsequent report of the SMRC. It shall dealing with issues of Councillor remuneration and benefits, and emphasize that these allowed are to be used solely for City processes, and should not be used as a supplement to any campaign expense.

An example of the appropriate regulation of reimbursable expenses is found in s. 9 of The RM of Sherwood No. 159, Code of Conduct for Members of Council.<sup>93</sup>

### ***“Reimbursable expenses***

*9. Members of Council may claim reimbursement by the municipality for the following expenses:*

- (a) expenses incurred by Members of Council for an official duty or function that are modest and represent the prudent use of public funds and do not involve the purchase of alcoholic beverages;*

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<sup>91</sup> The City of Saskatoon. *Saskatoon Code of Conduct for Members of Council. Appropriate Use of City Assets and Services: Appropriate Use, section 3 (B).*

<sup>92</sup> The City of Mississauga. Council Code of Conduct, Rule No. 5. *Use of City Staff, Property, Services and Other Resources.*

<sup>93</sup> The RM of Sherwood No. 159. Bylaw No. 04-15. *Code of Conduct for Members of Council, Reimbursable Expenses (Part 2 – Section 9), page 4.*



*(b) hospitality expenses incurred by Members of Council for meetings that include:*

*(i) engaging representatives of other levels of government, international delegations or visitors, the broader public sector, business contracts and other third parties in discussions on official matters;*

*(ii) providing persons from national, international and charitable organizations with an understanding and appreciation of the municipality or the workings of its municipal government;*

*(iii) honouring persons from the municipality in recognition of exceptional public service and staff appreciation events*

*(iv) recognition events for various agencies, boards and commissions of the municipality;*

*(v) ratepayers associations, minor league sports associations, and other community groups.”*

## **12 (d). Support for Charities**

Charity fundraisers present potential scenarios for influence misconduct and conflicts of interest. The RM of Sherwood 159. regulates fundraising behaviour (financial handling and support) to ensure that elected officials are not inappropriately benefiting from this activity.

Again, another example of appropriate regulation regarding support for charities is found in s. 10 of The RM of Sherwood No. 159, Code of Conduct for Members of Council<sup>94</sup>.

### ***“Support for charities***

*10(1) As community leaders, Members of Council may lend their support to and encourage community donations to registered charitable, not-for-profit and other community-based groups, as long as monies raised through fundraising efforts go directly to the groups or volunteers or chapters acting as local organizers of the group.*

*(2) Members of Council shall not directly or indirectly manage or control any monies received relating to community or charitable organizations fundraising.*

*(3) Members of Council shall not solicit or accept support in any form from an*

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<sup>94</sup> The RM of Sherwood No. 159. Bylaw No. 04-15. *Code of Conduct for Members of Council, Support for Charities (Part 2 – Section 10)*, page 5.

*individual, group or corporations, with any pending planning, conversion or demolition variance application or procurement proposal pending before Council.*

*(4) Nothing in this section affects the entitlement of a Member of Council to:*

- a) urge constituents, businesses or other groups to support community events put on by others in the municipality to advance the needs of a charitable organization;*
- b) play an advisory ex officio, honorary or membership role in any charitable or non-profit organization that holds community events in the municipality; or*
- c) collaborate with the municipality and its agencies, boards or commissions to hold community events.”*

## **12 (e). Expectation of Privacy**

This section<sup>95</sup> of the Code repeats the content of *Policy A02-035, Computer Acceptable Use*,<sup>96</sup> in that it states that elected officials should expect the City to have full access to data on all electronic media devices that they provide.

Other Cities do not dedicate a section of their Code to this topic – it is addressed in their *Computer Acceptable Use* equivalent policies.

As such, the SMRC does not recommend any changes or additions to the Code of Conduct regarding the acceptable use of computers, provided that the existing Policy A02-035 continues to be incorporated into any new or revised Code.

## **12 (f). Recommendations**

With respect to the use of City property or assets, and the appropriate use of gifts and other benefits, the SMRC recommends:

16. That, in its revision of the Code, to keep in line with contributions on election spending, the SMRC recommends that the City:

(a) Adjust the \$750 threshold of value considered as an exception to the reporting of a gift or benefit as presently found in section 4 (a), *Gifts and Benefits*, of the Code. The exceptions should be readjusted to \$100, which would correspond with the limit recommended by the SMRC and approved by Council, with respect to disclosure of election campaign contributions;

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<sup>95</sup> The City of Saskatoon. *Saskatoon Code of Conduct for Members of Council. Appropriate Use of City Assets and Services: Expectation of Privacy, section 3 (A).*

<sup>96</sup> The City of Saskatoon. *Policy A02-035, Computer Acceptable Use Policy.*

- (b) Review the exceptions in Gifts and Benefits for appropriateness;
- (c) Remove section 2(B), *Appropriate Use of City Assets and Services: Expectation of Privacy*, and replace it with a reference to *Policy A02-035, Computer Acceptable Use*, with attention to the sensitive nature of Councillor privilege and conduct;
- (d) Address reimbursable expenses and support for charities.

### **13. Influence**

This section of the report responds to the specific request of Council for the SMRC to review the investigation of the standard of conduct expected of members of council regarding conflict of interest and the improper use of influence.

Influence is a complex and serious issue, and often deals with business relations and the employment of individuals related to a member of Council. Complaints of influence often involve Council, administration, and staff, and an independent Integrity Commissioner or similar body may be required to address the case.

#### **13 (a). Influence**

The improper use of influence is not addressed in the Saskatoon Code, but is addressed thoroughly in the most extensive policies, and in those of the largest cities<sup>97</sup> and small towns. These policy sections always states that Councillors must not use their position outside of their official duties for private advantage; they must not use influence on independent bodies that perform functions for the City; and they must not use their position beyond their roles and obligations to influence the administration.

#### **13 (b). Conflicts of Interest**

Conflict of Interest guidelines are not generally included in a Code of Conduct, but as they are intertwined with other concerns and as there are new standards<sup>98,99</sup> the issues bears referencing. The amended Cities Act and Municipalities Act do much to address Conflict of Interest and allows Council the right to set standards also for appropriate conduct concerning property and use of influence. Council members would benefit from being trained on these changes simultaneously.

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<sup>97</sup> The City of Mississauga. Council Code of Conduct, Rule No. 7. *Improper Use of Influence*.

<sup>98</sup> Government of Saskatchewan, Ministry of Government Relations. "Information Bulletin - *New Municipal Conflict of Interest Rules - Frequently Asked Questions*". Dec. 2015.

<sup>99</sup> Government of Saskatchewan, Ministry of Government Relations. "Information Bulletin - *Amendments to the Cities Act*". Nov. 2015.

### **13 (c). Recommendations**

The SMRC recommends as follows:

17. That in its revision of the Code, the subject of improper use of influence be included and addressed in full.

18. That it be made mandatory for Members of Council to receive training on the rules concerning Conflict of Interest found in *The Cities Act* as amended.

### **14. Elections**

This section of the report responds to the specific request of Council for the SMRC to review the conduct of members campaigning for re-election.

#### **14 (a). Actions During Civic Election Periods**

Section 5 of the Code discussing *Actions During Civic Election Periods*<sup>100</sup> is well described, procedurally sound, and comparable to that of other cities. The SMRC understands that the City of Saskatoon is looking for guidance regarding specific points of election conduct, but feels that the material addressed in the Code, and in other Codes was well handled by the Elections Committee. However, the SMRC recommends the inclusion of a statement that clarifies that during election campaigns Councillors continue to be held to normal standards of conduct.

With further regard to Elections, in Table 1<sup>101</sup> of this report, the SMRC makes reference to the City of Mississauga<sup>102</sup> as an example of excellent policy.

#### **14 (b). Leaves of Absence**

An excellent example of Codes each having a unique character is Saskatoon's section on Leaves of Absence<sup>103</sup>. This section discusses rules for elected members, as they take leaves of absence specifically during their pursuit of being elected to other levels of government office. Although the SMRC found no similar rules in other municipalities, the policy was found to be consistent with the rules set out by The Cities Act<sup>104</sup> and Bill 186<sup>105</sup>.

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<sup>100</sup> The City of Saskatoon. *Saskatoon Code of Conduct for Members of Council. Actions During Civic Election Periods, section 5.*

<sup>101</sup> See page 5.

<sup>102</sup> The City of Mississauga: Council Code of Conduct

<sup>103</sup> The City of Saskatoon. *Saskatoon Code of Conduct for Members of Council. Leaves of Absence, section 6.*

<sup>104</sup> Government of Saskatchewan. *The Cities Act, Chapter C-11.1\* of the Statutes of Saskatchewan, 2002.*

<sup>105</sup> Government of Saskatchewan. *Bill 186, Municipal Conflict of Interest Amendment Act, 2015.*

## 14 (c). Recommendations

19. That to avoid any real or perceived conflict of interest, a Councillor who chooses to run for federal or provincial elected office must request a leave of absence from the time that the writ is dropped or when they file their nomination papers, whichever is earlier.

20. That to avoid any real or perceived conflict of interest, any Councillor who is elected to another level of government must immediately resign their position on Council, the day after their election is confirmed.

## PART V: CONCLUSION

### 15. Final Recommendation

The SMRC has made a number of recommendations to ensure that the *Saskatoon Code of Conduct for Members of Council*<sup>106</sup> meets the requirements of the recently amended legislation found in *The Cities Act*<sup>107,108</sup> and *The Municipalities Act*,<sup>109,110</sup> as well as the values of accountability, transparency, predictability, and fairness. These recommendations embody the values contained in the *City of Saskatoon's Strategic Plan*<sup>111</sup> as well as those that form the basis of Provincial and Federal conduct policy.

It is the opinion of the SMRC that the recommendations contained in this report be incorporated into an entirely new, rather than revised Code, with the understanding that the City will be required to enact a bylaw that gives the new Code the force of law.

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<sup>106</sup> The City of Saskatoon. *Saskatoon Code of Conduct for Members of Council*. Reproduced in the Appendix.

<sup>107</sup> Government of Saskatchewan, Ministry of Government Relations. "Information Bulletin - Amendments to the Cities Act". Nov. 2015.

<sup>108</sup> Government of Saskatchewan. *The Cities Act*.

<sup>109</sup> Government of Saskatchewan, Ministry of Government Relations. "Information Bulletin - Amendments to the Municipalities Act". Nov. 2015.

<sup>110</sup> Government of Saskatchewan. *The Municipalities Act*.

<sup>111</sup> The City of Saskatoon. *The City of Saskatoon Strategic Plan 2013-2023, Our Corporate Values, page.15*. Reproduced in the Appendix.

## **PART VI: APPENDIX**

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**16 (b). Copy of The City of Saskatoon Strategic Plan 2013-2023, Our Corporate Values, p.15**

## Our Corporate Values

It's not hard to make decisions when you know what your values are.  
– Roy Disney

Our Strategic Goals will be achieved through the talent, creativity and commitment of staff who demonstrate our five workplace values everyday.

### **Trust**

We assume responsibility for our own trustworthiness and continuously build trust with our colleagues so they know they can rely upon us. We maintain and respect the confidentiality of our citizens, partners and organizational information. We support, inspire and empower others to do their job, honour our commitments and are always responsible and dependable.

### **Integrity**

Everyday, we demonstrate accountability and our actions are always honourable and ethical. We make wise decisions that are the best for the group rather than us alone. We make time to help others and lead by example. We acknowledge and know our job responsibilities and are motivated to make

things happen within the scope of our positions. We take ownership for our work and are able to report, explain and be answerable for the results. We strive to find solutions and continuously make improvements.

### **Respect**

We respect others in the organization, regardless of their position or status, through our specific actions. We build on each other's strengths and always remain courteous to everyone even when we may not agree with the opinions of others. We respectfully acknowledge individual beliefs, diversity, aspirations, skills, and experiences even if they are different from our own. We demonstrate mutual respect and practice fair and ethical treatment.

### **Honesty**

We are known for our ability to hold frank and honest discussions that maintain the dignity and perspectives of others. We demonstrate sincerity

while being open and honest. We also listen well, ask for clarity before reacting and are always willing to admit mistakes.

### **Courage**

We have the courage to face adversity with strength, confidence and poise. We take smart risks and accept responsibility for the outcome. We are able to think through problems, lead with passion, and manage and embrace change. We are willing to challenge prevailing assumptions while suggesting new and innovative approaches. We are able to make tough decisions and question actions inconsistent with the values of our organization.

**16 (c). Copy of the Code of Conduct for Members of Council**

**CODE OF CONDUCT FOR MEMBERS OF**

**SASKATOON CITY COUNCIL**

**1. INTRODUCTION**

**Purpose**

Citizens of Saskatoon expect high standards of conduct from all government officials. The quality of the City of Saskatoon's public administration and governance, as well as its reputation and integrity, depend on the highest standards of conduct from its elected representatives.

Ethics and integrity are at the core of public confidence in government and in the political process. The purpose of this Code of Conduct is to provide standards for members of Saskatoon City Council relating to their roles and obligations, and a procedure for the investigation and enforcement of those standards.

Section 55(b)(ii) of *The Cities Act* provides that Council may establish "rules for the conduct of Councillors, of members of Council committees and of members of other bodies established by council".

**2. STATUTORY OBLIGATIONS**

**A. Statutory Offences with Penalties**

Section 120 of *The Cities Act* provides that a member of Council is disqualified from Council if the member:

- (a) when nominated, was not eligible for nomination or election as a candidate pursuant to *The Local Government Election Act*;
- (b) ceases to be eligible for nomination or election or to hold office pursuant to *The Local Government Election Act* or any other Act;
- (c) is absent from all regular Council meetings held during any period of three consecutive months, starting with the date that the first meeting is missed, unless the absence is authorized by a resolution of Council;

- (d) is convicted while in office:
  - (i) of an offence punishable by imprisonment for five years or more; or
  - (ii) of an offence pursuant to section 123, 124 or 125 of the *Criminal Code of Canada* (eg. municipal corruption);
- (e) contravenes:
  - (i) a bylaw passed pursuant to section 145.1 of *The Local Government Election Act* (eg. fails to file a statement of election contributions and expenses in accordance with the provisions of The Campaign Disclosure and Spending Limits Bylaw); or
  - (ii) section 116 or 117 of *The Cities Act* (eg. fails to file a public disclosure statement or fails to declare a pecuniary interest); or
- (f) ceases to reside in the city.

## **B. Statutory Duties of City Councillors and the Mayor**

Section 65 of *The Cities Act* specifies the following duties for all members of Council:

- (a) to represent the public and to consider the well-being and interests of the City;
- (b) to participate in developing and evaluating the policies, services and programs of the City;
- (c) to participate in Council meetings and Council Committee meetings and meetings of other bodies to which they are appointed by the Council;
- (d) to ensure that administrative practices and procedures are in place to implement the decisions of Council;
- (e) to keep in confidence matters discussed in private at a Council or Council committee meeting until discussed at a meeting held in public;
- (f) to maintain the financial integrity of the City;
- (g) to perform any other duty or function imposed on Councillors by this or any other Act or by the Council.

Section 66 of *The Cities Act* provides that the Mayor has the following additional duties:

- “(a) to preside when in attendance at a Council meeting, unless this Act or another Act or a bylaw of Council provides that another Councillor is to preside;
- (b) to perform any other duty imposed on a Mayor by this or any other Act or by bylaw or resolution.”

### **C. Confidential Information**

In addition to the statutory duties set out in section 65(e) of *The Cities Act*, Council members shall:

- refrain from disclosing or releasing by any means to any member of the public or the media, any confidential information acquired by virtue of their office in either oral or written form, except when required by law or authorized by Council to do so;
- not use confidential information (such as knowledge respecting bidding on the sale of City property or assets) for personal or private gain, or for the gain of relatives or any person or corporation; and
- refrain from accessing or attempting to gain access to confidential information in the custody of the City unless it is necessary for the performance of their duties and not prohibited by council policy.

## **3. APPROPRIATE USE OF CITY ASSETS AND SERVICES**

### **A. Expectation of Privacy**

All City Council members are notified that all computers, cell phones, blackberries and other electronic devices provided by the City are the property of the City, and shall, at all times, be treated as the City's property. Council members are hereby notified that they are to have no expectation of privacy in the use of these devices.

Council members are entitled to use these devices for personal as well as for City purposes. However, they are hereby notified that:

- (a) all emails or messages sent or received on City devices are subject to *The Local Authority Freedom of Information and Protection of Privacy Act*;

- (b) all files stored on City devices, all use of internal email and all use of the internet through the City's firewall may be inspected, traced or logged by the City;
- (c) in the event of a complaint pursuant to this Policy, Executive Committee may require that any or all of the electronic devices provided by the City to Council members may be confiscated and inspected as part of the investigation including downloading information which is considered relevant to the investigation. All email messages or internet connections may be retrieved.

## **B. Appropriate Use**

Members of City Council are entitled to various City-paid services or resources, and in using said resources they shall:

- follow the same rules and practices regarding reimbursement of travel expenses that are followed by civic staff;
- use City resources including civic staff, postage, photocopiers, phones, newsletters, stationery and any other civic property and equipment, with the exception of electronic devices, for civic business only; and
- refrain from including personal information on civic business cards or on the civic webpage.

## **4. GIFTS AND BENEFITS**

No member of Council shall accept a fee, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of office, unless permitted by the exceptions listed below. For these purposes, a fee or gift or benefit that is paid to or provided with the member's knowledge to a member's spouse, partner, child or parent that is connected directly or indirectly to the performance of the member's duties is deemed to be a gift to that member.

The following are recognized as exceptions:

- (a) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation, provided that the value of the gift or benefit does not exceed \$750.00;

- (b) a suitable memento of a function honouring the member;
- (c) food, lodging, transportation, event tickets or entertainment provided by provincial, regional and local governments or political subdivisions of them, by the Federal government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the member is either speaking or attending in an official capacity; and
- (d) food and beverages consumed at banquets, receptions, business lunches or similar events, if attendance serves a legitimate business purpose, the person extending the invitation or a representative of the organization is in attendance, and the value is reasonable and the invitations infrequent.

## **5. ACTIONS DURING CIVIC ELECTION PERIODS**

No member of Council shall use the facilities, equipment, supplies, services or other resources of the City (including Councillor newsletters, the City's website and websites linked through the City's website) for any election campaign or campaign-related activities. Any campaign-related activities that occur in City Hall or any civic facility must take place in a location that is normally available for rental to the public and which has been arranged through the normal rental process. No member shall use the services of civic staff for election-related purposes during hours in which those civic staff members receive any compensation from the City.

For greater clarity and to ensure that members of Council do not receive any undue benefit by virtue of being an incumbent, during the period between Nomination Day (i.e. the second-last Wednesday in September of an election year) and the date of the election, Council members will:

- refrain from using any City-owned resources, including but not limited to cell phones, blackberries, business cards, laptop computers, civic phone number, email address, official photograph, and City crest, for election-related purposes;
- refrain from using City postage or other resources for mass mailings of any kind, regardless of whether or not they are specifically related to the election campaign;
- refrain from wearing the Mayor's Chain of Office at any event, regardless of whether or not it is related to the election campaign;
- refrain from putting their City-issued phone number and e-mail address as their contact information on their campaign material;

- refrain from placing ward information updates in community newsletters;
- refrain from referring to themselves in campaign advertisements as “Councillor X” or “Mayor Y”;
- refrain from organizing activities such as formal openings of facilities or public spaces or similar events; and
- strictly adhere to all of the rules that govern candidates in local elections.

## **6. LEAVES OF ABSENCE**

Occasionally a member of Council will take a leave of absence in order to run for elected office of another level of government. During the period of the leave the Council member:

- will not receive any confidential agendas, communications or documents from the City;
- will receive copies of all public information;
- will not be required to return their City-issued material during the period of the unpaid leave, but will not use it for any non-civic purpose; and
- will not be reimbursed for any mileage or telephone or similar expenses.

## **7. COMPLIANCE**

All members of council shall cooperate in any investigation made pursuant to this Section.

### **A. Statutory Offences with Penalties**

A complaint under this Section of the Code must be in writing and must be made either:

- (a) by a member of Council; or
- (b) by the City Clerk except where the matter relates to section 117 (i.e. failure to declare a pecuniary interest).

The City Clerk shall forward all complaints, including the name of the complainant, to the Executive Committee (in camera), and to the member about whom the complaint is made.

Upon receipt of a complaint under this Section of the Code, the Executive Committee shall meet, in camera, excluding the member of Council concerned, and decide whether to proceed to investigate the complaint or not. The Executive Committee, in its sole discretion, may decide to take no action on the complaint. In that event, the member of Council concerned shall be notified of the Executive Committee's decision.

If the Executive Committee decides to investigate the complaint, it shall take such steps as it may consider appropriate, which may include hiring an independent investigator, seeking legal advice, etc. All proceedings of Executive Committee regarding the investigation shall be in camera.

If the Executive Committee believes that the member of Council concerned has breached section 120 of *The Cities Act*, it shall advise the member of Council of this, and give them an opportunity to make oral or written submissions to the Committee.

If the Executive Committee concludes that the member of Council concerned has breached section 120 of *The Cities Act*, it may, in its sole discretion, decide to advise the Council member concerned of its conclusion and of its intent to recommend to City Council that the appropriate proceedings be commenced pursuant to section 121 of *The Cities Act*.

Section 121 of *The Cities Act* provides that a member who is disqualified must resign immediately. If a member of Council does not resign as required, the Council or an elector may apply to a judge of the court for:

- (a) an order determining whether the person was never qualified to be or has ceased to be qualified to remain a member of Council; or
- (b) an order declaring the person to be disqualified from Council.

Should the Council member concerned not resign immediately, the Executive Committee may, in its sole discretion, recommend to City Council that the appropriate proceedings pursuant to section 121 of *The Cities Act* be commenced against the council member concerned.



**B. Breach of Confidentiality regarding subsection 65(e) of The Cities Act and/or the Confidential Information Section of this Policy**

Where a member of Council or a member of the City's Senior Administration has reason to believe that a breach of confidentiality has occurred, the facts, as they are known, shall be reported in writing to the Executive Committee (in camera). If the facts, as reported, include the names of a member or members of Council who are alleged to be responsible for the breach, the member or members of Council concerned shall receive a copy of the report to Executive Committee.

The Executive Committee shall meet, in camera, excluding the member or members of Council concerned, if known, and decide whether to proceed to investigate the potential breach or not. The Executive Committee, in its sole discretion, may decide to take no action in the matter. In that event, the member or members of Council concerned, shall be notified of the Executive Committee's decision.

If the Executive Committee decides to investigate the complaint, it shall appoint an independent investigator to conduct the investigation. All proceedings of Executive Committee regarding the investigation shall be in camera.

Upon receipt of the report of the independent investigator, the Executive Committee shall meet to consider the matter. If one or more Council members are named in the investigative report as being potentially responsible for the breach of confidentiality, that member or members shall be excluded from the meeting.

If the Executive Committee believes that the member or members of Council named are responsible for a breach of confidentiality, it shall advise the member or members of this, and give them an opportunity to make oral or written submissions to the Committee.

If the Executive Committee concludes that the member or members of Council named are responsible for a breach of confidentiality, it may, in its sole discretion, decide to recommend to City Council that sanctions be imposed. The Council member or members concerned shall be advised of the Executive Committee's conclusion and recommendations.

**C. All Other Breaches of this Policy**

A complaint under this Section must be in writing and must be made either:

- (a) by a member of Council; or
- (b) by the City Clerk.

The City Clerk shall forward all complaints to the Executive Committee (in camera) and to the member about whom the complaint is made.

Upon receipt of a complaint under this Section, the Executive Committee shall meet, in camera, excluding the member of Council concerned, and decide whether to proceed to investigate the complaint or not. The Executive Committee, in its sole discretion, may decide to take no action on the complaint. In that event, the member of Council concerned shall be notified of the Executive Committee's decision.

If the Executive Committee decides to investigate the complaint, it shall appoint an independent investigator to conduct the investigation. All proceedings of Executive Committee regarding the investigation shall be in camera.

If, after receipt of the report of the independent investigator, the Executive Committee believes that the member of Council concerned has breached a provision of this Policy, it shall advise the member of Council of this, and give them an opportunity to make oral or written submissions to the Committee.

If the Executive Committee concludes that the member of Council concerned has breached a provision of this Policy, it may, in its sole discretion, decide to recommend to City Council that sanctions be imposed. The Council member concerned shall be advised of the Executive Committee's conclusion and recommendations.

#### **D. Sanctions**

*The Cities Act* does not provide specific sanctions for Council members who breach their statutory duties pursuant to sections 65 and 66 of *The Cities Act* or the rules of conduct established by this Policy pursuant to subsection 55(b)(ii) of *The Cities Act*.

City Council does have the right to sanction Council members provided that Council members continue to have sufficient access to information and services so as to be able to carry out their duties as Council members. Sanctions may include, but are not limited to:

- (a) removal of the council member from any national or provincial organization, civic board, commission, authority or committee except for Executive Committee, Planning and Operations, Administration and Finance and Budget Committee;
- (b) restriction of access to civic services or City Hall;
- (c) restrictions on how documents are provided (eg. no electronic copies, but only watermarked paper copies);

- (d) reduction in salary and/or benefits and/or expenses.

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