

**Proposed wording for a Bylaw to establish
a Code of Conduct for Elected Officials - Annotated**

Note:

“ECP” refers to the current Ethical Conduct Policy CP2017-03

“ICCP” refers to the current Integrity Commissioner Complaints Policy CP2016-08

“NEW” indicates a new provision (not contained in the ECP or ICCP)

WHEREAS The City of Calgary Council is committed to fostering and achieving high standards of ethical conduct by Members of Council; [ECP 1.1]

AND WHEREAS The City of Calgary Council is committed to having an effective mechanism for oversight of the conduct of Members of Council; [ICCP 1.1]

AND WHEREAS section 146.1 of the *Municipal Government Act*, R.S.A. 2000, c. M-26 requires the City of Calgary Council to establish by bylaw a code of conduct governing the conduct of Members of Council; [NEW]

AND WHEREAS the Code of Conduct for Elected Officials Regulation AR 200/2017 sets out the matters that the code of conduct bylaw must address, which matters were formerly addressed in City of Calgary Council policies; [NEW]

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF CALGARY
ENACTS AS FOLLOWS:**

PART 1 - INTERPRETATION

Short Title

1. This Bylaw may be cited as the “Code of Conduct for Elected Officials Bylaw” [NEW]

Purpose

2. This Bylaw establishes rules a *Member of Council* must follow in the discharge of their office, and the powers and procedure of the *Integrity*

Commissioner in exercising oversight over *Members of Council*.
[Combines ECP 2.1 and ICCP 1.1 revised stylistically]

Definitions

3. In this Bylaw:

- (a) “*Campaign Period*” means the period commencing the first of June immediately preceding a general election and ending on the day of the general election; [ECP 4.6.1(b); revised for clarity]
- (b) “*City*” means The *City* of Calgary, a municipal corporation in the province of Alberta; [NEW]
- (c) “*Confidential Information*” means:
 - (i) information that a *Member of Council* has a legal duty not to disclose;
 - (ii) information that is not publicly available; and
 - (iii) information the disclosure of which could reasonably be expected to harm the interests of individuals or organizations, including the City;

For additional clarity, *Confidential Information* does not include information that has been made publicly available;
[ECP 4.2.1; stylistic revisions]

- (d) “*Council*” means the council of the *City* of Calgary; [NEW]
- (e) “*Deputy Mayor*” means the *Member of Council* appointed as deputy chief elected official pursuant to section 152 of the *Municipal Government Act*, R.S.A. 2000, c. M-26; [NEW]
- (f) “*Election Campaign*” means activities related to the re-election of a *Member of Council* and not to their duties under the *Municipal Government Act*, R.S.A. 2000, c. M-26; [ECP 4.6.1(b)]
- (g) “*Fund Raising Activity*” means any and all activities undertaken by or on behalf of a *Member of Council* to raise funds for the purpose of an *Election Campaign*, taking place at any point during a *Member of Council*’s term of office; [ECP 4.6.1(c)]
- (h) “*Gift or Personal Benefit*” is an item or service of value that is received by a *Member of Council* for their personal use. It includes

but is not limited to money, gift cards, tickets to events, clothing, jewelry, pens, food or beverages, discounts/rebates on personal purchases, free or subsidized drinks or meals, entertainment, participation in sport and recreation activities, and invitations to social functions. *Gift or Personal Benefit* does not include campaign contributions received by a *Member of Council* in compliance with the *Local Authorities Election Act*, R.S.A. 2000, c. L-21 or funds received in accordance with the *Indemnification of Members of Council Policy* (CC010, 1977 August 22); [ECP 4.4.1]

- (i) “*Ethics Advisor*” means the person appointed by *Council* to fulfill the obligations approved by *Council* in the “Terms of Reference for the *Ethics Advisor*”; [NEW]
- (j) “*Integrity Commissioner*” means the person appointed by *Council* to fulfill the obligations approved by *Council* in the “Terms of Reference for the Integrity Commissioner”; [NEW]
- (k) “*Immediate Family*” means “councillor’s family” as defined in section 169(b) of the *Municipal Government Act*, R.S.A. 2000, c. M-26: a *Member of Council*’s spouse or adult interdependent partner, children, parents and the parents of the *Member of Council*’s spouse or adult interdependent partner; [ECP 4.4.2; revised for precision]
- (l) “*Mayor*” means the chief elected official of the *City* elected by a vote of the electors of the municipality under section 150 of the *Municipal Government Act*, R.S.A. 2000, c. M-26; [NEW]
- (m) “*Member of Council*” or “*Member*” means all elected officials on council, including the *Mayor*; [ECP 3.2]
- (n) “*Orientation Training*” means training offered by the *City* in accordance with section 201.1 of the *Municipal Government Act*, R.S.A. 2000, c. M-26; [NEW]
- (o) “*Personal Information*” means recorded information about an identifiable individual as further specified in the *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25. [ECP 4.2.6]

Application

- 4. This Bylaw applies to *Members of Council*. [ECP 3.1]
- 5. This Bylaw applies to conduct undertaken on a *Member*’s behalf by *Member* staff or a *City* employee.

[NEW, although ICCP 3.1 said that the policy applied to a *Member's* staff. The revision is because a number of restrictions on *Member* conduct (e.g., re organizing an open house during an election campaign) are things that a *Member's* staff (or, in the case of the Mayor, a *City* employee) would do for the *Member*, not the *Member* themselves, but that shouldn't make any difference for the *Member's* accountability]

6. Part 3 of this Bylaw also applies to any person who has witnessed conduct by a *Member* or a *Member's* staff that they believe contravenes this Bylaw or any *City* policy governing *Member* conduct. [ICCP 3.1]
7. If any provision of this Bylaw conflicts with any provision in any other Bylaw or *City* policy, the provision of this Bylaw prevails. [ECP 3.3]
8. The Integrity and Ethics Office will review this Policy on an annual basis to ensure it reflects governing legislation as well as other legal enactments and relevant case law. [ECP 5.1.4]

PART 2 – RULES GOVERNING MEMBER CONDUCT

A – Representing the *City*

9. A *Member* must approach their obligations under this Bylaw in good faith, taking into account the Context and Commentary to this Bylaw published by the Integrity and Ethics Office, as well as any decisions, opinions or interpretive guidelines issued by that Office. [ECP 4.1.1, minor stylistic revision]
10. A *Member* must in the discharge of their office:
 - (a) act in the best interests of the *City* taking into account the interests of the *City* as a whole, and without regard to the *Member's* personal interests;
 - (b) consider all issues consistently and fairly, and in light of all relevant facts, opinions and analyses of which the *Member* should be reasonably aware;
 - (c) bring to the attention of *Council* any matter that would promote the welfare or interests of the *City*;
 - (d) act competently and diligently; and
 - (e) vote on any matter brought to a *Council* meeting attended by the *Member* unless the *Member* must abstain under the *Municipal*

Government Act, R.S.A. 2000, c. M-26, another enactment or at law.

[ECP 4.1.3]

11. A *Member* must respect and comply with the law and avoid conduct that, in the eyes of a reasonable Calgarian, undermines, or has the potential to undermine, public confidence in *City* governance. [ECP 4.1.4]

B – Communicating on Behalf of the City

12. A *Member* must not communicate on behalf of the *City* unless authorized to do so by *Council* resolution or by virtue of a position or role the *Member* has been authorized to undertake by *Council*. [NEW]
13. A statement or communication made by a *Member* is presumed to be made on the *Member's* own behalf, not the *City's* behalf. [NEW]
14. Where a *Member* communicates on behalf of the *City* the *Member* must make reasonable efforts to ensure the communication is fair and accurate. [NEW]

C – Respecting the Decision-Making Process

15. A *Member* must respect the decision-making process of *Council* and all of its boards, commissions and committees. [NEW]
16. A *Member* must respect and comply with *Procedure Bylaw* 35M2017. [NEW; note that this effectively duplicates Section 19(d) below, but is included twice for clarity]
17. A *Member* must not act as an agent of a third-party before *Council* or any of its boards, commissions and committees. [ECP 4.1.9]

D – Adherence to Policies, Procedures and Bylaws

18. A *Member* must respect and comply with all obligations imposed on the *Member* by statute or other legal enactment, and by the *City's* policies and procedures, including but not limited to the:
 - (a) *Municipal Government Act*, R.S.A. 2000, c. M-26;
 - (b) *Local Authorities Election Act*, R.S.A. 2000, c. L-21;
 - (c) *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25;

- (d) *Procedure Bylaw* 35M2017; [NEW]
- (e) *Respectful Workplace Policy* (HR-LR-001);
- (f) *Workplace Violence Policy* (GN-040);
- (g) *Acceptable Use of City Technology Resources – Members of Council* (PAC009, 2003 June 23);
- (h) *Disclosure Policy for Members of Council* (CC044, 2014 November 04);
- (i) *Councillors' Expenses/Allowance Policy* (PAC006, 2003 October 28);
- (j) *Office of the Councillors Expenditure Authorization Policy* (PA008, 2003 October 29);

[ECP 4.1.2, with addition of reference to Procedure Bylaw]

E – Respectful Interactions with Members, Staff, the Public and Others

- 19. A *Member* must communicate with *Members* of the public, one another, and with *City* employees and *Members'* staff respectfully, without abuse, bullying or intimidation. [ECP 4.1.5]
- 20. A *Member* must comply with the *Respectful Workplace Policy* (HR-LR-001). [ECP 4.1.2, duplicating 19(e) above, included again for clarity]

F – Confidential Information

- 21. A *Member* must protect *Confidential Information*. This includes the following duties:
 - (a) A *Member* must not disclose *Confidential Information*, including to *City* or *Council* employees, or to persons outside the *City*, except as authorized by *Council* or by *City* employees empowered to authorize such disclosure;
 - (b) A *Member* must not use *Confidential Information* with the intention to cause harm or detriment to *Council*, the *City* or any other person or body;
 - (c) A *Member* must protect *Confidential Information* from inadvertent disclosure, including through compliance with the *Acceptable Use of City Technology Resources – Members of Council Policy* (PAC009, 2003 June 23);

- (d) *A Member must use Confidential Information only for the purpose for which it is intended to be used;*
- (e) *A Member must take reasonable care to prevent the examination of Confidential Information by unauthorized individuals; and*
- (f) *A Member must not take personal advantage of, or use for their own benefit, corporate or financial opportunities learned about through Confidential Information.*

[ECP 4.2.2]

- 22. *A Member must access and use information at the City only in the normal course of their duties.* [ECP 4.2.3]
- 23. *A Member must not change or alter City records or documents other than in the normal course of their duties.* [ECP 4.2.4]
- 24. *A Member must retain records and other information in accordance with best practices, and must respond in good faith to all requests for information made pursuant to the Freedom of Information and Protection of Privacy Act, R.S.A. 2000, c. F-25.* [ECP 4.2.5]
- 25. *When dealing with Personal Information, a Member must comply with the provisions of the Freedom of Information and Protection of Privacy Act, R.S.A. 2000, c. F-25. All reasonable and necessary measures must be taken to ensure that the Personal Information of individuals is protected.* [ECP 4.2.6; revised to reflect fact that definition of Personal Information moved to definitions section. Also now just says “Personal Information ...is protected”, not “personal or private information...is protected” since it’s not clear what private information meant, and the legal duties of a Member are those set out in FOIP which uses the defined term Personal Information]

G – Conflicts of Interest

Disclosure

- 26. *A Member must disclose their real estate and financial holdings in accordance with the Disclosure Policy for Members of Council (CC044, 2014 November 04).* [ECP 4.3.1]
- 27. *A Member must disclose Gifts and Personal Benefits as required by section 35 of this Bylaw on a quarterly basis.* [ECP 4.3.1; Revised to impose quarterly reporting obligation; timing determined after consultation with Manager of Office of the Councillors]

28. A *Member*, excluding the *Mayor*, must provide information on budgets and expenses to the Office of the Councillors to permit that Office to disclose those budgets and expenses as required by the *Budget and Accounting Office of the Councillors Policy* (PAC014, 2003 October 28) and the *Posting Councillor Ward Budgets and Expenses Policy* (CC027, 2006 January). [ECP 4.3.3; Minor stylistic revisions; also revised to reflect that Mayor not subject to either of these Policies; Mayor's obligations dealt with in subsequent section]
29. The *Mayor* must provide information on budgets and expenses to the *Mayor's* Chief of Staff in order to permit the Office of the Mayor to make this information publicly available in accordance with the policies and procedures governing that Office. [NEW]
30. Subject to a visitor's consent, which the visitor must be encouraged to provide, a *Member* must disclose quarterly a list of persons with whom they or their staff have met in their offices, excluding media and *City* employees. [ECP 4.3.4]

Gifts and Personal Benefits

31. A *Gift or Personal Benefit* provided to a *Member's Immediate Family* or the *Member's* staff that, to the *Member's* knowledge, is connected directly or indirectly to the performance of the *Member's* duties is deemed to be a *Gift or Personal Benefit* to that *Member*. [ECP 4.4.3]
32. A *Member* must not accept a *Gift or Personal Benefit* that is connected directly or indirectly with the performance of their duties unless permitted by the exceptions listed in section 34 of this Bylaw. [ECP 4.4.4]
33. A *Member* must not solicit a *Gift or Personal Benefit* that is connected directly or indirectly with the performance of their duties except in conjunction with fundraising activities for a community, charitable or non-profit organization undertaken after full disclosure to and in compliance with a written opinion from the *Ethics Advisor*. [ECP 4.4.5]
34. A *Member* may receive a *Gift or Personal Benefit* if it is:
 - (a) compensation authorized by law or *Council* resolution, including compensation for serving on external bodies such as the Alberta Urban Municipalities Association (AUMA) or the Federation of Canadian Municipalities (FCM); [revised to allow a *Member* to receive a gift or personal benefit if it is authorized by Council resolution]

- (b) received as part of fundraising activities for a community, charitable or non-profit organization, undertaken after full disclosure to and in compliance with a written opinion from the *Ethics Advisor*;
- (c) received as a normal or necessary incident to fulfilling the *Member's* duties;
- (d) received as an incident of protocol or social obligation;
- (e) a person's volunteer time or activities provided to further the interests of the *City* or the *Member's Ward*;
- (f) a suitable memento of a function attended by the *Member* as part of their duties;
- (g) food, lodging, 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;
[revised for clarity ("or" entertainment rather than "and" entertainment)]
- (h) reimbursement of expenses associated with travel to and attendance at a conference or other event at which the *Member* is invited to speak; or
- (i) food and beverages consumed at, and tickets to, meals, banquets, receptions, sporting events, or similar activities if:
 - (i) attendance serves a legitimate purpose associated with the *Member's* duties;
 - (ii) the person extending the invitation or a representative of the inviting organization is in attendance; and
 - (iii) The value is reasonable and the invitations infrequent.

[ECP 4.4.6]

35. A *Member* must disclose all *Gifts and Personal Benefits* received. The disclosure must:

- (a) describe and/or include a photograph of the *Gift or Personal Benefit*, including its value if known; and
- (b) indicate the source of the *Gift or Personal Benefit*, and the circumstances under which it was given or received.

[ECP 4.4.7]

Conflicts of Interest

36. A *Member* must comply with the requirements of the *Municipal Government Act*, R.S.A. 2000, c. M-26 with respect to pecuniary interests. [ECP 4.5.1]
37. A *Member* who suspects that they have a pecuniary interest must seek advice from the *Ethics Advisor* with respect to their obligations in relation to that interest, unless doing so is not practically possible. [ECP 4.5.2]
38. A *Member* who has a personal interest in a matter before *Council* or a *Council* committee other than a pecuniary interest must disclose that interest to the *Ethics Advisor* unless doing so is not practically possible, and should be guided by the advice of the *Ethics Advisor*. [ECP 4.5.3]
39. A *Member* must not use the prospect of future employment by a person or entity, or other future economic opportunities, to detrimentally affect the performance of their duties to the *City*. [ECP 4.1.8]

H – Improper Use of Influence

40. A *Member* must only use the influence of their office for the exercise of their official duties. [ECP 4.1.6]
41. A *Member* must be independent and impartial, and must not provide preferential treatment to any person or organization except as warranted by the ordinary and lawful discharge of the *Member's* duties. [ECP 4.1.7]
42. A *Member* must not participate in any civic events requiring them to perform official ceremonial duties between Nomination Day and Election Day, as defined by the *Local Authorities Election Act*, R.S.A. 2000, c. L-21, except as authorized by the *Ethics Advisor* after full disclosure. [ECP 4.6.15; stylistic revisions; Revised to create exception where the *Ethics Advisor* authorizes participation; revision addresses over breadth of blanket prohibition.]
43. A *Member* must comply with the *Local Authorities Election Act*, R.S.A. 2000, c. L-21 in undertaking election campaign activities and fundraising. [ECP 4.6.3]

I – Use of Municipal Assets and Services

General

44. *A Member* may not direct the work of *City* employees, and should follow established channels of communication and authority when working with *City* employees. [ECP 4.1.10]
45. *A Member* must not request *City* employees to undertake personal or private work on behalf of the *Member*, or accept such work from a *City* employee. [ECP 4.1.11]
46. *A Member* must not use, or permit the use of, *City* land, facilities, equipment, supplies, services, employees or other resources for activities other than the business of the *City*. [ECP 4.1.12]
47. *A Member* must not use funds from *City* accounts as contributions to municipal, provincial or federal election campaigns. [ECP 4.6.16; stylistic revisions]

Election Activities

48. *A Member* must not use *City* resources for *Election Campaigns* or for a *Fund Raising Activity* at any point during a term of office. [ECP 4.6.12; stylistic revisions]
49. *A Member* must not use *City* data for *Election Campaigns* or *Fund Raising Activities* unless those data sources are publicly available and all fees associated with the use of the data have been paid for with election campaign funds. [ECP 4.6.13; stylistic revisions]
50. *A Member* must only use *City* property for *Election Campaigns* in accordance with *City* policies and bylaws and where such property is similarly available to all candidates. [ECP 4.6.14; stylistic revisions]
51. *A Member* must not use their office to engage in *Election Campaign* related activities. [ECP 4.6.11; stylistic revisions]
52. During the *Campaign Period* *Members* must not deliver *City*-funded newsletters or conduct open houses organized by them. [ECP 4.6.4; stylistic revisions]
53. During the *Campaign Period* *Members* must not use *City* resources to distribute mass e-mails except in cases of emergency as authorized by the *City Manager*. [ECP 4.6.4; stylistic revisions]

54. A *Member* must not update websites that are either *City* hosted or external websites paid for by the *City* between Nomination Day and Election Day, as defined by the *Local Authorities Election Act*, R.S.A. 2000, c. L-21, in a general election year. The website may state that the lack of updates is due to the *City's* election campaign rules. [ECP 4.6.5; stylistic revisions]
55. A *Member* must not at any time place links to a *Member's* campaign website on either *City* websites or external websites paid for by the *City*. A *Member's* campaign website may link to a *City* website or an external website paid for by the *City*. [ECP 4.6.6; revised to clarify that the campaign website may link to the *City* websites; stylistic revisions]
56. A *Member* may use non-*City* funded social media and Internet resources (e.g. Twitter accounts, Facebook sites) in their personal names during a *Campaign Period*, even when they have been using those resources prior to the *Campaign Period*. During the *Campaign Period* these accounts must include, where possible, a disclaimer that they are not *City*-funded and do not reflect *City* policy. [ECP 4.6.7; revised to remove statement that accounts "should not" include the *Member's* current position title since a) it was not mandatory; b) it was artificial and not practical since people know the job the *Member* has; stylistic revisions]
57. *City* employees and *Member* staff must not be engaged or requested by a *Member* to work on an *Election Campaign* during hours in which they receive compensation from the *City*, unless the work both unavoidably overlaps with the regular duties of the employee or *Member* staff and is minor and infrequent. Examples of such activities might include coordinating campaign schedules within the *Member's* calendar or redirecting citizens with campaign questions to the campaign. [ECP 4.6.8 and 4.6.9; stylistic revisions]
58. *City* employees and *Member* staff may work on a volunteer or paid capacity for an *Election Campaign* during non-work or vacation hours, but must not identify themselves as *City* or Council employees. [ECP 4.6.8 and 4.6.9; stylistic revisions]
59. *Member* staff may take unpaid leave from the *Member's* office to work on an *Election Campaign*. [ECP 4.6.9; stylistic revisions]
60. Any wages paid to *City* employees and *Member* staff working on an *Election Campaign* in accordance with sections 58 and 59 of this bylaw must be paid from sources other than the *City*. [NEW; for clarification]

J – Orientation and Training Attendance

61. After first being elected, a *Member* must attend all sessions of *Orientation Training* unless doing so is not practically possible. [NEW]
62. All *Members* must attend those sessions of *Orientation Training* identified as mandatory by the City Solicitor, City Clerk and *Ethics Advisor* unless doing so is not practically possible. [NEW]

PART 3 – PROCEDURE FOR INVESTIGATING AND ADJUDICATING COMPLAINTS

A- Jurisdiction

63. The *Integrity Commissioner* has authority to investigate and adjudicate any allegation that a *Member* has violated this Bylaw or *City* policy governing *Member* conduct. [NEW; this addresses an oversight. The ICCP was originally part of the Integrity Commissioner's Terms of Reference. The Terms of Reference say that the *Integrity Commissioner* can decide whether "the Member was in violation of any ethical duty the Member owed to Council, the City, the public or any individual." When the ICCP was created that jurisdictional point was not incorporated in the policy. This new provision corrects that omission and further specifies the Commissioner's jurisdiction in light of the fact that we now have rules governing Member's duties which was not the case when the Terms of Reference were written]

B - Reporting

64. Any person ("the reporter") who has witnessed conduct by a *Member* or a *Member's* staff which they believe to be in contravention of this Bylaw or a *City* policy governing *Member* conduct may make a report in writing setting out all pertinent information in the reporter's knowledge and request that the *Integrity Commissioner* investigate the conduct. [ICCP 4.1.1; stylistic revisions]
65. Reports to the *Integrity Commissioner* must be made to the *Integrity Commissioner* via the *City of Calgary* Whistle Blower Program website reporting option or be delivered by a postal, courier service or e-mail to:

integrity.commissioner@calgary.ca

- or -

Integrity Commissioner
Integrity and Ethics Office
P.O. Box 2100, Station M, #8001A

Calgary, AB T2P 2M5.

[ICCP 4.1.2; stylistic revisions and to incorporate point that we now receive complaints by e-mail]

66. A reporter who does not provide the *Integrity Commissioner* with their name, current address and phone number will not receive any notice or other communication from the *Integrity Commissioner* notwithstanding any contrary requirement in this Bylaw. [ICCP 4.8.4; stylistic revisions]

C – Reporter Protection

67. Reporter protection is extended to any *City* employee who has knowledge of a potential violation of this Bylaw or a *City* policy governing *Member* conduct and reports the activity in good faith. Reporter protection is provided in two areas: confidentiality and retaliation. [ICCP 4.2.1; stylistic revisions and to remove reference to waste and wrongdoing which is not applicable here]
68. Every reasonable effort will be made to maintain the confidentiality of the reporter. However, the reporter's identity may be disclosed to ensure that a thorough investigation is conducted. The identity may be disclosed to parties on a need-to-know basis, including as required by law. [ICCP 4.2.2]
69. No *City* employee or person acting on behalf of the *City* shall take any action in reprisal, oral or written, against a reporter submitting a report in good faith. Where management is informed or becomes aware of possible reprisals against an individual as a result of a report under this policy, management must inform the City Auditor. A reporter who believes they are being retaliated against should contact the City Auditor's Office. The allegations of reprisals will be the subject of immediate investigation. Where the investigation substantiates the allegations of reprisals, the City Manager will be informed and the employee(s) deemed to have violated this Bylaw will be subject to disciplinary action. [ICCP 4.2.3; stylistic revisions; minor revision to change "the manager" to "management" since management includes more categories than managers]
70. Protection against reprisal cannot be effectively provided to non-employees or to those who choose to keep their identity anonymous to the *Integrity Commissioner*. [ICCP 4.2.4]
71. Any reporter raising a concern should do so in good faith. Where the *Integrity Commissioner* has reasonable grounds to suspect that a reporter did not act in good faith they may take steps to address that suspicion, including commencing an investigation or referring the matter to an appropriate person, such as the City Manager. Reporting in bad faith

could result in adverse legal consequences, such as disciplinary action by the *City* or an investigation by the *Integrity Commissioner*. [ICCP 4.2.5; Revised to address issue that prior version did not say who would determine whether an allegation was not made in good faith]

D – Initial assessment

72. The *Integrity Commissioner* must determine whether the conduct described in the report is within the *Integrity Commissioner's* authority to investigate and whether the information given in the report provides reasonable grounds for believing that a violation of this Bylaw or *City* policy governing *Member* conduct. [ICCP 4.3.1; stylistic revisions]
73. The *Integrity Commissioner* may reject any report received (a) more than 180 days after the date of the reported incident, or (b) more than 180 days after the reporter became aware of the incident, or (c) after the date of a municipal election which intervenes between the reported event and the date the report is received by the Commissioner. [ICCP 4.8.2; stylistic revisions]
74. If the *Integrity Commissioner*, on receipt of the report, or at any time thereafter, is of the opinion that
- (a) the conduct is not within the *Integrity Commissioner's* authority to investigate;
 - (b) the referral of the matter to the *Integrity Commissioner* is frivolous, vexatious or not made in good faith;
 - (c) the investigation is, or might be, hampered or the *Member* might be prejudiced by insufficiency of information identifying the reporter; or
 - (d) the conduct occurred during the period of a municipal election and is election conduct and not related to the legislated duties of a *Member*;
- the *Integrity Commissioner* will advise the reporter in writing, setting out reasons for the decision, and close the file.
- [ICCP 4.3.2 and 4.8.3; stylistic revisions]
75. The *Integrity Commissioner* may request further information from the reporter before determining whether or not there are reasonable grounds for believing that a violation of this Bylaw or a *City* policy governing *Member* conduct may have occurred. [ICCP 4.3.3; stylistic revisions]

76. If the *Integrity Commissioner* is of the opinion that there are no reasonable grounds for believing that a violation of this Bylaw or a *City* policy governing *Member* conduct has occurred the *Integrity Commissioner* will advise the reporter in writing, setting out reasons for the decision, and close the file. [ICCP 4.3.4; stylistic revisions]

E – Complaints about *Members'* staff

77. When the report concerns the conduct of a *Member's* staff and
- (a) the conduct was not undertaken on the *Member's* behalf;
 - (b) the staff is not employed by the *City* in the Office of the Mayor; and
 - (c) the file is not closed pursuant to section 76;

then the *Integrity Commissioner* will advise the reporter that the report is being referred to the *Member* concerned. The *Integrity Commissioner* must refer the report to the *Member* concerned and will take no further action except as directed by the *Member*.

[ICCP 4.3.1; stylistic revisions; also revised to reflect general point that a *Member* is accountable for misconduct by a staff *Member* acting on the *Member's* behalf]

78. When the report concerns the conduct of staff in the Office of the Mayor, the conduct was not undertaken on the Mayor's behalf and the file is not closed pursuant to section 76, the *Integrity Commissioner* will advise the reporter that the report is being referred to the City Auditor. [ICCP 4.4.2; stylistic revisions; also revised to reflect general point that a *Member* is accountable for misconduct by an employee acting on the *Member's* behalf (which in the Mayor's case would be a *City* employee)]

F – Referral to the *Ethics Advisor*

79. When the *Integrity Commissioner* is of the opinion that there are reasonable grounds for believing that a violation of this Bylaw or a *City* Policy governing *Member* conduct may have occurred the *Integrity Commissioner* must determine whether the circumstances of the report require a formal investigation or whether the issues involved can be more promptly and efficiently resolved informally by the *Ethics Advisor*. In the latter case the *Integrity Commissioner* will refer the report to the *Ethics Advisor*, who will take steps, in consultation with the reporter and the *Member*, to resolve the issue informally. [ICCP 4.5.1; stylistic revisions]

80. If any concerned party is unwilling to participate in an informal process to resolve the complaint, or if the *Ethics Advisor* at any time concludes that an informal resolution is not possible, the *Ethics Advisor* must return the file to the *Integrity Commissioner* to commence a formal investigation. The *Ethics Advisor* will indicate to the *Integrity Commissioner* only that the matter could not be resolved by the *Ethics Advisor*, and will not provide the *Integrity Commissioner* with any report or assessment on the issue. [ICCP 4.5.2; stylistic revisions]

F – Investigation

81. A formal investigation will be commenced by the *Integrity Commissioner* serving personally or by e-mail the *Member* whose conduct is at issue with the report and any supporting material together with notice of intention to conduct an investigation. [ICCP 4.6.1; stylistic revisions]
82. The *Member* will have 10 days, subject to the *Integrity Commissioner's* discretion to extend the timeline, from the date of service of notice of intention to conduct an investigation to deliver to the *Integrity Commissioner* a written response to the report together with any submissions that the *Member* chooses to make. [ICCP 4.6.2; stylistic revisions]
83. The *Integrity Commissioner* will provide the reporter with a copy of the response and submissions received from the *Member* on a strictly confidential basis, and request a reply in writing within 10 days, subject to the *Integrity Commissioner's* discretion to extend the timeline. [ICCP 4.6.3; stylistic revisions]
84. The *Integrity Commissioner* may request any person whose evidence is necessary to the investigation to provide it in an affidavit. [ICCP 4.6.4; stylistic revisions]
85. The *Integrity Commissioner* may review all books, financial records, electronic data, processing records, reports, files and any other papers, things or property belonging to or used by the *City* and enter any relevant *City* work location which the Commissioner deems necessary for the purpose of the investigation. [ICCP 4.6.5; stylistic revisions]
86. The *Integrity Commissioner* will engage a third-party for the purpose of investigating any specific aspects of the allegation against a *Member* where the *Integrity Commissioner* considers doing so necessary to ensure a proper assessment of the facts at issue. [NEW; added based on experience since the ICCP was created]

87. In the period 90 days prior to the date of a Municipal election, the *Integrity Commissioner* may suspend any investigation underway or decline to commence an investigation. [ICCP 4.8.1; stylistic revisions]

G – Adjudication and reporting

88. The *Integrity Commissioner* will make a decision within 90 days of receiving a report requesting that the *Integrity Commissioner* investigate conduct by a *Member* of Council, unless section 87 applies or the *Integrity Commissioner* determines that doing so is not practically possible. [ICCP 4.7.1; stylistic revisions; also revised to reflect power to suspend an investigation and that in some circumstances the 90 day limit may not be practicable]
89. If after reviewing all pertinent information the *Integrity Commissioner* determines that a *Member* did not violate this Bylaw or a *City* policy governing *Member* conduct, the *Integrity Commissioner* will advise the reporter and the *Member* of the decision and will not disclose the fact of the investigation in an annual report or otherwise, except in the form and context of statistics. [ICCP 4.7.2; stylistic revisions]
90. If after reviewing all pertinent information the *Integrity Commissioner* determines that a *Member* did violate this Bylaw or a *City* policy governing *Member* conduct then:
- (a) the *Integrity Commissioner* will write a decision explaining their decision that the *Member* violated this Bylaw or a *City* policy governing *Member* conduct;
 - (b) the *Integrity Commissioner's* decision will make a recommendation as to the appropriate sanction for the violation;
 - (c) if the *Integrity Commissioner* determines that a contravention of this Bylaw or a *City* policy governing *Member* conduct occurred, but that the *Member* took all reasonable steps to prevent it, or that it was trivial or committed through inadvertence or a genuine error of judgment, the *Integrity Commissioner* will so state in their decision and recommend that no sanction be imposed;
 - (d) the *Integrity Commissioner* will advise the *City* Clerk that the *Integrity Commissioner* has a decision to be provided in a verbal report to *Council* in the closed meeting portion of a *Council* meeting;
 - (e) the *City* Clerk will ask the *Mayor* to include an verbal report from the *Integrity and Ethics Office* in the closed meeting portion of the agenda for the next regular or combined *Council* meeting at which consideration of the verbal report can be accommodated;

- (f) not less than 24 hours nor more than 48 hours prior to the start of the *Council* meeting at which the verbal report is to be considered, the *Integrity Commissioner* will provide a copy of the decision, on a strictly confidential basis, to the *Member* or *Members* about whom the report was received;
- (g) all other *Members* of Council will receive the decision on a strictly confidential basis at the time the *Integrity Commissioner* provides their verbal report to *Council* at the closed meeting; and
- (h) following the closed meeting the *Integrity Commissioner's* decision will be made publicly available.

[ICCP 4.7.1 and 4.7.3; consolidated; stylistic revisions; and revised to a) create obligation on IC to write a decision; b) to distinguish between a decision and a verbal report to Council which will also be provided; c) to make the publication of the decision mandatory]

- 91. The *Integrity Commissioner's* decision that a *Member* violated this Bylaw or a *City* policy governing *Member* conduct is final and may not be reviewed or reconsidered by *Council*. *Council* must, however, decide whether to adopt the *Integrity Commissioner's* recommendation as to sanction or whether to substitute a different lesser or greater sanction. [NEW]
- 92. Sanctions that may be imposed for violating this Bylaw or a *City* policy governing *Member* conduct include any of the following:
 - (a) a letter of reprimand addressed to the *Member*;
 - (b) a request that the *Member* issue a letter of apology;
 - (c) the publication of a letter of reprimand or request for apology by the *Integrity Commissioner*, and the *Member's* response;
 - (d) a requirement that the *Member* attend training;
 - (e) suspension or removal of the appointment of a *Member* as the *Deputy Mayor*;
 - (f) suspension or removal of the Mayor's presiding duties under section 154 of the *Municipal Government Act*, R.S.A. 2000, c. M-26;
 - (g) suspension or removal of the *Member* from some or all *Council* committees and bodies to which the *Member* was appointed by *Council*; or

- (h) reduction or suspension of the *Member's* remuneration as defined in section 275.1 of the *Municipal Government Act*, R.S.A. 2000, c. M-26, corresponding to a reduction in duties, excluding allowances for attendance at council meetings.

[NEW]

Coming into force

- 93. This Bylaw comes into force on the day it is passed.

Text For Discussion

Clauses not incorporated in the bylaw:

Ethical Conduct Policy:

4.6.2 In accordance with section 9 of the *Local Authorities Election Act*, a Member's term of office expires with the beginning of the Organizational Meeting (the swearing-in of the new Council) immediately following a general election. *[Not included because seems unnecessary. The legislation imposes this rule and it is not necessary for the interpretation of any of the other rules governing Members]*

5.1.1 A Member or any individual who believes a Member is in violation of this Policy may report their concerns in accordance with the Integrity Commissioner Complaints Policy (CP2016-08, 2016 December 19).

5.1.2 The Integrity Commissioner will receive, investigate and respond to reports received in accordance with the Integrity Commissioner Complaints Policy (CP2016-08, 2016 December 19).

5.1.3 All substantiated violations and reports shall be addressed by the Integrity Commissioner in accordance with the Integrity Commissioner Complaints Policy (CP2016-08, 2016 December 19).

[Not included because not necessary with consolidation of ECP and ICCP]

Integrity Commissioner Complaints Policy

2.1. In 2016, Council appointed an Integrity Commissioner with a mandate of receiving, investigating, adjudicating and reporting on allegations of misconduct by Members of Council. On 2016 July 4 Council approved Terms of Reference for the Integrity Commissioner, which included a Procedure Protocol for the Integrity Commissioner to receive complaints, to investigate and adjudicate complaints, and to report his findings to Council.

2.2. This Council policy prescribes:

- a. how an individual who has witnessed conduct by a Member of the City Council ("Member"), or by such Member's staff, which is believed to be in contravention of the Ethical Conduct Policy for Members of Council ("Code of Conduct") or any other policy governing conduct of Members of Council, may report such conduct to the Integrity Commissioner for the City of Calgary ("the Commissioner");

- b. protections available to that individual where he or she is an employee of the City of Calgary
- c. how the Commissioner shall respond to such reports;
- d. how the Commissioner shall investigate allegations made in such reports, and
- e. how the Commissioner shall report the results of the investigation to City Council.

[Not included because not appropriate for a bylaw]

Text For Discussion