

## **DISCUSSION DOCUMENT**

**December 7/2022**

Showing proposed changes to the Code of Conduct for Elected Officials Bylaw.

Additions in **red underlined** text.

Deletions in **red strikethrough** text.

### **OFFICE CONSOLIDATION**

#### **BYLAW NUMBER 26M2018**

#### **BEING A BYLAW OF THE CITY OF CALGARY TO ESTABLISH A CODE OF CONDUCT FOR ELECTED OFFICIALS**

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(Amended by 27M2020, 36M2021, 45M2021, 72M2021)

**WHEREAS** The City of Calgary Council is committed to fostering and achieving high standards of ethical conduct by members of Council;

**AND WHEREAS** The City of Calgary Council is committed to having an effective mechanism for oversight of the conduct of members of Council;

**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;

**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;

**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".

##### **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*.

**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;

(b) “*City*” means The *City* of Calgary, a municipal corporation in the province of Alberta;

(b.1) “*City Manager*” means the Chief Administrative Officer of The City of Calgary or the employee of The City of Calgary who has been delegated the authority to exercise the powers, duties, and functions of the Chief Administrative Officer under this Bylaw;

(72M2021, 2022 January 01)

(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;

(d) “*Council*” means the council of the *City* of Calgary;

(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;

(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;

(g) “*Ethics Advisor*” means the person appointed by *Council* to fulfill the obligations approved by *Council* in the “Terms of Reference for the *Ethics Advisor*”;

(h) “*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;

~~(i) “*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);~~

~~(i) "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:~~

~~(i) campaign contributions received by a *Member* in compliance with the *Local Authorities Election Act*, R.S.A. 2000, c. L-21; or~~

~~(ii) in the event that the *City* becomes responsible for the payment of external legal fees and disbursements for a *Member*, any donations the *Member* may solicit to the *City of Calgary* to defray those amounts.~~

(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";

~~(j.1) "Integrity and Ethics Office" means the office of the *Integrity Commissioner* and *Ethics Advisor*.~~

(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;

(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;

~~(m) "Member of Council" or "Member" means all elected officials on council, including the *Mayor*,~~

~~(m) "Member of Council" or "Member" means all current elected officials on *Council*, including the *Mayor*, but does not include past members of *Council*;~~

(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;

(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.

## Application

4. This Bylaw applies to *Members of Council*.

5. This Bylaw applies to conduct undertaken on a *Member's* behalf by a *Member's* staff or a *City* employee.
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.
7. If any provision of this Bylaw conflicts with any provision in any other bylaw or *City* policy, the provision of this Bylaw prevails.
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.

## 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.~~
9. A *Member* must approach their obligations under this Bylaw in good faith, taking into account all obligations imposed on the *Member* by statute or other legal enactment, and by applicable *City* bylaws, policies and procedures, as well as any reports, opinions, guidelines or interpretation bulletins issued by the *Integrity and Ethics Office*.
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.
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.

**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*.
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.
14. Where a *Member* communicates on behalf of the *City* the *Member* must make reasonable efforts to ensure the communication is fair and accurate.

**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.
16. A *Member* must respect and comply with *Procedure Bylaw 35M2017*.
17. A *Member* must not act as an agent of a third-party before *Council* or any of its boards, commissions and committees.

**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*;
  - (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' Budgets and Expenses Bylaw;  
(36M2021, 2021 May 10)
  - (j) DELETED BY 36M2021, 2021 MAY 10; and

(k) Alberta Human Rights Act, R.S.A. 2000, c. A-25.5.

**D.1 – Disclosure of Third Party Personal Information**

- 18.1 (1) *Personal Information* may be used only for the purpose for which it was collected, or consistent with that purpose, and to the extent necessary to enable *Members* to discharge the duties of their office in the best interests of The City and in a reasonable manner. Disclosure of *Personal Information* may occur only in the following circumstances:
- (a) the disclosure would not be an unreasonable invasion of a third party's personal privacy;
  - (b) if the *Personal Information* is information of a type routinely disclosed in a business or professional context, the disclosure is limited to business contact information, and does not reveal other *Personal Information* about the individual or *Personal Information* about another individual; or
  - (c) if the disclosure otherwise complies with the *Freedom of Information and Protection of Privacy Act*, RSA 2000, c F-25.
- (2) A *Member* who is uncertain about the procedure for disclosure should seek advice from the Office of the Councillors. A *Member* who is uncertain whether a disclosure creates a risk of violating this Bylaw, or is otherwise of a confidential nature, should seek written advice from the *Ethics Advisor*.

(27M2020, 2020 July 22)

**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, harassment or discrimination.
20. A *Member* must comply with the *Respectful Workplace Policy* (HR-LR-001).

**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*.
22. *A Member* must access and use information at the *City* only in the normal course of their duties.
23. *A Member* must not change or alter *City* records or documents other than in the normal course of their duties.
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.
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.

## **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).
27. *A Member* must disclose *Gifts and Personal Benefits* as required by section 35 of this Bylaw on a quarterly basis.
28. *A Member*, excluding the *Mayor*, must provide information on budgets and expenses to the Office of the Councillors in order to permit that Office to disclose those budgets and expenses as required by the Councillors' Budgets and Expenses Bylaw and the *Posting Councillor Ward Budgets and Expenses Policy* (CC027, 2006 January).  
(36M2021, 2021 May 10)
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.
30. (1) *A Member* must disclose quarterly a list of persons with whom they or their staff have meetings, regardless of location and including remotely, but excluding media, *City* employees and *Immediate Family*. Disclosure of such persons' names is not required in the following circumstances:

- (a) if the meeting is of a size and nature that the names of many of those participating is unknown; or
- (b) if the act of disclosure would violate section 18.1 of this Bylaw concerning protection of third party personal privacy.

In such cases, only the fact the meeting took place is required.

- (2) A *Member* who is uncertain about the procedure for disclosure should seek advice from the Office of the Councillors. A *Member* who is uncertain whether a disclosure creates a risk of violating this Bylaw, or is otherwise of a confidential nature, should seek written advice from the *Ethics Advisor*.

(27M2020, 2020 July 22)

### 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*.
- 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.
- 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*.
- 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)~~ Alberta Municipalities or the Federation of Canadian Municipalities (FCM);
  - (b) received as part of fundraising activities, including benevolent events, for a community, charitable or non-profit organization, undertaken after full disclosure to and in compliance with a written opinion from the *Ethics Advisor*;  
(27M2020, 2020 July 22)
  - (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;
  - (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.
35. A *Member* must disclose all *Gifts and Personal Benefits* received with a value in excess of \$50, except those received pursuant to section 34(e). 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.
- 35.1 *Gifts and Personal Benefits* received pursuant to s. 34(c), (d), (f) and (i) must not have a value in excess of \$500.00.

### **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.
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.
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*.
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*.

### **H – Improper Use of Influence**

40. A *Member* must only use the influence of their office for the exercise of their official duties.
- 40.1 (1) A *Member* must not directly or indirectly demand, request, induce or aid, *City* employees, *Members*' staff, members of any boards, commissions, associations and committees to do something which, if done by the *Member*, would be a breach of this Bylaw.
- (2) A *Member* must not use or attempt to use their authority for the purpose of intimidating, coercing, or influencing *City* employees or *Members*' staff with the intent of interfering with such staff's duties.
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.
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.
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.

## **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.
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.
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*.
47. A *Member* must not use funds from *City* accounts as contributions to municipal, provincial or federal election campaigns.

### **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.
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.
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.

51. A *Member* must not use their office to engage in *Election Campaign* related activities.
52. During the *Campaign Period* *Members* must not deliver *City*-funded newsletters or conduct open houses organized by them.
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 in writing by the~~ *Ethics Advisor*.
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.
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*.
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.
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.
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.
59. *Member* staff may take unpaid leave from the *Member's* office to work on an *Election Campaign*.
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*.

#### **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.
- 61.1 All *Members* must attend the Indigenous relations and anti-racism sessions of *Orientation Training*, and any other session identified as mandatory by the City Solicitor and General Counsel, City Clerk and *Ethics Advisor*.

62. All *Members* must attend meetings that the *Ethics Advisor* identifies as mandatory.
- 62.1 All *Members* must execute and submit to the *Ethics Advisor* an annual declaration that they have read, understand and abide by the Code of Conduct Bylaw, which will be ~~reported~~ confirmed in the *Ethics Advisor*'s annual report. The declaration must be in the form set out in Appendix "A" and Appendix "A" to this Bylaw forms part of this Bylaw.  
(45M2021, 2021 May 10)

### 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.

#### B - Reporting Complaints

64. Any person ("the ~~reporter~~ complainant") 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~~ complaint in writing setting out all pertinent information in the ~~reporter's~~ complainant's knowledge and request that the *Integrity Commissioner* investigate the conduct.
65. Reports Complaints 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.

66. A ~~reporter~~ complainant who does not provide the *Integrity Commissioner* with their name, ~~current~~ residential address and ~~phone number~~ email address will not receive any notice or other communication from the *Integrity Commissioner* notwithstanding any contrary requirement in this Bylaw. In such circumstances, the *Integrity Commissioner* may exercise their discretion to investigate or dismiss such complaints.
- 66.1 A complaint may be withdrawn at any time by notice in writing to the *Integrity Commissioner* by regular mail or by email. In such circumstances, the *Integrity Commissioner* may use their discretion to continue to investigate the matter without further participation of the complainant.
- 66.2 Every reasonable effort will be made to maintain the confidentiality of the complainant. If disclosure of the complainant identity is necessary to ensure that a thorough investigation is conducted, the *Integrity Commissioner* will ask the complainant for

permission to disclose their identity or give the option to withdraw the complaint. The complainant's identity may be disclosed as required by law.

66.3 The Integrity Commissioner may initiate an investigation without a complaint if there are reasonable grounds for believing that a violation of this Bylaw may have occurred.

### **C – Reporter Complainant Protection**

67. ~~Reporter Complainant~~ protection is extended to any City employee, and reasonable efforts made to extend it to staff of the Office of the Councillors and Member staff, 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 Complainant~~ protection is provided in two areas: confidentiality and retaliation.

(45M2021, 2021 May 10)

~~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.~~

69. No City employee or person acting on behalf of the City shall take any action in reprisal, oral or written, against a ~~reporter complainant~~ submitting a ~~report complaint~~ in good faith. Where management is informed or becomes aware of possible reprisals against an individual as a result of a ~~report complaint~~ under this policy, management must inform the City Auditor. A ~~reporter complainant~~ 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.

70. No Member shall threaten or undertake any reprisal against a person who makes a complaint under this ~~Code Bylaw~~ or against a person who provides information to the ~~Integrity and Ethics Office~~ in any investigation of such a complaint.

(45M2021, 2021 May 10)

71. Any ~~reporter complainant~~ raising a concern should do so in good faith. Where the Integrity Commissioner has reasonable grounds to suspect that a ~~reporter complainant~~ 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 Making a complaint~~ in bad faith could result in adverse legal consequences, such as disciplinary action by the City or an investigation by the Integrity Commissioner.

### **D – Initial assessment**

72. The Integrity Commissioner must determine whether the conduct described in the ~~report complaint~~ is within the Integrity Commissioner's authority to investigate and whether the information given in the ~~report complaint~~ provides reasonable grounds for believing that a violation of this Bylaw or City policy governing Member conduct may have occurred.

73. The *Integrity Commissioner* may reject any report complaint received (a) more than 180 days after the date of the reported incident, or (b) more than 180 days after the reporter complainant became aware of the incident, or (c) after the date of a municipal election which intervenes between the reported event incident and the date the report complaint is received by the Commissioner.
74. If the *Integrity Commissioner*, on receipt of the report complaint, 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 complainant; 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 complainant in writing, setting out reasons for the decision, and close the file.

75. The *Integrity Commissioner* may request further information from the reporter complainant and/or the Member 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.

76. (1) 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 complainant and Member in writing, setting out reasons for the decision, and close the file dismiss the complaint. The Integrity Commissioner's decision is final.

(2) If 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 has occurred, the Integrity Commissioner will issue a notice of investigation and proceed with a formal investigation in accordance with sections 81 to 87.

76.1 A Member may provide the Integrity Commissioner with written advice given by the Ethics Advisor regarding the incident being investigated. The Integrity Commissioner, upon confirmation of the advice by the Ethics Advisor, must consider such advice in investigating the complaint, or in any subsequent related complaint.

#### **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.~~

77. When a complaint concerns the conduct of a Member's staff:

(a) if the conduct was undertaken on the Member's behalf directly or indirectly by demand, request, inducement, encouragement or aid the Integrity Commissioner will proceed with a formal investigation in accordance with sections 81 to 87;

(b) if the conduct was not undertaken on the Member's behalf, directly or indirectly, by demand, request, inducement, encouragement or aid, the Integrity Commissioner must refer the complaint to the Member concerned and advise the complainant in writing that the complaint is dismissed.

~~78. — When the report concerns the conduct of staff in the Office of the Mayor, 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.~~

#### 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.~~

~~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.~~

#### G – Formal 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 complaint and any supporting material together with a notice of intention to conduct an investigation and any supporting material.~~

A formal investigation will be commenced by the Integrity Commissioner serving a notice of investigation, the complaint and any supporting material on the Member personally or by e-mail.

82. The *Member* will have 10 business days, subject to the *Integrity Commissioner's* discretion to extend the timeline, from the date of service of ~~notice of intention to conduct an~~ the notice of investigation to deliver to the *Integrity Commissioner* a written response to the ~~report~~ complaint together with any submissions that the *Member* chooses to make.
- 82.1 Except for the purposes of obtaining legal or other confidential professional advice, failure by the Member to keep confidential all documents and records the Integrity Commissioner provides to the Member in the investigation may result in an adverse finding against the Member and may be considered in the report to Council.
83. The *Integrity Commissioner* will provide the ~~reporter~~ complainant 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. If the complainant wishes to respond to the Member's response and submission, they must do so within 10 business days of receiving the copy of the response and submission, subject to the Integrity Commissioner's discretion to extend this timeline.~~
- 83.1 Except for the purposes of obtaining legal or other confidential professional advice, failure by the complainant to keep confidential all documents and records the Integrity Commissioner provides to the complainant in the investigation may result in the dismissal of the complaint.
84. The *Integrity Commissioner* may request any person whose evidence is necessary to the investigation to provide it in ~~an affidavit~~ a statutory declaration sworn or affirmed and declared before a lawyer, notary public or commissioner of oaths.
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.
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.
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 or proceed with an investigation at their discretion. If the Integrity Commissioner decides the investigation should proceed, they will advise the Member in writing of the reasons for the decision.

### G.1 – Informal Resolution

- 87.1 At any time after a notice of investigation has been issued, the Integrity Commissioner may refer the complaint to the Ethics Advisor, who will take steps, in consultation with the complainant and the Member, to resolve the issue informally.



87.2 If the *Ethics Advisor* at any time concludes that an informal resolution is not possible, the *Ethics Advisor* must return the complaint to the *Integrity Commissioner* to commence or continue a formal investigation. The *Ethics Advisor* will not provide any information to the *Integrity Commissioner* about the informal process except that the complaint was not resolved.

## **G.2 – Cooperating with Investigations**

87.3 Upon the notice of investigation being sent to the *Member*, evidence in the possession of the *Member* and/or their staff, including any records, must be preserved pending the outcome of the investigation.

87.4 The obstruction of an *Integrity Commissioner's* investigation by a *Member* is presumed to be a violation of this Bylaw.

87.5 Failure to cooperate and participate in an investigation may result in an adverse finding against the *Member* and will be noted in the report to *Council*.

## **H – Adjudication and reporting**

88. The *Integrity Commissioner* will make a decision within 90 days of receiving a **report complaint** 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.
89. If after **reviewing all pertinent information formal investigation** 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 complainant** 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.
90. If after **reviewing all pertinent information formal investigation** 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 report** explaining their decision that the *Member* violated this Bylaw or a *City* policy governing *Member* conduct;
  - (b) the *Integrity Commissioner's* **decision report** 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 report** and recommend that no sanction be imposed;
  - (d) the *Integrity Commissioner* will advise the *City* Clerk that the *Integrity Commissioner* has a **decision report** 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 a 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 report, on a strictly confidential basis, ~~to the Member or Members about whom the report was received to all Members, the City Clerk and the City Solicitor and General Counsel. A breach of confidentiality under this section will be considered a violation of this Bylaw;~~
  - (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 the Integrity Commissioner will provide their verbal report to Council at the closed meeting;~~ and
  - (h) Following the closed meeting the *Integrity Commissioner's* decision report will be made publicly available.
91. (1) The *Integrity Commissioner's* decision report that a *Member* violated this Bylaw or a *City* policy governing *Member* conduct is final and may not be reviewed or reconsidered by *Council*.
- (2) *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.
92. Sanctions that may be imposed for violating this Bylaw or a *City* policy governing *Member* conduct include, but are not limited to, 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-; or

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(i) any other sanction that *Council* deems reasonable in the circumstances.

**Coming into force**

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

READ A FIRST TIME ON MAY 28 2018.

READ A SECOND TIME, AS AMENDED, ON MAY 28 2018.

READ A THIRD TIME, AS AMENDED, ON MAY 28 2018.

(Sgd.) N. Nenshi  
MAYOR  
(Sgd.) B. Hilford  
ACTING CITY CLERK

Appendix "A"

**Annual Statement of Commitment to the Code of Conduct for Elected Officials Bylaw (26M2018)**

I, (Full Name) \_\_\_\_\_ declare that as an elected Member of **Calgary City Council**, I have read, understood and abide by the Code of Conduct for Elected Officials Bylaw (26M2018).

Signed: \_\_\_\_\_

Declared this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.