Proposed Amendments to the Code of Conduct for Elected Official Bylaw (26M2018) and Reasons

For ease of reading, amendments are underlined.

#	New Provision	Old Provision (if applicable)	Reasons
1			Amendments to correct typographical errors and inconsistencies in the Bylaw, including consistent referencing to defined terms, formatting and headings
2	Amend the Code of Conduct Bylaw to replace "reporter" and "report" with "complainant" and "complaint" respectively, and "decision" with "report" as appropriate. Use the term "report" solely to refer to the Integrity Commissioner's investigative report.		To clarify the terms used in the <i>Bylaw</i> to refer to complainant, complaint and <i>Integrity Commissioner</i> report. The amendment would be consistent with the language in other municipal codes of conduct.
3	3(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	3(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	To clarify in the Bylaw that a provision in the <i>Indemnification of Members of Council Policy</i> (CC010, 1977 August 22), which allows solicitation of donations to the City to defray legal fees and disbursements paid under indemnification, is not a gift or personal benefit.

ISC: UNRESTRICTED Page 1 of 13

	(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.	Indemnification of Members of Council Policy (CC010, 1977 August 22);	
4	3(j.1) "Integrity and Ethics Office" means the office of the Integrity Commissioner and Ethics Advisor,	New provision.	For clarity of terms used in the <i>Bylaw</i> .
5	3(m) "Member of Council" or "Member" means all <u>current</u> elected officials on Council, including the Mayor, <u>but does</u> not include past members of Council;	3(m) Member of Council' or "Member" means all elected officials on council, including the Mayor,	To clarify that the Bylaw does not apply to past <i>Members</i> to make clear that the <i>Integrity Commissioner</i> will not initiate or continue an investigation of a <i>Member</i> once they are no longer in office.
6	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's bylaws, policies and procedures, as well as any reports, opinions, guidelines or interpretation bulletins issued by the Integrity and Ethics Office.	9. A <i>Member</i> 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.	To update and clarify types of communications from the <i>Integrity and Ethics Office</i> that apply to <i>Members</i> . It is recommended that the Context and Commentary is no longer referenced as it is out of date and should be replaced with interpretation bulletins.
7	18. A <i>Member</i> must respect and comply with all obligations imposed on the <i>Member</i> by statute or other legal enactment, and by the <i>City's</i> bylaws, policies and procedures, including but not limited to the:	18. A <i>Member</i> must respect and comply with all obligations imposed on the <i>Member</i> by statute or other legal enactment, and by the <i>City's</i> policies and procedures, including but not limited to the:	To clarify that some <i>City</i> bylaws apply to <i>Members</i> , such as the <i>Councillors' Budgets and Expenses Bylaw</i> . To add the <i>Human Rights Act</i> to the list of applicable legislation. While the list is non-exhaustive, it reflects the legislation, bylaws and policies most often applicable to <i>Member</i> conduct, and

ISC: UNRESTRICTED Page 2 of 13

	(k) Alberta Human Rights Act, R.S.A. 2000, C. A-25.5.		therefore should include the <i>Human Rights Act</i> .
8	19. A <i>Member</i> must communicate with Members of the public, one another, and with City employees and <i>Members'</i> staff respectfully, without abuse, bullying or intimidation, <u>harassment or discrimination</u> .	19. A <i>Member</i> must communicate with Members of the public, one another, and with City employees and <i>Members</i> ' staff respectfully, without abuse, bullying or intimidation.	To define the terms consistent with the Respectful Workplace Policy (HR-LR-001).
9	34(a) compensation authorized by law or <i>Council</i> resolution, including compensation for serving on external bodies such as the <u>Alberta Municipalities</u> or the Federation of Canadian Municipalities (FCM);	34(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);	To update the reference to Alberta Municipalities.
10	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.	New provision.	The Bylaw includes provisions that prohibit improper use of influence (s. 40) and respectful interactions (ss. 19 and 20). It is recommended that a more explicit provision is added to address conduct directed to <i>City</i> or <i>Members</i> ' staff, and associated bodies. A similar provision is included in the codes of conduct of some other Canadian municipalities.

ISC: UNRESTRICTED Page 3 of 13

11	53. During the Campaign Period Members must not use City resources to distribute mass e- mails except in cases of emergency as authorized in writing by the Ethics Advisor.	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.	The Integrity and Ethics Office should have oversight of approvals related to Bylaw matters.
12	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.	61.1 All <i>Members</i> must attend those sessions of <i>Orientation Training</i> identified as mandatory by the City Solicitor, City Clerk and <i>Ethics Advisor</i> .	To embed the <i>City</i> 's commitment to Indigenous relations and anti-racism into Council orientation training.
13	66. A complainant who does not provide the Integrity Commissioner with their name, residential address and email address may not receive any notice or other communication from the Integrity Commissioner notwithstanding any contrary requirement under the Bylaw. In such circumstances, the Integrity Commissioner may exercise their discretion to investigate or dismiss such complaints.	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.	To amend the information that a complainant should provide to the Integrity Commissioner when submitting a complaint. -The primary way the Integrity Commissioner receives complaints is through email. Complaints through Clearview do not require provision of email addresses, which complicates communications. -To remove the requirement that a complainant provide their phone number. The Integrity Commissioner does not accept or make calls to complainants. Requiring a phone number leads some complainants to believe the Integrity Commissioner should communicate with them over the phone, which has inherent risks. To clarify that the Integrity Commissioner may investigate a complaint even though some of the information required in s. 66

ISC: UNRESTRICTED Page 4 of 13

			have not been provided (e.g. anonymous complaints). Some anonymous complaints may contain evidence suggesting the complaint may have merit and it is in the best interests of the <i>City</i> and <i>Council</i> .
14	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.	New provision.	To clarify that complaints may be withdrawn at any time, although the Integrity Commissioner has discretion to continue an investigation when it is reasonable and it is in the best interests of the City and Council, and the complaint can be investigated without further participation of the complainant.
15	66.2 Every reasonable effort will be made to maintain the confidentiality of the complainant. If disclosure of the complainant's identity is necessary to ensure that a thorough investigation is conducted, the <i>Integrity Commissioner</i> will ask the complainant for permission to disclose their identity or give the option to withdraw complaint. The complainant's identity may be disclosed as required by law.	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.	To clarify the procedure for complainants who do not want their identity disclosed.
16	66.3 The Integrity Commissioner may initiate an investigation if there are reasonable grounds for believing that a violation of this Bylaw may have occurred.	New provision.	To enable the <i>Integrity Commissioner</i> to initiate an investigation when it is reasonable and it is in the best interests of the <i>City</i> and <i>Council</i> .
17	68. Delete		To remove redundancy as the subject matter is now covered in s. 66.2 on

ISC: UNRESTRICTED Page 5 of 13

			maintaining confidentiality of complainants. S. 68 is limited to reporter protection of <i>City</i> employees and <i>Members</i> ' staff. Therefore, confidentiality protections for all complainants are better addressed in s. 66.2.
18	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 complaint provides reasonable grounds for believing that a violation of this Bylaw or City policy governing Member conduct may have occurred.	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.	To clarify the language of the provision.
19	75. The Integrity Commissioner may request further information from the 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.	75. The <i>Integrity Commissioner</i> 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 <i>City</i> policy governing <i>Member</i> conduct may have occurred.	To clarify that the <i>Integrity Commissioner</i> may make initial enquiries of a <i>Member</i> in assessing whether to undertake a formal investigation.
20	76(1) If the <i>Integrity Commissioner</i> is of the opinion that there are no reasonable grounds for believing that a violation of this Bylaw or a <i>City</i> policy governing <i>Member</i> conduct has occurred, the <i>Integrity Commissioner</i> will advise the complainant and <i>Member</i> in writing,	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	To clarify the communication process when a complaint is dismissed to ensure <i>Members</i> are informed of the outcome.

ISC: UNRESTRICTED Page 6 of 13

	setting out reasons for the decision, and 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.	reporter in writing, setting out reasons for the decision, and close the file.	
21	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.	New provision.	To clarify the practice of the <i>Integrity Commissioner</i> when investigating complaints on matters for which the Ethics Advisor has given a <i>Member</i> advice.
22	Delete sections 77 and 78 and replace with the following: 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;	77. When the report concerns the conduct of a <i>Member's</i> staff and: (a) the conduct was not undertaken on the <i>Member's</i> behalf; (b) the staff is not employed by the <i>City</i> in the Office of the Mayor; and (c) the file is not closed pursuant to section 76; then the <i>Integrity Commissioner</i> will advise the reporter that the report is being referred to the <i>Member</i> concerned. The <i>Integrity Commissioner</i> must refer	After consultation with the City auditor's office, it is recommended that all Bylaw complaints should be conducted by the Integrity Commissioner. The amendment makes consistent treatment of Members' staff, including the Mayor's staff. To clarify that conduct undertaken on a Member's behalf includes indirect forms of behaviour. To make s. 77 consistent with the proposed s. 40.1 on improper use of influence.

ISC: UNRESTRICTED Page **7** of **13**

	(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.	the report to the <i>Member</i> concerned and will take no further action except as directed by the <i>Member</i> . 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 <i>Integrity Commissioner</i> will advise the reporter that the report is being referred to the <i>City</i> Auditor.	
23	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.	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	To clarify the process of informal resolution with the <i>Ethics Advisor</i> , and to move the process to a more logical place in the Bylaw after the process for formal investigation has been explained.

ISC: UNRESTRICTED Page 8 of 13

		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.	
24	81. A formal investigation will be commenced by the <i>Integrity</i> Commissioner serving a notice of investigation, the complaint and any supporting material on the <i>Member</i> personally or by e-mail.	81. A formal investigation will be commenced by the <i>Integrity Commissioner</i> serving personally or by e-mail the <i>Member</i> 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.	To clarify the process to commence a formal investigation.
25	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 investigation to deliver to the Integrity Commissioner a written response to the complaint together with any submissions that the Member chooses to make.	82. The <i>Member</i> will have 10 days, subject to the <i>Integrity Commissioner's</i> discretion to extend the timeline, from the date of service of notice of intention to conduct an investigation to deliver to the <i>Integrity Commissioner</i> a written response to the report together with any submissions that the <i>Member</i> chooses to make.	To clarify that the timeline for a <i>Member</i> to deliver a written response to a complaint is 10 business days.
26	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	New provision.	To require that the documents shared in an investigation are kept confidential by the <i>Member</i> except for the purposes of obtaining legal or other confidential professional advice.

ISC: UNRESTRICTED Page 9 of 13

	may be considered in the report to Council.		
27	83. The Integrity Commissioner will provide the complainant with a copy of the response and submissions received from the Member on a strictly confidential basis. 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 the 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	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. New provision	To require that the documents shared in an investigation are kept confidential by the complainant, except for the purposes of legal or other confidential professional advice, and to enable the <i>Integrity Commissioner</i> to dismiss the complaint for failure to comply. To clarify that the timeline for a complainant to provide a written response is 10 business days.
	Commissioner provides to the complainant in the investigation may result in the dismissal of the complaint.		
28	84. The <i>Integrity Commissioner</i> may request any person whose evidence is necessary to the investigation to provide it in a statutory declaration sworn or affirmed and declared before a lawyer, notary public or commissioner of oaths.	84. The <i>Integrity Commissioner</i> may request any person whose evidence is necessary to the investigation to provide it in an affidavit.	To clarify for complainants how they can provide a statutory declaration.
29	87. In the 90 days prior to the date of a Municipal election, the <i>Integrity Commissioner</i> may suspend any investigation underway, decline to	87. In the period 90 days prior to the date of a Municipal election, the <i>Integrity Commissioner</i> may suspend any	To clarify the procedure for investigations in the 90 days prior to a municipal election.

ISC: UNRESTRICTED Page 10 of 13

	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.	investigation underway or decline to commence an investigation.	
30	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, shall 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.	New provisions.	To prohibit obstruction of investigations or destruction of records during an investigation.
31	90(f) not less than 24 hours nor more than 48 hours prior to the start of the <i>Council</i> meeting at which the verbal report is to be considered, the <i>Integrity Commissioner</i> will provide a copy of the report, on a strictly confidential basis, to all <i>Members</i> , the City Clerk and the City Solicitor and General Counsel. A breach	90(f) not less than 24 hours nor more than 48 hours prior to the start of the <i>Council</i> meeting at which the verbal report is to be considered, the <i>Integrity Commissioner</i> will provide a copy of the decision, on a strictly confidential basis, to the <i>Member</i> or <i>Members</i> about whom the report was received;	To provide a copy of the report to all Members 24-48 hours before the verbal report to allow more time to review reports. To provide a copy to the City Clerk and the City Solicitor and General Counsel in their role supporting Members.

ISC: UNRESTRICTED Page 11 of 13

	of confidentiality under this section will be considered a violation of this Bylaw. (g) the Integrity Commissioner will provide their verbal report to Council at the closed meeting; and	(g) all other <i>Members</i> of <i>Council</i> will receive the decision on a strictly confidential basis at the time the <i>Integrity Commissioner</i> will provide their verbal report to <i>Council</i> at the closed meeting; and	
32	91(1) The Integrity Commissioner's 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 decide whether to adopt the Integrity Commissioner's recommendation as to sanction or whether to substitute a different lesser or greater sanction.	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.	To clarify the separate roles and functions of the Integrity Commissioner and Council when the Integrity Commissioner provides a report that a Member violated this Bylaw.
33	92. Sanctions that may be imposed for violating this Bylaw or a <i>City</i> policy governing <i>Member</i> conduct include, but are not limited to, the following: (a) a letter of reprimand addressed to the <i>Member</i> ; (b) a request that the <i>Member</i> issue a letter of apology; (c) the publication of a letter of reprimand or request for apology by the <i>Integrity Commissioner</i> , and the <i>Member</i> 's response; (d) a requirement that the <i>Member</i> attend training;	92. Sanctions that may be imposed for violating this Bylaw or a <i>City</i> policy governing <i>Member</i> conduct include the following: (a) a letter of reprimand addressed to the <i>Member</i> ; (b) a request that the <i>Member</i> issue a letter of apology; (c) the publication of a letter of reprimand or request for apology by the <i>Integrity Commissioner</i> , and the <i>Member</i> 's response; (d) a requirement that the <i>Member</i> attend training;	To clarify that the list of sanctions in s. 92 is not exhaustive. The <i>Integrity Commissioner</i> may recommend, and <i>Council</i> may impose, different or additional sanctions on a <i>Member</i> for violating the Bylaw provided that they are of the same proportionate effect as the sanctions listed. See attachments 2 and 3 for information about sanction compliance and additional possible sanctions.

ISC: UNRESTRICTED Page 12 of 13

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

- (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.

ISC: UNRESTRICTED Page 13 of 13