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Attachment 4
PFC2014-0707

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COUNCIL POLICY

Policy Title: Ethical Conduct Policy for Members of Council
Policy Number: CC042
Report Number: PFC2013-0367
Approved by: Council
Effective Date: 2013 July 01
Business Unit: Office of the Councillors

BACKGROUND

- The proper operation of democratic municipal government requires that elected officials be independent, impartial and duly responsible to the public. Therefore, it is important that Members of Council at The City of Calgary maintain high standards of conduct.
- At the 2011 June 28 Strategic Planning Meeting of Council, report C2011-65 Council's Fiscal Plan for Calgary was adopted, as amended. The plan includes Council Priority "Z12. Implement new ethical guidelines for Members of Council."

PURPOSE

- To establish and promote ethical conduct standards for Members of Council in interactions with the public, all City employees, contractors, Council staff and all Members of Council.
- To outline certain rules of conduct for Members of Council so that they may carry out their duties, powers, and functions with impartiality and dignity recognizing that the function of Members of Council is, at all times, service to the public.

APPLICABILITY

This policy applies to all Members of Council.

VALUES

This policy supports and is aligned with The City of Calgary's core

- **Honesty**
- **Excellence**
- **Accountability**
- **Responsiveness**
- **Treating Others with Respect**

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DEFINITIONS

For the purposes of this policy:

Business Associate

Any person legally linked with the Member, including but not limited to, in business contracts, partnerships, firms, enterprises, franchises, trusts, joint ventures, finances, real estate, or in other for-profit legal entities or agreements. (City of Calgary Code of Conduct).

Ethical Duty

"Occupying the office of a Councillor gives rise to three ethical duties: the duty of due diligence, the fiduciary duty of good faith, and the duty to act fairly, free from any conflicts of interest." (Ethics in Municipal Government Kevin Feehan, Q.C., LL.B., of Fraser Milner Casgrain LLP).

"Examples of good due diligence practice include: making sure all decisions are informed decisions, educating yourself in governing legislation and municipal policies, seeking reliable professional advice when appropriate, attending all meetings having reviewed all materials before hand, and lastly, asking questions and taking notes during meetings." (J.E. Ingram, *Directors and Officers Duties and Obligations*, 1988)

Fiduciary Duty

"Councillors are not only directors, but they are also public trustees, and owe fiduciary duties to both their municipal corporation and their communities; specifically they owe duties of good faith, trust, confidence and candour." (*Black's Law Dictionary*, 9th ed.)

Members of Council's Family

"Means the Councillor's spouse or adult interdependent partner, the Councillor's children, the parent's of the Councillor and the parents of the Councillor's spouse or adult interdependent partner." (MGA Division 6)

Member

Is a Member of Council duly elected who continues to hold office.

Statutory Provisions Regulating Conduct

The Ethical Conduct Policy is a supplement to the existing statutes, laws and policies governing the conduct of Members, including but not limited to:

- *The Alberta Human Rights Act*
- *Municipal Government Act (MGA)*
- *Freedom of Information and Protection of Privacy Act (FOIP)*
- *Local Authorities Election Act*
- *The Criminal Code of Canada*



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Provincial legislation and other statutory obligations supersede Council policies.

It is the responsibility of Members of Council to be aware of, and understand, statutory obligations imposed upon Council as a whole, as well as on Members of Council individually.

Legislated Responsibilities

General Duties of Members - Municipal Government Act

Members of Council shall:

- Consider the welfare and interests of the municipality as a whole and to bring to Council's attention anything that would promote the welfare or interests of the municipality (MGA, Division 3).
- Participate generally in developing and evaluating the policies and programs of the municipality (MGA, Division 3).
- Participate in council and council committee meetings, special meetings and meetings of other bodies to which they are appointed by the Council (MGA, Division 3).
- Obtain information about the operation or administration of the municipality from the Chief Administrative Officer or a person designated by the Chief Administrative Officer (MGA, Division 3).

Confidential and Private Information - Municipal Government Act and Freedom of Information and Protection of Privacy Act of Alberta

Members of Council shall:

- Keep in confidence matters discussed in private at Council and Council Committee meetings until discussed at a meeting held in public (MGA, Division 3).
- Comply with the Freedom of Information and Protection of Privacy Act of Alberta (FOIP) and respect and maintain confidential information received in their capacity as Members of Council.

Financial/Pecuniary Interest - Municipal Government Act

A Councillor has a pecuniary interest in the matter if:

- a) the matter could monetarily affect the Councillor or an employer of the Councillor, or
- b) the Councillor knows or should know the matter could monetarily affect the Councillor's family." (MGA, Division 6)

Declaring a Pecuniary Interest - Municipal Government Act

A pecuniary interest is a conflict of interest; accordingly, Members of Council shall adhere to the provisions of the Municipal Government Act. (MGA, Division 6).

Members of Council must decide when they have a pecuniary interest. Council cannot make the decision for them.



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A Member who has a Pecuniary Interest in a matter before Council shall:

- Disclose the general nature of the Pecuniary Interest, prior to any discussion of the matter;
- Leave the meeting before debate and abstain from voting on any question relating to the matter; and
- Return after the vote is declared.

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Financial /Pecuniary interest And Corporate Opportunities

In order to assist Council in avoiding a pecuniary interest, Members of Council shall not:

- Take personal advantage of, or use for their own benefit, corporate/financial opportunities learned about through confidential or non-public information gained as a Member of Council.
- Represent or advise Council of the organization in such transactions where the Member knowingly has financial interests in a City contract, sale or other business transaction, or has family members, friends or business associates with such interests.

Preferential Treatment

Ensuring the proper operation of democratic municipal government requires that elected officials be independent, impartial and duly responsible to the public.

In order to achieve this, Members of Council shall not:

- Give preferential treatment to any person or organization which might reasonably benefit from special consideration or may seek preferential treatment.
- Give preferential treatment to any person or organization in which a Member or Members of Council have a financial interest.

Fiduciary Duty

Members of Council are fiduciaries to The City and the public. They must act in good faith, with trust, confidence and candour and are expected to demonstrate high standards of personal and professional conduct to maintain public confidence in their behaviours and decisions.

In fulfilling their fiduciary duties, Members of Council shall:

- Put the interests of the municipality ahead of their personal interests.
- Act in the best interests of The City of Calgary and the public.
- Avoid conflict of interest with respect to their fiduciary duty to The City of Calgary.
- Be loyal and act honestly and in good faith.



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Personal Beliefs and Public Comment

- Members of Council as fiduciaries to The City and the public, must exercise freedom of speech responsibly and take care to ensure beliefs (i.e. religious, political, or other personal) do not bring them into conflict with their official powers, duties or functions.

Restriction of Agency

- Members of Council shall not appear as a paid agent of a third-party before Council or any of its Boards, Commissions and Committees.

Current and Prospective Employment and City Resources

- Members of Council may engage in outside employment or business activities provided it does not interfere with the performance of their civic duties and it does not involve use of City premises, services, equipment, information or supplies which they have access to through membership on City Council. (Acceptable Use of City Technology Resources Policy- Members of Council).

Waste and Wrongdoing- Council's Whistle-Blower Policy

Members of Council shall:

- Avoid waste, and wrongdoing in the provision or use of public resources in compliance with the policies and procedures in the Whistle-Blower Policy.
- Be aware that all substantiated violations of waste and wrongdoing as defined in the Whistle-Blower Policy, shall be publically reported in The City Auditor's annual report in accordance with the Whistle-Blower Policy and Program.

Respectful Workplace

Council is committed to creating and sustaining a vibrant, healthy, safe and caring work environment and in all interactions with the public, all City employees, contractors, Council staff and all Members of Council. (The City of Calgary Respectful Workplace Policy).

Key Requirements

- Be polite, courteous and respectful of others at all times.
- Treat others equitably and fairly.
- Recognise and value the diversity among citizens, City employees, contractors, Council staff and all Members of Council.

Workplace Violence Policy

Council is committed to a proactive approach to preventing violence in the workplace and to a prompt response to addressing incidents of workplace violence should they occur.

The Administration's Workplace Violence Policy and Procedures outline:



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- the expectations of City employees, contractors providing service for or to The City, suppliers delivering material to The City, volunteers, and members of the public; and
- the response that will be taken to workplace violence reports or incidents.

All Members of Council and their employees are also both subject to, and entitled to the benefit of, the Administration's Workplace Violence Policy and Procedures.

Conduct Regarding City Employees

Members of Council shall:

- Follow established channels of communication and authority within the organization when working with City employees and direct any action requests through the City Manager or as delegated to the department General Manager or Director.
- Not attempt to require City employees to undertake personal or private work on behalf of the Member.

Disclosure

- Members of Council shall disclose their expenses quarterly. Such disclosure should also include expenses valued at over \$150 that are paid or reimbursed by a third party. Such disclosure may take different formats, but should include at a minimum, expense dates, descriptions and amounts for expenses charged to the Member's office budgets, and descriptions and dates for third party-reimbursed or paid expenses.
- All visitors shall be encouraged to sign a form with appropriate language allowing release of their names as per Freedom of Information and Protection of Privacy legislation. Members of Council and their staff shall disclose a list of those external visitors to The City (excluding Media), with whom they have met in their offices quarterly.

PROCEDURES

- Members of Council agree to uphold this policy and govern accordingly, in order to enhance ethical conduct and the credibility and integrity of Council in the community.
- Every Member of Council shall be provided with a copy of this policy and will sign the statement of commitment annually as an acknowledgement that he or she has read it and supports it. (Appendix).
- Members of Council will be responsible for posting their disclosures quarterly on their office website or other public forum. The Office of the Councillor will provide technical assistance as needed.

Policy Breaches

1. Members of Council have a duty to help create a responsive, accessible, transparent and fair municipal government. Accordingly, Members have a duty



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to question whether another Member is violating legislation, ethics or respectful behaviour relating to Calgary's government, as set forth in this policy.

2. Should a Member of a Council breach any of the principles as outlined in this policy, the possible courses of action that are available to Council include but are not limited to:

- a) Apology by the Member of Council to the impacted individual(s).
- b) Removal of the Member from Council Committees other than Standing Policy Committees or other representative bodies.
- c) Dismissal of the Member from a position of deputy Mayor or Chairperson of a Committee.
- d) Educational training on ethical and respectful conduct provided by a third party at the expense of the Member of Council's office budget.
- e) Any action taken by Council should include a time frame and what remedial action is expected.

3. Members of Council may report alleged violations of this policy in a Personnel Item report to be brought to an In Camera Meeting of Council.
4. A decision to apply one or more of the actions detailed in (a-e) above requires a Council resolution.
5. A Member of Council who believes a Member is in violation of this policy may report their concerns in accordance with The City's Whistle-Blower Policy. Investigations of violations and investigation outcomes will be administered in accordance with The City's Whistle-Blower Policy and Program. The Whistle-Blower Program ensures all reports received are appropriately reviewed. See: The Whistle-Blower Policy for further information.
6. All substantiated violations and reports made through the Whistle-Blower Program shall be reported by The City Auditor to Council in an In-Camera Meeting of Council.
7. The City Manager shall be consulted in all matters concerning alleged violations of this policy between Members of Council and City employees.
8. All discussions surrounding alleged and substantiated violations of this policy shall be conducted in an In Camera Meeting of Council and the discussion shall remain confidential under the appropriate sections of the Freedom of Information and Protection of Privacy (FOIP) Act.

City Policy and Strategic Alignment

- Acceptable Use of City Technology Resources- Members of Council
- Administration Respectful Workplace Policy
- Transparency and Accountability Policy
- Whistle-Blower Policy
- Council's Fiscal Plan for Calgary 2012-2014

AMENDMENTS



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2013 October 21 - Bylaw 40M2011 Discontinue the use of the title "Alderman" in favour of the title "Councillor"

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APPENDIX

Annual Statement of Commitment to the Ethical Conduct Policy for Members of Council

I, (Full Name) _____ declare that as an
elected Member of **Calgary City Council** acknowledge and support The Ethical
Conduct Policy for Members of Council.

Signed: _____

Declare this _____ day of _____, _____ yr

Before me:

Manager, Office of the Councillor