

Code of Conduct for Elected Officials Bylaw
Context and Commentary

Short Title and Purpose

Bylaw ss. 1-2

- [1] The *Code of Conduct for Elected Officials Bylaw* sets out the rules governing the ethical duties of *Members of Council* and the powers and procedures of the *Integrity Commissioner* in exercising oversight over *Members of Council*. This document provides background information to put the rules governing the ethical duties of *Members* in context—for example, by setting out the legislation or common law doctrines that underlie those rules. It also provides interpretive guidance about how *Members* should approach the rules and fulfill their ethical responsibilities. [MINOR REVISIONS; Original C & C Introduction; Comment 1]
- [2] Only the *Code of Conduct for Elected Officials Bylaw* has been approved by Council. This document contains information and advice prepared by the Integrity and Ethics Office. It provides *Members* and the public with additional information about the application and interpretation of the rules governing the ethical duties of *Members* set out in the *Code of Conduct for Elected Officials Bylaw* which they should take into account in discharging their duties. In the case of a conflict or inconsistency between this document and the *Code of Conduct for Elected Officials Bylaw*, the *Code of Conduct for Elected Officials Bylaw* governs. [MINOR REVISIONS; Original C & C Introduction; Comment 2]
- [3] The *Code of Conduct for Elected Officials Bylaw* was enacted in compliance with the Code of Conduct for Elected Officials Regulation AR 200/2017. The *Code of Conduct for Elected Officials Bylaw* is organized in accordance with the topics s. 1 of that Regulation requires to be addressed in a code of conduct for elected officials bylaw. [NEW]

Definitions

Bylaw s. 3

- [4] Terms defined in the *Code of Conduct for Elected Officials Bylaw* and used in this Context and Commentary have the same meaning as given in the *Code of Conduct for Elected Officials Bylaw*. Defined terms are italicized. [NEW]

A - Representing the City

Bylaw ss. 9-11

- [5] The Implementation Fact Sheet issued by the provincial government states that the intent/rationale of including “Representing the Municipality” in the Code of Conduct for Elected Officials Regulation was to “build and inspire public trust and confidence in local government by upholding high standards and ideals”. Sections 9-11 of

the *Code of Conduct for Elected Officials Bylaw* thus set out the obligations of *Members* to fulfill their legal and ethical duties in good faith, to discharge their general obligations of good governance in the best interests of the *City*, and to comply with the law. [NEW]

- [6] Numerous *City* policies and bylaws, as well as provincial enactments, impose specific duties and obligations on *Members of Council*. A *Member* has a legal obligation to fulfil those duties, and an ethical obligation to do so diligently and in good faith. [STYLISTIC EDITS; Original C & C Rules §.1.1-4.1.3, Comment 1]
- [7] Section 153 of the *Municipal Government Act* RSA 2000 c. M-26 (“*MGA*”) imposes general duties on *Members*:
- “Councillors have the following duties:
- (a) to 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;
 - (a.1) to promote an integrated and strategic approach to intermunicipal land use planning and service delivery with neighbouring municipalities;
 - (b) to participate generally in developing and evaluating the policies and programs of the municipality;
 - (c) to participate in council meetings and council committee meetings and meetings of other bodies to which they are appointed by the council;
 - (d) to obtain information about the operation or administration of the municipality from the chief administrative officer or a person designated by the chief administrative officer;
 - (e) to keep in confidence matters discussed in private at a council or council committee meeting until discussed at a meeting held in public;
 - (e.1) to adhere to the code of conduct established by the council under section 146.1(1);
 - (f) to perform any other duty or function imposed on councillors by this or any other enactment or by the council.” [MINOR REVISIONS; Original C & C Rules 4.1.1-4.1.3, Comment 2 – to update legislation]
- [8] *Members* owe fiduciary duties to the *City*. A fiduciary duty means “that one party has a duty to act in the best interests of the other party” (*Hodgkinson v Simms* [1994] 3 SCR 377). A fiduciary must not abuse “their position to gain personal benefit” (*Peoples Department Stores Inc. (Trustee of) v Wise* 2004 SCC 68 at para. 35). When a fiduciary prefers their personal interests to those of the beneficiary, the fiduciary risks

violating their legal duties. As such, *Members* who gives themselves a benefit at the *City's* expense risk violating their legal duties as a fiduciary, and being held liable for that violation. [SAME; Original C & C Rules 4.1.1-4.1.3, Comment 3]

- [9] The *City* has identified the essential qualities of the organization: Character, Competence, Commitment & Collaboration. Character means behaving in the right way; competence means doing things the right way; commitment means dedication to the greater public good; collaboration means working together for a common purpose. The duties of *Members* under the *Code of Conduct for Elected Officials Bylaw* reflect and contribute to *Council's* role in accomplishing those qualities at the *City*. [SAME; Original C & C Rules 4.1.1-4.1.3, Comment 4]
- [10] Section 174(e) of the *MGA* disqualifies a *Member* from sitting on *Council* if the *Member* is convicted of certain offences under the *Criminal Code*. [SAME; Original C & C Rules 4.1.4-4.1.5, Comment 1]
- [11] Generally speaking, a *Member's* personal life and choices are not governed by the *Code of Conduct for Elected Officials Bylaw*. However, the nature of the work that *Members* do is such that the line between the personal and the professional can be difficult to see. A *Member* may be held accountable for conduct that, while possibly described as personal, would nonetheless undermine a reasonable *Calgarian's* confidence in *City* governance. [SAME; Original C & C Rules 4.1.4-4.1.5, Comment 2]
- [12] The *Acceptable Use of City Technology Resources – Members of Council Policy* (PAC009, 2003 June 23) permits “occasional or incidental personal use of *City* technology resources (Clause 4.2). It prohibits *Members* from using *City* technology for personal gain or advantage to access pornographic or like materials, for unlawful purposes or to post “threatening, offensive, obscene, harassing, intimidating, and abusive” messages. These sorts of violations of the *Acceptable Use of City Technology Resources – Members of Council Policy* would also violate the *Code of Conduct for Elected Officials Bylaw* and in particular section 11. [SAME; Original C & C Rules 4.1.4-4.1.5, Comment 3]
- [13] In identifying whether a particular course of action raises an ethical issue or creates a legal risk a *Member* should assess:
- a. Is it lawful?
 - b. Is it consistent with *City* policies and bylaws, including this one?
 - c. Does it have the potential to give me, my family or my friends a personal or financial benefit?

- d. How would it look to a reasonable Calgarian, fully-informed of all the circumstances?

If the answer to any of these questions is uncertain or concerning, the *Member* should seek advice from the *Ethics Advisor*. [SAME; Original C & C Rules 4.1.1-4.1.3, Comment 7]

B – Communicating on Behalf of the City
Bylaw ss. 12-14

- [14] The Implementation Fact Sheet issued by the provincial government states that the intent/rationale of including “Communicating on Behalf of the Municipality [*City*]” in the Code of Conduct for Elected Officials Regulation was to “promote public confidence by respecting the process established by council for communicating with the public on behalf of council or the municipality.” [NEW]
- [15] Sections 12-14 of the *Code of Conduct for Elected Officials Bylaw* reflect the fact that generally speaking Members do not act as spokespersons for the *City*, and are entitled to communicate their own political and policy perspectives even where those do not align with *City* policies. They also recognize, however, that when Members are authorized to speak on behalf of the *City* they must make reasonable efforts to ensure their statements are fair and accurate. [NEW]

C – Respecting the Decision-Making Process
Bylaw ss. 15-17

- [16] The Implementation Fact Sheet issued by the provincial government states that the intent/rationale of including “Respecting the Decision-Making Process” in the Code of Conduct for Elected Officials Regulation was to “support effective decision-making through the processes set out in legislation and local bylaws for making decisions, including respect for the role of the chair”. Sections 15-17 of the *Code of Conduct for Elected Officials Bylaw* impose an ethical obligation on *Members* to respect the procedures of *Council* and its Committees. [NEW]
- [17] Sections 183 and 184 of the *MGA* impose duties on *Members* with respect to voting. They require that a *Member* vote at any meeting attended by that *Member* (s. 183(1)), require that the *Member* abstain from voting if the *Member* was absent from all of a public hearing (184(a)), and permit the *Member* to abstain if the *Member* was absent for part of the public hearing (184(b)). Section 172(1)(b) requires a *Member* to abstain from voting if they have a pecuniary interest in a matter. Section 174(f) disqualifies a *Member* from *Council* if they do not vote on a matter when required to do so. [SAME; Original C & C Rules 4.1.1-4.1.3, Comment 5]
- [18] Section 174(d) of the *MGA* disqualifies a *Member* from sitting on *Council* if the *Member* misses all regular *Council* meetings for eight

weeks in a row, unless Council authorizes that absence (s. 174(2)).
[SAME; Original C & C Rules 4.1.1-4.1.3, Comment 6]

- [19] The *Procedure Bylaw* (Bylaw 35M2017) sets out obligations of *Members* in meetings of *Council* and its Committees. It also sets out the obligations of the Chair. The Chair is required to “maintain order and decorum in a manner which promotes fairness and forward progress” (25(a)). The Chair must enforce the rules of the *Procedure Bylaw* (26(1)). If “the Chair interrupts a *Member* in order to enforce the rules, the *Member* must stop speaking and wait for the Chair to explain the reason for the interruption, and to cite the rule which has been breached” (26(1)). *Members* must “abide by all applicable administrative and Council policies related to conduct.” (27(1)). *Members* must also “keep their comments relevant to the issue at hand” (27(2)). *Members* must not interrupt other speakers except on a point of order of question of privilege and, when voting begins, they must “cease any distractions from the question and remain at their seat until the vote is taken and declared” (28(2)-(3)). *Members* “have the responsibility for ensuring that the rules of this [*Procedure*] bylaw are adhered to” (29). If a *Member* is absent “for the whole of a public hearing on a matter” they may not vote on the matter (87(1)). If they are absent for part of the hearing they may choose to abstain from voting (87)(2). If the *Member* is not voting because of absence they “must leave the meeting before the vote commences” (87(3)). [NEW]

D – Adherence to Policies, Procedures and Bylaws

Bylaw s. 18

- [20] The Implementation Fact Sheet issued by the provincial government states that the intent/rationale of including “Adherence to Policies, Procedures and Bylaws” in the Code of Conduct for Elected Officials Regulation was to “promote service of the public interest and show leadership by upholding legislation, local bylaws, and policies adopted by council.” Section 18 of the *Code of Conduct for Elected Officials Bylaw* lists some of the legislation and *City* policies and bylaws that govern the conduct of *Members*. The duty imposed by s. 18 applies, however, to all legislation, bylaws and policies that govern *Member* conduct. [NEW]
- [21] As noted in Comments 6 through 9 above, a *Member* has a legal obligation to fulfil their obligations as set out in legislation and in *City* policies and bylaws, as well as an ethical obligation to do so diligently and in good faith. [NEW]

E – Respectful Interactions with Members, Staff, the Public and Others
Bylaw ss. 19-20

- [22] The Implementation Fact Sheet issued by the provincial government states that the intent/rationale of including “Respectful interactions with councillors, staff, the public and others” in the Code of Conduct for Elected Officials Regulation was to “promote treatment of council members, municipal employees, and others with dignity, understanding and respect.” Sections 19 and 20 of the *Code of Conduct for Elected Officials Bylaw* impose a duty on *Members* to treat others respectfully. [NEW]
- [23] *Members* enjoy freedom of expression. However, *Members* must, and must be able to, exercise their governing responsibilities independently and in the best interests of the municipality. Abusive, bullying or intimidating speech has the potential to undermine the ability of *Members* and *City* and Council staff to discharge their responsibilities to the *City* and to the public. [SAME; Original C & C Rules 4.1.4-4.1.5, Comment 4]
- [24] The *Respectful Workplace Policy* (HR-LR-001) also governs communications by *Members*. It applies to “1. City of Calgary employees, including job applicants; 2. Contractors providing service for or to the City; 3. Suppliers delivering material to the City; 4. Volunteers; 5. Members of City Council; and 6. Members of the public who are accessing City services or City operated facilities” (Clause 1.1). It requires all of those people to be “treated with respect, honesty and dignity” (Clause 3.1), which includes being “polite, courteous and respectful of others” (Clause 7.1). [STYLISTIC REVISIONS; Original C & C Rules 4.1.4-4.1.5, Comment 5]
- [25] *Members* should not use social media as a platform to treat members of the public, one another, or *City* or *Council* employees, disrespectfully. *Members* should not engage in or encourage abusive, bullying or intimidating speech. These types of interactions on social media misplace the focus of the interaction on attacking individuals rather than engaging in constructive discussion or debate. Use of social media during election campaigns must also comply with ss. 54-56 of the *Code of Conduct for Elected Officials Bylaw* [MINOR REVISIONS; Original C & C Rules 4.1.4-4.1.5, Comment 6]

F – Confidential Information
Bylaw ss. 21-25

- [26] The Implementation Fact Sheet issued by the provincial government states that the intent/rationale of including “Confidential Information” in the Code of Conduct for Elected Officials Regulation was to “promote public trust by refraining from using information in a way that would be detrimental to the public interest.” Sections 21-25 outline the duties of *Members* to respect confidentiality generally and in light of their

legislative obligations under the *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25 (“*FOIPP Act*”). [NEW]

- [27] Section 153(d) of the *MGA* requires *Members* “to keep in confidence matters discussed in private at a council or council committee meeting until discussed at a meeting held in public”. [SAME; Original C & C Rules 4.2.1-4.2.3, Comment 1]
- [28] Confidential Information includes but is not limited to information such as:
- a. All discussions at *in camera* meetings of *Council* or *Council* committees until that information has become public or *Council* has passed a resolution authorizing it to be disclosed;
 - b. Legal advice
 - c. Items under litigation or negotiation
 - d. Personnel matters;
 - e. Information that infringes on the rights of others (for example, the identity of a whistle-blower);
 - f. Price schedules in a contract tender or Request for Proposal submission where those schedules are stated to be confidential;
 - g. Information related generally to the procurement of goods or services;
 - h. Statistical data required by law not to be released. [SAME; Original C & C Rules 4.2.1-4.2.3, Comment 2]
- [29] Section 174(i) of the *MGA* disqualifies a *Member* from *Council* if they use “information obtained through being on council to gain a pecuniary benefit in respect of any matter”. [SAME; Original C & C Rules 4.2.1-4.2.3, Comment 3]
- [30] The *FOIPP Act* allows people to obtain access to “any record in the custody or under the control of a public body” (s. 6(1)). There are several exceptions to this requirement. For example, a public body (meaning the *City*) may refuse to disclose personal information that would unreasonably invade someone else’s personal privacy (s. 17(1)), interfere with public safety (s. 18(1)(b)), undermine law enforcement (s. 20(1)(a)), harm relations between the provincial government and the *City* (s. 21(1)(a)(ii) or that is privileged (for example, legal advice)(s. 27(1)). The *FOIPP Act* does not permit disclosure of draft bylaws or policies, of any *in camera* deliberations by *Council* (s. 23(1)) or of information that could harm the economic interests of the *City* (s. 25(1)). [SAME; Original C & C Rules 4.2.4-4.2.6, Comment 1]
- [31] The *FOIPP Act* requires the *City* to protect any personal information it collects from “unauthorized access, collection, use, disclosure or destruction”. Personal information under the *FOIPP Act* means

recorded information about an identifiable individual; the *FOIPP Act* further specifies what is included in personal information, which includes for example the person's age, sex, marital status, fingerprints, race, and his or her "personal views or opinions". [SAME; Original C & C Rules 4.2.4-4.2.6, Comment 2]

- [32] *Council* has policies that specifically govern records and information management: The *Records Management Policy for Councillors* (PAC013) and *Information Management and Computer Resources Policy – Office of the Councillors* (PAC011). These Council policies primarily govern the Office of the Councillors, but also direct *Members* to retain data "in a manner consistent with the Ethical Conduct Policy for Members of Council" (PAC011). This should be understood as referring to this *Code of Conduct for Elected Officials Bylaw*, and in particular ss. 24-25. *Members* have discretion under the *Record Management Policy for Councillors* with respect to how they classify and retain documents, but *Members* should be aware that the *Record Management Policy for Councillors* was created in 1999. For that reason, s. 24 of the *Code of Conduct for Elected Officials Bylaw* directs *Members* to follow best practices with respect to the retention of records and other information. [MINOR REVISIONS; Original C & C Rules 4.2.4-4.2.6, Comment 1]

G – Conflicts of Interest **Bylaw ss. 26-39**

General

- [33] The Implementation Fact Sheet issued by the provincial government states that the intent/rationale of including "Conflicts of Interest" in the Code of Conduct for Elected Officials Regulation was to "promote public trust by refraining from exploiting the position of councillor for private reasons or that would bring discredit to the office." It also notes that any bylaw enacted "does not diminish or change the effect of existing legislated pecuniary interest provisions". Sections 26-39 of the *Code of Conduct for Elected Officials Bylaw* set out *Members* ethical obligations in relation to disclosure, the receipt and disclosure of *Gifts and Personal Benefits*, and avoiding conflicts of interest in general and pecuniary interests in particular. [NEW]

Disclosure

- [34] As set out in ss. 9, 18 and 26, a *Member's* failure to comply with the *Disclosure Policy for Members of Council* (CC044, 2014 November 04) also constitutes a breach of the *Code of Conduct for Elected Officials Bylaw*. *Members* have an ethical obligation to comply with their responsibilities under the *Disclosure Policy for Members of Council* diligently and in good faith. [MINOR REVISIONS; Original C & C Rules 4.3.1-4.3.4, Comment 1]

- [35] *Members* should also be aware of their obligations to file a disclosure statement pursuant to section 147.4 of the *Local Authorities Election Act* RSA 2000 c. L-21 (“*Local Authorities Election Act*”) and that s. 174(b.1) of the *MGA* provides that a *Member* may be disqualified from *Council* for failing to file that disclosure statement. [NEW]
- [36] The ability of the Office of the Councillors to fulfil its responsibility to disclose *Member* budgets and expenses depends on the good faith and timely provision of information to the Office by *Members*. [SAME; Original C & C Rules 4.3.1-4.3.4, Comment 2]
- [37] Section 35(a) of the *Code of Conduct for Elected Officials Bylaw* requires that *Members* disclose the value of a *Gift or Personal Benefit* “if known”. *Members* must undertake reasonable efforts to discover the value of a *Gift or Personal Benefit* received, particularly since *Members* are no longer required to disclose *Gifts or Personal Benefits* of nominal (less than \$50.00) value and also are not permitted to receive *Gifts or Personal Benefits* worth more than \$500.00 under s. 34(c), (d), (f) and (i) (s. 34.1). The value of a *Gift or Personal Benefit* should only not be disclosed in the event that discovering the value is impractical or impossible. [NEW]

Gifts and Personal Benefits

- [38] Under these rules, a *Member* may not accept a *Gift or Personal Benefit* that is connected directly or indirectly with the performance of his or her duties unless it falls within one of the exceptions listed in s. 34 and 34.1. If a *Gift or Personal Benefit* is permitted as an exception it must be disclosed. In short: a *Gift or Personal Benefit* (as defined in this *Code of Conduct for Elected Officials Bylaw*) must be refused or disclosed (unless it is permitted but valued at less than \$50.00). [MINOR REVISIONS; Original C & C Rules 4.4.1-4.4.7, Comment 1]
- [39] The *Code of Conduct for Elected Officials Bylaw* requires *Members* to determine when a *Gift or Personal Benefit* is for personal use, such that it falls within this *Code of Conduct for Elected Officials Bylaw*. They also require *Members* to determine when a *Gift or Personal Benefit* is connected with the performance of his or her duties as a *Member*, such that it may not be solicited or accepted unless an exception applies under s. 34 and 34.1, and must be disclosed. In answering these questions *Members* should start with the assumption that any item included in the definition of a *Gift or Personal Benefit* (e.g., a ticket to an event) is for personal use and is connected with the performance of their duties as a *Member*. An item should be viewed as for personal use if it provides a benefit to the *Member* beyond the performance of the *Member’s* duties. An item should be viewed as connected to the *Member’s* performance of their duties unless it is provided by someone like a family member, an old friend (i.e., someone unconnected to the *Member’s* role), or a date. When in doubt, the *Member* should seek

advice from the Ethics Advisor. [MINOR REVISIONS; Original C & C Rules 4.4.1-4.4.7, Comment 2]

- [40] An example of a *Gift or Personal Benefit* that is an “incident of protocol or social obligation” would be a gift provided to thank the Member for speaking at an event or conference. A *Gift or Personal Benefit* received as a normal or necessary incident to the Member’s responsibilities as a Ward representative would include a modest gift of thanks or acknowledgement from a constituent. [STYLISTIC REVISIONS; Original C & C Rules 4.4.1-4.4.7, Comment 3]
- [41] The *Indemnification of Members of Council Policy* (CC010) provides that a *Member* may solicit donations to the *City* to defray costs incurred by the *City* to indemnify a *Member* for external legal fees and disbursements (Procedure, Clause 2a). [SAME; Original C & C Rules 4.4.1-4.4.7, Comment 4]
- [42] *Members* seeking to solicit funds to fundraise for a community, charitable or non-profit organization pursuant to s. 34(b) must provide full disclosure to the *Ethics Advisor* and obtain the approval of the *Ethics Advisor* prior to soliciting such funds. *Members* should also consult the *Guidelines for Fundraising by Members of Council* (PFC2017-0426, 2017 May 02) for information as to the type of practices that should be followed when engaging in fundraising for community, charitable or non-profit organizations. [SAME; Original C & C Rules 4.4.1-4.4.7, Comment 5]

Conflicts of Interest

- [43] Sections 170-174 of the *MGA* impose obligations on *Members* when they have a pecuniary interest. *Members* must familiarize themselves with the *MGA*’s requirements, and must not rely solely on the information contained here. [STYLISTIC REVISIONS; Original C & C Rules 4.5.1-4.5.3, Comment 1]
- [44] The basic approach of the *MGA* is that when a *Member* has a pecuniary interest, the Member must disclose that interest, must not vote on the matter in which he or she has a pecuniary interest, must not participate in discussions on that matter and must leave the room while the matter is considered. A *Member* who violates these obligations will be disqualified from *Council* (See: ss. 170, 172 and 174(1)(g)-(i) of the *MGA*, and Comment 17 above) [MINOR REVISIONS; Original C & C Rules 4.5.1-4.5.3, Comment 2]
- [45] The *MGA* defines a pecuniary interest as a matter which could “monetarily affect” the *Member* or the *Member*’s family. It includes an effect on the *Member* directly or, in some circumstances, an effect on a corporation or partnership in which the *Member* is a shareholder, director, officer or partner (See: s. 170(1)-(2)). [SAME Original C & C Rules 4.5.1-4.5.3, Comment 3]

- [46] The *MGA* does set out some exceptions that narrow the definition of a pecuniary interest. A pecuniary interest does not arise, for example, because there is a monetary effect on a *Member* that arises just because a *Member* and his or her family are electors or taxpayers in the *City*. It does not occur because the *Member* is paid to sit on *Council*, or to sit on another body as a representative of *Council*. It does not occur because the *Member* or the *Member's* family have an interest in common with the majority of electors in the *City*, or with the majority of electors in part of the *City*. It does not occur when it is “so remote or insignificant that it cannot reasonably be regarded as likely to influence” the *Member* (See: s. 170(3)(a)-(h) - 170(4)). [SAME; Original C & C Rules 4.5.1-4.5.3, Comment 4]
- [47] *Members* also have obligations to disclose pecuniary interests under s. 58 of the *Procedure Bylaw* which states that a *Member* who has a pecuniary interest before *Council* or a *Council* Committee must disclose the general nature of the pecuniary interest and leave the meeting before debate if required and return after the vote is declared. [NEW]
- [48] Under the common law, a decision by a municipality may be voided if a fully informed member of the public could have a “reasonable apprehension” that the *Member* is biased. Generally speaking, courts are very reluctant to say that it is reasonable to apprehend that a *Member* is biased. A *Member* may have a clear position on a matter before *Council*, so long as the *Member* is amenable to persuasion, and the clear position does not arise from corruption (*Save Richmond Farmland Society v. Richmond (Township)* [1990] 3 S.C.R. 1213). At the same time, under the *MGA* a *Member* has an obligation to vote on matters put to a vote at the meeting unless they have grounds for abstention, and may be disqualified if they improperly fail to vote (See: s. 183(1) and s. 174(f)). [STYLISTIC REVISIONS; Original C & C Rules 4.5.1-4.5.3, Comment 5 – first half]
- [49] To ensure that the *Member* votes when they ought to do so, but that they do not end up voting on a matter where they are biased or have a disqualifying pecuniary interest, the *Member* must (if practically possible) disclose personal interests in matters before *Council* to the *Ethics Advisor*, whether or not those interests are a pecuniary interest as defined by the *MGA*. The *Ethics Advisor* will advise the *Member* about whether to vote, consulting with the City Solicitor where appropriate. [MINOR REVISIONS; Original C & C Rules 4.5.1-4.5.3, Comment 5 – second half]
- [50] The sorts of personal interests that could give rise to a reasonable apprehension of bias include a personal relationship with an applicant before *Council* – for example, a *Member's* best friend applying for a secondary suite. [SAME Original C & C Rules 4.5.1-4.5.3, Comment 6]

H – Improper Use of Influence

Bylaw ss. 40-43

- [51] The Implementation Fact Sheet issued by the provincial government states that the intent/rationale of including “Improper Use of Influence” in the Code of Conduct for Elected Officials Regulation was to “promote the priority of municipal interests over the individual interests of councillors, and to refrain from seeking to influence decisions for personal reasons.” [NEW]
- [52] The purpose of ss. 40-43 of the *Code of Conduct for Elected Officials Bylaw* is to ensure that *Members* fulfill their fiduciary duty to act in the best interests of the *City*. They direct *Members* not to exploit their office for personal advantage or to provide benefits to third parties to which those third parties are not properly entitled. [MINOR REVISION; Original C & C Rules 4.1.6-4.1.12, Comment 1]
- [53] Examples of obtaining an improper personal advantage include using one’s status as *Member* to influence the decision of another person to the private advantage of oneself, or one’s family, staff members, friends or associates, business or otherwise. Also prohibited is persuading someone to do something (or not to do something) because the *Member* will provide some future benefit in return. [SAME ;Original C & C Rules 4.1.6-4.1.12, Comment 2]
- [54] *Members* routinely provide preferential treatment to some Calgarians in the sense that they, and *Council*, provide benefits to some that are not received by everyone. A person who receives a cancellation of tax arrears pursuant to s. 347 of the *MGA* has received such a benefit. A *Member* may provide assistance to a constituent who has a problem on a *City*-related matter, which benefits that constituent. So long as those preferences arise through the ordinary and lawful discharge of the *Member’s* duties they are ethically permitted. A *Member* may not, however, provide preferential treatment on a basis that falls outside the discharge of THEIR duties as a *Member*. That would include, for example, providing preferential treatment based on a personal relationship, on the promise or prospect of a present or future advantage being provided to the *Member* (such as a campaign contribution) or on other grounds that relate to the *Member’s* personal interest or circumstances, rather than the *Member’s* official role and duties. [MINOR REVISIONS; Original C & C Rules 4.1.6-4.1.12, Comment 3]
- [55] Pursuant to s. 25 of the *Local Authorities Election Act*, Nomination Day is four weeks before election day. [SAME Original C & C Rules 4.6.1-4.6.16, Comment 2]
- [56] The *Local Authorities Election Act* imposes obligations on all candidates in a Municipal Election, including those sitting as incumbent *Members*. It imposes restrictions and conditions on raising funds, requires that all candidates be registered to run, imposes obligations in relation to

disclosure and the management of surplus funds, and makes the candidate responsible for ensuring compliance with the *Local Authorities Election Act's* requirements. It also creates offences for unlawful interference with an election. Section 174 of the *MGA* disqualifies a *Member* in the event he or she failed to meet certain requirements of the *Local Authorities Election Act*. [SAME Original C & C Rules 4.6.1-4.6.16, Comment 1]

I – Use of Municipal Assets and Services

Bylaw ss. 44-60

- [57] The Implementation Fact Sheet issued by the provincial government states that the intent/rationale of including “Use of Municipal Assets and Services” in the Code of Conduct for Elected Officials Regulation was to “promote stewardship and public trust by refraining from the use of municipal assets or resources for personal reasons.” Sections 44-60 of the *Code of Conduct for Elected Officials Bylaw* set out the duties of *Members* to ensure that *City* resources are not misused, particularly during election campaigns. [NEW]
- [58] With respect to the appropriate use of *City* resources, *Members* should also consult the *Acceptable Use of City Technology Resources – Members of Council* (PAC009) which requires that *City* technology resources “be used only for their intended purpose” (Clause 4.1) and prohibits the use of those resources “for outside activities without the prior agreement of the Manager, Office of the Councillors” (Clause 4.3). [MINOR REVISIONS; Original C & C Rules 4.1.6-4.1.12, Comment 4]
- [59] The Administration’s *Conflict of Interest Policy* (HR-LR-004(B)) governs political activity by *City* employees. It permits *City* employees to engage in political activity outside of the workplace and during non-work time. It directs *City* employees to be “politically neutral” in the performance of their *City* duties. [SAME Original C & C Rules 4.6.1-4.6.16, Comment 3]
- [60] Where *Members* or their staff are uncertain as to whether an activity during the Campaign Period or after Nomination Day violates this *Code of Conduct for Elected Officials Bylaw* they should consult with the *Ethics Advisor*. [MINOR REVISIONS; Original C & C Rules 4.6.1-4.6.16, Comment 4]

J – Orientation and Training Attendance

Bylaw ss. 61-62

- [61] The Implementation Fact Sheet issued by the provincial government states that the intent/rationale of including “Orientation and Training Attendance” in the Code of Conduct for Elected Officials Regulation was to “promote effective leadership and personal development by accessing training opportunities.” Sections 61-62 of the *Code of Conduct for Elected Officials Bylaw* ensure that all new *Members* attend

all *Orientation Training*, and that all *Members* attend training addressing their essential legal and governance responsibilities. [NEW]