

# CITY OF SASKATOON COUNCIL POLICY

NUMBER

C0

<b>POLICY TITLE</b> <i>Provision of Legal Services</i>	<b>ADOPTED BY:</b> <i>City Council</i>	<b>EFFECTIVE DATE</b>
<b>ORIGIN/AUTHORITY</b>	<b>CITY FILE NO.</b> <i>CK.</i>	<b>PAGE NUMBER</b> <i>1 of 7</i>

## POLICY STATEMENT

Provision of legal advice is a critical role at the City of Saskatoon. Ensuring that all branches of the City have access to impartial independent legal advice is an important component in ensuring good governance at the City. Bylaw No. 8174, *The City Administration Bylaw, 2003* outlines the reporting structure of the Administration at the City. This Policy is intended to provide more detail regarding the reporting structure and complement the provisions of the Bylaw.

### 1.0 PURPOSE

The purpose of this Policy is to identify the processes and parameters for the provision of legal services to:

- a) The City Manager and the Administration;
- b) Council and Council Committees; and
- c) Such Boards, agencies and other organizations as may be approved by Council.

### 2.0 DEFINITIONS

- 2.1 “Administration” means the City Clerk and employees accountable to the City Manager.
- 2.2 “Boards” means the boards of directors of the City’s Controlled Corporations and the Saskatoon Public Library Board.
- 2.3 “City Clerk” means the person appointed as City Clerk pursuant to Section 85 of *The Cities Act*.

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- 2.4 “City Manager” means the person appointed as the administrative head of the City of Saskatoon pursuant to Section 84 of *The Cities Act*.
- 2.5 “City Solicitor” means the person appointed as the full-time city solicitor for the City of Saskatoon.
- 2.6 “Council Committee(s)” means a committee established by Council pursuant to *The Procedures and Committees Bylaw, 2014*, comprised of Council members only, and includes:
- a) The Governance and Priorities Committee; and
  - b) All Standing Policy Committees.
- 2.7 “Council” means the Council of the City of Saskatoon.

## 3.0 PRINCIPLES

### 3.1 Providing Legal Services

- a) The City Solicitor shall:
  - i) Provide legal services to the City Manager and the Administration.
  - ii) Provide legal services to Council and Council Committees including attending the meetings of Council and Council Committees.
- b) The City Solicitor may provide legal services to Boards, agencies and other organizations as may be approved by Council or through mutual agreement with the Boards. In the event of a conflict as determined by the City Solicitor, the City Solicitor shall provide legal services only to the City Manager, Administration and Council or Council Committee.

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## 3.2 Reporting Structure

The City Solicitor's primary reporting relationship will be to the City Manager and the City Solicitor shall also provide legal services directly to Council and Council Committees in accordance with this Policy.

## 3.3 Report Process

### a) Reports from the City Manager and Administration:

- i) The City Manager and Administration shall provide reports to the City Solicitor for review when the General Manager of the relevant Department or the City Manager has determined legal review is required. As determined by the City Solicitor, or the City Manager, situations may arise where it is necessary for the City Solicitor to directly provide *In Camera* legal advice to Council and Council Committees in relation to a report from the City Manager or the Administration. The City Solicitor shall also provide the same *In Camera* legal advice to the City Manager and Administration so the City Manager and the Administration are aware of the position of the City Solicitor. The legal advice may be in the form of a report or it may be provided verbally to Council and Council Committees.
- ii) The City Manager may also provide advice to Council and Council Committees in response to the legal advice of the City Solicitor. This advice may be in the form of a report or it may be provided verbally to Council and Council Committees. The City Solicitor shall be provided with a copy of the report or briefed on advice to be provided verbally in advance of the meeting at which the matter is to be considered.
- iii) When presenting a recommendation to Council and Council Committees that is contrary to the legal advice provided by the City Solicitor, the City Manager or Administration shall include in its report to Council and Council Committees the reasons or rationale for the recommendation and detail how the City Solicitor's advice was considered. The City Solicitor

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shall be provided a copy of any report in advance of the meeting at which the matter is to be considered.

- b) Reports from the City Solicitor:
- i) The City Solicitor shall provide legal advice directly to Council and Council Committees with respect to any matter of legal significance as determined by the City Solicitor or City Manager. The legal advice may be in the form of a report or it may be provided verbally to Council and Council Committees.
  - ii) Subject to Subsection 3.3b)(iii), the City Solicitor shall provide the report to the City Manager in a timely manner or brief the City Manager on the legal advice to be provided verbally to allow for comments from the City Manager and the City Solicitor shall incorporate the comments of the City Manager, but only to the extent that they do not affect the independent, unfettered nature of the legal advice as outlined in Sections 3.4 and 3.5.
  - iii) The City Solicitor shall not provide the report to the City Manager in circumstances where it would be inappropriate for the City Manager to have access to the report from the City Solicitor, as determined by the City Solicitor. These circumstances may include the employment of the City Manager, labour grievances where the City Manager was the last decision maker, or other similar circumstances.
  - iv) The City Manager may also provide advice to Council and Council Committees in response to the legal advice of the City Solicitor. This advice may be in the form of a report or it may be provided verbally to Council and Council Committees. The City Solicitor shall be provided with a copy of the report or briefed on advice to be provided verbally in advance of the meeting at which the matter is to be considered.

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## 3.4 Professional Conduct and Independence

- a) The City Solicitor shall provide legal services to the City Manager and the Administration in accordance with the *Code of Professional Conduct* established by the Law Society of Saskatchewan. The legal services provided by the City Solicitor shall be independent and unfettered by inappropriate political or administrative influences.
- b) The City Solicitor shall provide legal services to Council and Council Committees in accordance with the *Code of Professional Conduct* established by the Law Society of Saskatchewan. The legal services provided by the City Solicitor shall be independent and unfettered by inappropriate political influences, administrative influences or the City Manager.

## 3.5 Prosecutorial Discretion

Without limiting the generality of Section 3.4, the City Solicitor shall exercise prosecutorial independence in the same manner as such independence is exercised by the Attorney General of the Province of Saskatchewan. This principle recognizes that the City Solicitor or designate is appointed as agent of the Attorney General by the Ministry of Justice for the Government of Saskatchewan and undertakes to only lay charges where there is a reasonable likelihood of conviction and the charges brought will not be contrary to public interest. The prosecutorial responsibilities of the City Solicitor or designate shall be based on objective legal criteria, independent of any political influence, or administrative influence, and includes the discretion to bring, pursue, continue or cease the prosecution of any matter for which the City Solicitor or designate has been appointed to prosecute.

## 3.6 Services of External Legal Counsel

- a) City Manager:
  - i) The City Manager may obtain an external legal opinion on any matter. If requested to do so by the City Manager, the City Solicitor will assist the City Manager in obtaining an external legal opinion. Any legal opinion obtained by the City Manager shall be provided to the City Solicitor in advance of the Council or Council Committee

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meeting at which the matter is to be considered except if the City Solicitor has a conflict of interest.

b) Other Situations:

- i) The City Manager and the City Solicitor may jointly determine that external legal advice, or external legal services are appropriate for a specific matter. External legal services may be retained in the event of a professional conflict with the City Solicitor, the requirement for specialized services, or other circumstances as determined by the City Manager and the City Solicitor. The City Solicitor shall obtain the external legal advice. External legal advice may be shared with Council and Council Committees when necessary after consultation with the City Manager. In the event of the need for external legal services, the City Solicitor shall retain the external legal services, act as a liaison to the external legal service provider and monitor their performance.

## 4.0 DELEGATION

The City Solicitor may delegate functions and responsibilities under this Policy to other lawyers or staff in the Office of the City Solicitor.

## 5.0 ***THE LOCAL AUTHORITY FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT***

Documents created in accordance with this Policy are subject to the provisions of *The Local Authority Freedom of Information and Protection of Privacy Act*.

## 6.0 RESPONSIBILITIES

### 6.1 City Solicitor

The City Solicitor is responsible to:

- a) Provide legal services in accordance with this Policy; and

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- b) Recommend updates to this Policy.

## 6.2 City Manager

The City Manager is responsible to:

- a) Respond as required to legal advice provided by the City Solicitor in accordance with this Policy;
- b) Protect the role of the City Solicitor to provide independent, unfettered legal advice and uphold the prosecutorial discretion of the City Solicitor; and
- c) Consider updates to this Policy.

## 6.3 Council

Council is responsible to:

- a) Protect the role of the City Solicitor to provide independent, unfettered legal advice and uphold the prosecutorial discretion of the City Solicitor; and
- b) Approve changes to this Policy.