

2021 Municipal Elections Committee Report

A Report to City Council

Saskatoon

MUNICIPAL REVIEW COMMISSION



ACCOUNTABILITY · TRANSPARENCY · FAIRNESS · PREDICTABILITY

Saskatoon, Saskatchewan

June 7, 2021

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PART I: EXECUTIVE SUMMARY	

The Saskatoon Municipal Review Commission (SMRC) presents our third report on the administration of Saskatoon's 2020 municipal election process. The SMRC has analysed and assessed Saskatoon's elections bylaws, policies, and election materials, and compared those policies with all provinces and with comparably sized cities across Canada. The SMRC extends its gratitude to the 2020 Returning Officer (RO), the City Clerk's Office, and the City Solicitor, who were repeatedly consulted. The SMRC also extends its thanks to all election candidates, community associations, and community organizations that participated in our surveys.

Our analyses and consultations brought to light many areas in which the City of Saskatoon may improve municipal election policies and procedures. In particular, the SMRC recommends several changes to rules concerning the campaign period, election finance, candidates' financial disclosure statements, and services concerning the RO.

SUMMARY OF RECOMMENDATIONS

The SMRC has compiled 17 recommendations that we believe will bring further clarity to electoral rules and improve the electoral process.

Recommendation #1: That the City approach the Provincial Government to discuss amendments to *The Local Government Election Act, 2015 (LGEA)* regarding a move of municipal elections to a time period that is away from federal, provincial, and United States federal elections.

Recommendation #2: That the City demonstrates fairness and transparency, by:

- (a) conducting a review of monthly CCCRA spending patterns to determine how the allowance has been used since its creation, and if there is a pattern of higher end-of-term spending;
- (b) adjusting the CCCRA allowance to reflect current City expectations and usage patterns;
- (c) addressing potential incumbent advantage in an election year by amending *Policy C01-027 Section 3.1*, splitting access to the CCCRA into consistent, quarterly increments over an annual period, and restricting amounts expensed to match the amount accessible in each time period;
- (d) ensuring that the *2024 Candidate's Guide* addresses perception of incumbent advantage.

Recommendation #3: That the City amend *Bylaw No. 8491, Section 6.(3(b))* to state:

(b) if the campaign expenses are \$5,000.00 or more, the candidate shall receive the lesser of \$3,500.00 and the actual cost of the audit, plus applicable taxes.

Recommendation #4: That the City:

- (a) clarifies the language in *Bylaw No. 8491*, regarding *Section 2.(c)* to include “does not include audit fees or official agent remuneration;”, which reiterates *Sections 3.2(4)(c) and (n)*;
- (b) amend the language in *Bylaw No. 8491 Schedule “D”* form to include the name and signature of the candidate's Official Agent;
- (c) amend *Bylaw No. 8491* to include an *Appointment of Official Agent for Candidate for Mayor form*, and an *Appointment of Auditor for Candidate for Mayor form*, both of which would require the official agent and candidate to provide their signature and contact information.

Recommendation #5: That the City review all *Bylaw No. 8491 Schedule Forms* for clarity, consistency, and thoroughness.

Recommendation #6: That the SMRC request that the City address the discrepancy in language between *Bylaw No. 8491 Sections 3.(2.1(c(v))) and 11*. The following change is recommended:

“Official Agent

3.(2.1(c(v))) all financial records of the election campaign are retained by that candidate for the duration of the term of office for which the candidate sought election and are to be made available on request to the Returning Officer;”

Recommendation #7: That the language in *Bylaw No. 8491* be amended to:

- (a) require surplus campaign funds be remitted to the municipality to be held in trust for the candidate in the event that the candidate registers to run in the next municipal election or prior held by-election;
- (b) stipulate that if the candidate fails to register to run in the next municipal election, the surplus funds held in trust be paid to a charity of the candidate’s choice and, failing that, the surplus funds shall become the property of the municipality and assigned to a fund that has a community focus, such as the closest civic centre to the candidates riding.
- (c) clearly describe the procedures required, including the requirement of official statements, and inclusion of forms to implement this action.

Recommendation #8: That the City amend the language in *Bylaw No. 8491* and reduce the period for filing candidate campaign financial statements to 60 days for candidates for councillor, and 90 days for candidates for mayor.

Recommendation #9: That the City amend the language in *Bylaw No. 8491* to:

- (a) include a \$500 Minimum Fine for late disclosure of campaign financial statements;
- (b) state that the Court has the authority to grant relief for late disclosure of campaign statements.

Recommendation #10: That the City amend the language in *Bylaw No. 8491* within the section that describes late filings, to thoroughly discuss the penalties, including potential disqualification of an elected person from holding office, and Acts governing these rules.

Recommendation #11: That the City amend the language in *Bylaw No. 8491, Section 25, Disqualification from Office*, to refer to *The Cities Act, C-11.1, Section 120(2)(a)(b)*, and *The Municipalities Act, Section 147(2)(a)(b)*, and clarify that filing late disclosure statements may result in disqualification, as well as being barred from elections in any Saskatchewan Municipality for a period of 12 years.

Recommendation #12: That City Council request that the Government of Saskatchewan amend *The Cities Act, C-11.1, Sections 120-124*, and *The Municipalities Act, M-36.1, Sections 147-151* as necessary to address the topic of late disclosure statement filings in municipal elections.

Recommendation #13: That the City increase voter participation by developing partnerships with the provincial and federal governments, as well as the University of Saskatchewan, and identify opportunities to work with election outreach initiatives, such as the Voters List.

Recommendation #14: That the Returning Officer ensure that future Candidates Guides be expanded to include more fulsome sections on frequently asked questions, rules clarifications, and descriptions of complaints, penalties, and enforcement procedures.

Recommendation #15: That the City develop a series of online video/webinar resources that explains the procedures involved in running for municipal office, with special attention to issues that candidates may find challenging or where there is lower compliance.

Recommendation #16: That the City support the offices of the Returning Officer and City Clerk, in developing streamlined processes regarding candidate prohibitions, offences, and penalties, including those of campaign signs and late filings, as per the *Local Government Election Act, 2015, L-30.11*.

Recommendation #17: That the City develop a Candidate Code of Conduct that would set base expectations of respectful behaviour during the campaign period. The nomination process would include a voluntary agreement, to be signed, that states that the candidate has read and agreed to meeting this standard of conduct during the election period. When official nominations are made public, the status of nominee's agreement or non-agreement to this standard would be included.

PART II:

INTRODUCTION

OVERVIEW

In 2015, Saskatoon City Council (the City) created the Saskatoon Municipal Review Commission (SMRC) to examine public policy issues relating to the administration of city elections, councillor ethical conduct and councillor remuneration.¹ This 2020 election cycle report addresses the City's request to investigate "the conducts of all matters relating to municipal elections including the disclosure requirements respecting campaign contributions and expenses and campaign spending limits for municipal elections."²

As a body independent of City Council, the SMRC is guided by the principles of accountability, transparency, fairness, and predictability. These values represent the spirit of any proposed reforms to the municipality's democratic institutions. Any SMRC recommendations to alter the rules governing municipal elections reflect the public's desire to strive for fairness for citizens and candidates, to promote equal opportunities for the citizenry to engage in the democratic process, and to heightened transparency and accountability in local election administration.

The SMRC studied the City's rules governing election campaigns³, recent policy changes, and conducted a comparative review of Canadian municipalities. To ensure clarity on issues, the Commission discussed many of these items with the RO, the City Clerk's Office, the City Solicitor, and the Integrity Commissioner. To engage stakeholders and the public, the SMRC administered written surveys to all election candidates, to community associations, and to community organizations. The candidate survey inquired about the effectiveness of the City's current election rules and processes, and the community surveys inquired about the voter experience. Overall, feedback was positive, but we heard many recommendations for change.

In our investigations, the SMRC found no evidence of scandal or corruption in the existing procedures surrounding the administration of the 2020 Saskatoon municipal election. It appears that administrators, candidates, and public officials in the City followed electoral rules well, but specific rules and practices require improvement. It is with these requests and observations in mind, that the following report has been drafted.

METHODOLOGY

The SMRC undertook a review of the rules respecting Saskatoon's municipal elections for the purposes of establishing a policy baseline. The SMRC examined recent election surveys to examine opinions on election campaign filing disclosures, and related matters. A policy study of

¹ City of Saskatoon, *Bylaw No. 9242, The Saskatoon Municipal Review Commission Bylaw, 2014*.

² City of Saskatoon, *Bylaw No. 9242, The Saskatoon Municipal Review Commission Bylaw, 2014*, para 2.

³ City of Saskatoon, *Bylaw No. 8491 The Campaign Disclosure and Spending Limits Bylaw, 2006*

the Canadian provinces and their major municipalities was performed to compare rules and seeking out current leading practices. In addition, a review of news and academic literature examined issues, policy developments, and arguments from elections experts.

The post-municipal candidate survey addressed the experiences and opinions of the 38 election candidates and inquired about the effectiveness of the City's current election rules and processes and heard many recommendations for change. 61% of candidates responded, of which: 83% of Mayoral candidates responded, 73% of elected Council candidates responded, and 56% of non-elected Council candidates responded. The SMRC also conducted a public municipal election experience survey with all 47 community associations (25% responded), and nine community organizations (44% responded).

The post-2020 election survey feedback prompted the SMRC to examine dozens of electoral finance issues and all topics were investigated. This scrutiny and debate included consideration of rules and policy language, a comparative analysis, and consideration of how change would impact staff, candidates, and the voting public.

In its environmental scan and analysis, the SMRC investigated election finance policies in all provinces, as well as comparatively sized or larger municipalities, capital cities, and cities with previously noted campaign finance policies. From this, the following table of locations were investigated for demographic, electoral finance, time-period criteria, and disclosure statement policies.

Province	Municipalities
British Columbia	Burnaby, Surrey, Vancouver
Alberta	Calgary, Edmonton
Saskatchewan	Saskatoon, Regina
Manitoba	Winnipeg, Brandon
Ontario	Guelph, Hamilton, Kitchener, London, Ottawa, Toronto, Windsor
Quebec	Gatineau, Longueuil, Montreal, Quebec City
Nova Scotia	Halifax
New Brunswick	Fredericton
Newfoundland and Labrador	St. John's
Prince Edward Island	Charlottetown

PART III: ASSESSMENT AND RECOMMENDATIONS

The SMRC chose to focus on four core themes for the 2020 Election Report: campaign time frames, electoral finance, late filings of disclosure statements, and administration of the election. For your consideration, the following discussion indicates the SMRC's understanding of current election rules. Not every section discussed contains recommendations for action, as most

procedures and rules are functioning well.

ELECTION TIME PERIOD

Commencement and Duration of the Campaign Period

Due to a fall 2015 federal election, the 2016 election was held in April, and this delayed the provincial budget until June. The four elections prior to the 2016 provincial election, had been held in the fall⁴. In 2020, the Saskatoon civic election was held on November 9th, approximately two weeks after the Saskatchewan provincial election, which was held on October 26th. Recent updates to provincial legislation outline that following 2020, on a four-year schedule, future provincial elections will be held on the last Monday in October and future municipal elections will occur on the second Wednesday in November, unless it falls on Remembrance Day.

In all SMRC surveys, many respondents requested that the election period be moved away from the provincial election, away from federal and United States election cross-over. Survey respondents, election and City staff, and public interviews with voters and election experts echoed the following opinions regarding election overlap:

1. It pulled attention away from the municipal election.
2. It created confusion in the information presented to the voting public, regarding candidate and campaign details across levels of government, as well as polling dates and locations, etc.
3. It put a serious strain on volunteers and staff that normally aid in a variety of levels of government election processes and campaigns. This made election organizations and candidates compete with one-another for volunteers and disrupted availability and timelines.
4. It created election fatigue and burnout - the overload of information and a long, overlapping campaign season is draining, making turn out for all elections less likely.

These same survey and public conversations also indicated a strong desire for the province to move the election away from late October, to avoid issues of cold weather and snowstorms that impact candidate's ability to campaign effectively, and voters to reach polling locations

Recommendation #1: That the City approach the Provincial Government to discuss amendments to *The Local Government Election Act, 2015 (LGEA)* regarding a move of municipal elections to a time period that is away from federal, provincial, and United States federal elections.

Campaign Contribution and Expense Periods

In Saskatoon, *Bylaw No. 8491* has the campaign contribution period begin on January 1 of the year following the preceding general election, and end on December 31 of the year of the next general election. The expenditures period begins on June 1 of an election year and ends on December 15 of the same election year. The contributions and expenditures calendar periods of

⁴ *Elections Saskatchewan (October 31, 2018): "Provincial and Municipal Election Dates to be Adjusted"*

most Canadian municipalities vary from each other, except for the province of Alberta, which grants both campaign periods the full election calendar year.

In the survey, the long contribution period was popular, and the shorter expense period was considered acceptable. Some incumbent and non-incumbent candidates indicated that this difference may inadvertently complicate matters and grant subtle advantages to incumbents, but this would be challenging to prove. As most candidates find these periods acceptable, no recommendation is given.

Communications and Constituency Relations Allowance

The Communications and Constituency Relations Allowance (CCCRA) is described in *Policy C01-027*. This policy serves as a flexible general fund for communications and constituency relations relating to City Council business. Aside from tasks directly involving communications and events, it also includes general office expenses, such as administrative staff support, general office supplies, and meeting expenses. The policy document *City of Saskatoon – Mayor and Councillors – Benefits & Entitlements* (last updated in 2015) describes the communications allowance as granting City Councillors, as a group, \$100,000 per year for expenses (\$10,000 per Councillor), with the Mayor receiving \$120,000. The amount of the allowance spent by Council members, past and present, varies greatly, from a just over \$1,000 to the maximum allotment.

Although *Policy C01-027* states in *Section 3.1(g)* “*In the year of a civic election, the allowance cannot be used from September 1 through October 31.*”, the top issue in the post-election survey, was that many candidates (43%) felt that that election rules were unreasonable regarding incumbents’ use of member of council’s communications and constituency relations allowance. The principal issue was that many non-incumbent candidates believed that toward the end of their term, incumbents used an abnormally large amount of CCCRA funds (in comparison to the rest of their term) on communications and events self-promotion, via their ward communications. Such activity is not prohibited by *Policy C01-027*.

Recommendation #2: That the City demonstrates fairness and transparency, by:

- (a) conducting a review of monthly CCCRA spending patterns to determine how the allowance has been used since its creation, and if there is a pattern of higher end-of-term spending;
- (b) adjusting the CCCRA allowance to reflect current City expectations and usage patterns;
- (c) addressing potential incumbent advantage in an election year by amending *Policy C01-027 Section 3.1*, splitting access to the CCCRA into consistent, quarterly increments over an annual period, and restricting amounts expensed to match the amount accessible in each time period;
- (d) ensuring that the *2024 Candidate’s Guide* addresses perception of incumbent advantage.

ELECTORAL FINANCE

Campaign Spending and Contribution Limits

Analyses of other Cities across Canada revealed that the City of Saskatoon’s current campaign spending limits and contribution limits, as set by *Bylaw No. 8491*, are average for both Mayor

and Council. The survey indicated that, overall, candidates were comfortable with the current limits, and successful candidates felt that the limits set were appropriate for the Cities' population size. An examination of election finance indicated that the amount of funds raised and spent was highly indicative of success in an electoral race. However, in three of the ten wards, the candidate elected was still outspent by other candidates. As most candidates are comfortable with this expense level and there are no obvious issues in fairness, no adjustment is recommended.

Audits of Candidates

Across the Cities and provinces examined, only the City of Winnipeg required certified audits for all candidates. In Ontario, candidates who have campaign expenses or contributions that total more than \$10,000 must have an auditor - a Chartered Professional Accountant (CPA), review their financial statement and provide a report. In British Columbia, a financial agent is required, but that person need not be a CPA.

In Saskatoon, only campaigns for mayor in Saskatoon require audits by a CPA (a unique practice), and the cost is partially covered by the City (*Bylaw No. 8491, Section 6(3)*). CPA audit costs cannot be covered by campaign contributions (*Bylaw No. 8491, Section 2(c)*). In the post-election survey, many candidates for Mayor requested a City review of audit compensation, described in *Bylaw No. 8491, Section 6(3)*, as the current amount had proven insufficient for their 2020 campaign audit expenses.

In 2021, the average expenditure of all candidates for Council was approximately \$9,675.00. Most successful candidates were incumbents and received and spent \$15-16,000. On average, non-incumbent candidates raised approximately \$5,100 in contributions, and had \$7,000 in expenditures, with a median of \$2,740 contributions and \$4,900 expenditures, respectively. As most candidates for Council would find the cost of an audit prohibitive, expanding audits to include this group is not recommended.

Recommendation #3: That the City amend *Bylaw No. 8491, Section 6.(3(b))* to state:

(b) if the campaign expenses are \$5,000.00 or more, the candidate shall receive the lesser of \$3,500.00 and the actual cost of the audit, plus applicable taxes.

Official Agent and Auditor

The post-election survey revealed an oversight within the language of the official agent rules in *Section 3.2(4)* of *Bylaw No. 8491*. Mayoral candidates must appoint an official agent, but the name of the official agent does not appear on *Schedule "D"* – the statement of campaign contributions and campaign expenses.

Definitions 2. (c) “campaign expense” means money spent or liabilities incurred, including the cost of goods and services and the value of donations in kind used by or for the benefit of a candidate, during the campaign expenses period for the purpose of a candidate’s election campaign but does not include audit fees.

Further, many large municipalities and higher levels of government require an official *Appointment of Candidate’s Official Agent form*⁵, as it aids in coordination. Similarly, an official *Appointment of Candidate’s Auditor forms*⁶ would aid administrative coordination.

Recommendation #4: That the City:

- (a) clarifies the language in *Bylaw No. 8491*, regarding *Section 2. (c)* to include “*does not include audit fees or official agent remuneration;*”, which reiterates *Sections 3.2(4)(c) and (n)*;
- (b) amend the language in *Bylaw No. 8491 Schedule “D” form* to include the name and signature of the candidate’s Official Agent;
- (c) amend *Bylaw No. 8491* to include an *Appointment of Official Agent for Candidate for Mayor form*, and an *Appointment of Auditor for Candidate for Mayor form*, both of which would require the official agent and candidate to provide their signature and contact information.

Bylaw No. 8491 Schedule Forms

Several quirks within the language of the Schedule forms in *Bylaw No. 8491*, were found.

1. It may be more appropriate for Schedule A, 2(a) should use *Total Revenue* rather than *Total Contributions* (the current calculation excludes anything under other revenues).
2. If an electoral candidate contributes \$100 or more, their contribution will be reported on Schedule C – on the *List of Cumulative Campaign Contributions from Contributors*. However, Schedule D, “*Campaign Period Contributions (excluding fundraising revenues):*” also requires that contributions from the candidate are reported here, so the donation may be recorded twice.
3. Staff remuneration often forms a large portion of campaign expenses. A “staff remuneration” category may aid *Schedule “D” Campaign Period Expenses (excluding fundraising expenses)* and may encourage transparency in campaign spending details for auditors.

Recommendation #5: That the City review all *Bylaw No. 8491 Schedule Forms* for clarity, consistency, and thoroughness.

Retention of Records by Candidate

⁵ *Elections Canada - Appointment of Candidate’s Official Agent form*

⁶ *Elections Canada - Appointment of Candidate’s Auditor form*

Candidates for positions on municipal council in Saskatoon are required to keep “complete and proper accounting records” of all contributions and expenses. There is a discrepancy in the provisions relating to record retention in *Bylaw No. 8491, in Official Agent, Section A4(1)*, as the language contradicts the *Retention of Records by Candidate Section 3.(2.1(c (v)))*.

A4 (1). Retention of Records by Candidate

11. All records of a candidate required to be maintained pursuant to this Bylaw shall be retained by that candidate for the duration of the term of office for which the candidate sought election.

Official Agent

3. (2.1 (c (v))) all financial records of the election campaign are retained for not less than two years after the election and are made available on request to the Returning Officer;

Recommendation #6: That the SMRC request that the City address the discrepancy in language between *Bylaw No. 8491 Sections 3.(2.1(c(v))) and 11*. The following change is recommended:

“Official Agent

3.(2.1(c(v))) all financial records of the election campaign are retained by that candidate for the duration of the term of office for which the candidate sought election and are to be made available on request to the Returning Officer;”

Reporting and Retention of Campaign Surplus

Saskatoon candidates who record a surplus are required to advise the RO regarding how these funds will be used in the future, and this information is publicly reported in the statutory declaration submitted as the statement of expenses and contributions. *Bylaw No. 8491* states:

9.1 If a Candidate’s Statement of Campaign Expenses/Contributions, filed with the Returning Officer in accordance with Section 5, discloses a surplus for the candidate’s campaign, the candidate shall disclose how the surplus funds will be used by providing the appropriate details in the Statutory Declaration “(Schedule “A”).

Deferral of Campaign Expenses

9.2 Campaign expenses incurred by a candidate in an election shall not be carried forward to be considered as allowable campaign expenses in a subsequent election.

In the City of Saskatoon, candidates who record a surplus are required to advise the RO how these funds will be used in the future, and this information is publicly reported in the statutory declaration submitted as the statement of expenses and contributions. After this declaration is issue, the matter is not followed up on.

In most municipalities studied, candidates who finish their campaigns with a surplus are required to turn the surplus over to the municipality to be held in trust for the candidate. The money is

then returned to the candidate if they register to run in the next municipal election or a prior held by-election. If a candidate fails to register to run in the next municipal election, the surplus funds must either be donated to charity or become the property of the municipality. The post-election surveys indicated candidate and community support for such an amendment.

In 2021, two candidates for Mayor and four candidates for Councillor reported a campaign surplus. The former amounted to \$582.96 and \$3,271.27, for a total of \$3,854.23. The latter amounted to \$415.79, \$1,082.41, \$2,439.76, and \$10,227.68, for a total of \$14,165.64. The combined surpluses amount to over \$18,000. Candidates indicated on their statement of surplus, that their declared intent for said surplus would include volunteer appreciation (x2), charitable donation (x2), constituent engagement (x3), and future elections (x2).

Recommendation #7: That the language in *Bylaw No. 8491* be amended to:

- (a) require surplus campaign funds be remitted to the municipality to be held in trust for the candidate in the event that the candidate registers to run in the next municipal election or prior held by-election;
- (b) stipulate that if the candidate fails to register to run in the next municipal election, the surplus funds held in trust be paid to a charity of the candidate's choice and, failing that, the surplus funds shall become the property of the municipality and assigned to a fund that has a community focus, such as the closest civic centre to the candidates riding.
- (c) clearly describe the procedures required, including the requirement of official statements, and inclusion of forms to implement this action.

LATE FILINGS OF DISCLOSURE STATEMENTS

Disclosure Statement Deadline

A review of post-election surveys of candidates indicated that although many were unfamiliar with the process, candidates understood the rules for disclosures. The RO affirmed that the *2020 Candidate Information Guide* was repeatedly clear about the due dates (stated twice on pages 6 and 12 under *Statement of Expenses/Contributions Deadlines*), and the section on *Disclosure of Campaign Contributions* and *Election Expenses* was succinctly described (pages 16 and 17).

Statement of Expenses/Contributions Deadlines

Councillor Candidates › February 9, 2021

Mayoral Candidates › March 9, 2021

School Board Candidates › May 1, 2021 with respective school board

The RO had analysed late filings in previous years, and found that they had significantly escalated, but noted that this issue was appearing in other municipalities as well. In 2021, one mayoral candidate filed late (due March 15th, filing received March 19th) and nine council candidates filed late (due February 16th, received between February 17th and March 23rd). As of May 26th, one candidate still has not filed. The City prosecutes all late filings and all matters of the 2020 election late filings are still with the Court.

Although no administrative or legislative requirement, courtesy reminders regarding filing disclosure statements are necessary and expected. The RO stated that two courtesy emails were

sent to all candidates prior to the filing deadline (December 2020 and February 2021) to remind them of their obligation to submit required paperwork. All candidates that had not filed as of the deadline were contacted by telephone following the deadline. For elections prior to 2020, the City Clerk/Returning Officer sent registered letters to all candidates to remind them of important dates and obligations. As the City has allocated additional time and staff to the Returning Office, and has plans to amend the 2024 Candidate's Guide, these procedures appear to be addressed for future elections.

Bylaw No. 8491 grants mayoral candidates and candidates for Council different amounts of time to file their disclosure statements. This variation in accommodation is due to the higher level of scrutiny placed upon mayoral candidate campaigns, which receive an official audit (as per *Section 6(1)*). Additional Mayoral accommodation in this period was not seen in other provinces or Cities, but there is precedent for a four-month or longer deadline⁷, and the three-month period allocated for candidates for Councillor is common. Saskatoon's mayoral candidates have indicated appreciation of this exception, and the extra time has not appeared to present a significant issue in comparison to the date range of the other candidates.

Candidate's Statement of Campaign Expenses/Contributions

5. (1) A candidate shall disclose campaign contributions and expenses in accordance with this Section.

(2) A candidate shall file a Statement of Campaign Expenses/Contributions with the Returning Officer:

(a) in the case of a candidate for mayor, within four months following the date of the general election or by-election; and

(b) in the case of a candidate for councillor, within three months following the date of a general election or by-election.

Quebec⁸ and the City of St. John's, Newfoundland⁹ require statements within 30 days of election day, and the City of Halifax¹⁰ requires statements within 60 days of election day. Anecdotes in candidate surveys discuss procrastination and forgetfulness about filings, and conversations with the RO suggests that a shorter period may help address the issue of late filings (over a quarter of candidates filed late this election). Most importantly, reducing the filing statement time-period would reduce the amount of time that a candidate, who would be disqualified for bylaw-breaching offences, spends in office.

Recommendation #8: That the City amend the language in *Bylaw No. 8491* and reduce the period for filing candidate campaign financial statements to 60 days for candidates for councillor, and 90 days for candidates for mayor.

Penalties for Late Disclosure Statements

⁷ *The Municipal Act, C.C.S.M. c. M225, Section 93.16(2)*

⁸ *The Municipal Act, 2001, Sections 88.23, 92*

⁹ *St. John's Election Finance By-Law, Section 5*

¹⁰ *By-law C-1100, Respecting Campaign Financing, Section 17*

Bylaw No. 9491, Section 17 states: “If, in the opinion of the Returning Officer, a candidate’s disclosure of campaign contributions and expenses is, on its face, irregular or suspicious, the Returning Officer may refer the matter to the Election Disclosure Complaints Officer for investigation notwithstanding that no formal complaint has been filed with the Clerk.”

When a disclosure statement is late, the Returning Office notifies the Governance and Priorities Committee in a report, and prosecution proceeds. Even if prosecution is unsuccessful, candidates that violated the bylaw with a late filing do not receive their refundable nomination deposit of \$100, as described in the *2020 Candidate Information Guide*, the *Local Government Election Act, 2015, L-30.11, Section 68*, and *Bylaw No. 8491, Section 10.1*.

10.1 A deposit submitted by a candidate for councillor or mayor pursuant to Section 68 of The Local Government Election Act, 2015 shall not be returned to the candidate unless the candidate and the candidate’s official agent have complied with the provisions of this Bylaw.

Most provinces state penalties for late disclosure statements as well as maximum fines, but not minimums. The wording of these enforcement rule’s penalties appears to have been written to allow for flexibility and discretion, and financial penalties are decided by the Courts. The City of Saskatoon’s penalty maximums are like those used in Alberta¹¹, and Newfoundland and Labrador¹². Part IV of Saskatoon *Bylaw No. 8491* discusses such enforcement offences and penalties. The bylaw has no formal appeal or relief process, but the RO indicated that the Court may choose to provide clemency when cases of exceptional circumstances are proven.

24. (1) Every person who contravenes any provision of this Bylaw is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000.00 and, in the case of a continuing offence, to a further fine of not more than \$5,000.00 for each day during which the offence continues.

(2) A conviction for an offence under this Bylaw does not relieve the person convicted from complying with the Bylaw and the convicting judge may, in addition to any fine imposed, order the person to do any act or work, within the time specified by the judge in the order, to comply with the provisions of this Bylaw.

(3) A person to whom an order is directed pursuant to subsection (2), who fails to comply with that order within the time specified by the judge, is guilty of any offence and liable on summary conviction to a fine of not more than \$5,000.00 for each day during which the non-compliance continues.

(4) If a candidate is the subject of an investigation pursuant to this Bylaw and the candidate is convicted of an offence against this Bylaw based on information obtained pursuant to the investigation, the convicting court may order, in addition to any penalty imposed pursuant to this Bylaw, that the candidate pay all or any costs of the investigation.

Minimum Late Disclosure Penalties and Relief

¹¹ Local Authorities Election Act, Section 147.84(1)

¹² Municipal Elections Act, Chapter M-20.2, Section 100(1)(b)

Although all late filings are prosecuted, the RO stated that fines for penalty of late disclosures have been minimal and inconsistent. In 2016, prosecution amounts were nominal. Each candidate that filed late was required to pay a victim surcharge of either \$40 or \$50 and a fine ranging from \$30 to \$150 (minimum \$70, maximum \$200).

24. (1) Every person who contravenes any provision of this Bylaw is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000.00 and, in the case of a continuing offence, to a further fine of not more than \$5,000.00 for each day during which the offence continues.

The provinces of Alberta¹³, British Columbia¹⁴, Ontario¹⁵, and Newfoundland and Labrador¹⁶ have a \$500 late filing fee. A minimum late filing fee provides a baseline for Court penalties and strong incentive for rapid disclosure of statements. British Columbia's *Local Authorities Election Act, Section 47*, provides a good example of a minimum penalty policy.

47(1) A disclosure statement must be filed within 90 days after general voting day for the election or assent voting to which it relates, or if applicable,
(a) within the period established under Section 90 [late filing extensions in extraordinary circumstances], in order to avoid a late filing penalty fee.

(2) If a disclosure statement is not filed within the applicable time period under subsection (1), it may be filed within 120 days after general voting day for the election or assent voting on payment to the BC chief electoral officer of a late filing penalty fee of \$500.

The Courts of all provinces decide matter of electoral candidate penalties and disqualification. Candidates may choose to appeal to the Court and ask for relief, such as in the example Section (4(b) stated above. The provinces of British Columbia¹⁷ and Ontario¹⁸ late filing policies discuss this an explicit option, stating that they allow for relief from penalty (such as a minimum fine) by a court order. The benefit of this practice is that it makes clear whose jurisdiction penalties are in (not Council or City administration), and that rulings on penalties are impartial and final.

Recommendation #9: That the City amend the language in *Bylaw No. 8491* to:

- (a) include a \$500 Minimum Fine for late disclosure of campaign financial statements;
- (b) state that the Court has the authority to grant relief for late disclosure of campaign statements.

Disqualification from Office

¹³ *Local Authorities Election Act, Section 147.7*

¹⁴ *Local Elections Campaign Financing Act, Section 47(2)*

¹⁵ *The Municipal Act, 2001, Sections 88.23(9)*

¹⁶ *Municipal Elections Act, Chapter M-20.2, Section 100(1)(a)*

¹⁷ *Local Elections Campaign Financing Act, Section 47(4)(b), 48(1)(d), 56*

¹⁸ *The Municipal Act, 2001, Sections 88.23(6)*

When the Council member begins their term, they are eligible to work and to receive remuneration, even though the filing process is incomplete. The City must assume that the candidate shall remain eligible by filing their campaign disclosure statement and that they were not in violation of campaign rules.

When an elected candidate files a late campaign disclosure statement, that candidate is in violation of *Bylaw No. 8491, Section 25*. In such circumstances, the candidate must apply for relief with the Courts and prove that extraneous circumstances or honest mistake disrupted their disclosure statement filing or be disqualified from office and resign. Council must always pass such an issue on to the Court. A similar process is mandated across all Canadian municipalities.

25. (1) In addition to the penalties set out in Section 24, if a candidate who is elected contravenes any provision of this Bylaw, the candidate is disqualified from Council and shall resign immediately.

(2) Notwithstanding subsection (1), where on application a judge of the Court of Queen's Bench is of the opinion that the disqualification of the candidate arose through inadvertence or by reason of an honest mistake, the candidate shall not be required to resign.

Bylaw No. 8491, Section 25 describes offenses, but does not specifically target the issue of late filings. To fully understand offences and penalties, a person must read the entire bylaw. The policy cites *The Cities Act, C-11.1, Section 120* and *The Municipalities Act, Section 147(1)(b)* which both state that serious offenses call for the resignation of an elected official. Neither of these Acts are cited in *Bylaw No. 8491*, with regard to offenses.

120(1)(b) ceases to be eligible for nomination or election or to hold office pursuant to The Local Government Election Act, 2015 or any other Act;

As the section on expectations and penalties are not directly connected, the bylaw is not explicitly clear. However, the *2020 Candidate Information Guide, page 17*, does address this possibility in its discussion of disclosure of campaign contributions and election expenses.

It is an offence to not comply with The Campaign Disclosure and Spending Limits Bylaw. Penalty can include a fine up to \$5,000 per day of non-compliance. In addition, a successful candidate who contravenes The Campaign Disclosure and Spending Limits Bylaw is disqualified from council and must resign immediately. A member of council who is disqualified from council is not eligible to be nominated or elected in an election in any municipality until the earlier of 12 years following the date of the disqualification and the date of any pardon obtained with respect to a disqualification for conviction of an offence under Sections 123, 124, or 125 of The Criminal Code or an offence punishable by imprisonment for five years or more.

The analysis of other provinces and Cities reveals that it is common for policies to state, in a section discussing electoral campaign finance disclosure statements, that the consequence of late

filing is forfeiture of the elected seat. Among the provinces, the most succinct policy that describes this is the province of Manitoba, in *The Municipal Act, C.C.S.M. c. M225, Sections 93.16 (1-3)*.

Failure by elected candidate to file statement

93.16(1) *Where a registered candidate who is elected in an election fails to file (a) an election finance statement required under subsection 93.12(1) before the date prescribed in a by-law passed under subclause 93.2(d)(ii); or (b) a further statement required under subsection 93.12(2) before the date prescribed in a by-law passed under clause 93.2(e);*

the chief administrative officer must provide a written report of the failure to council at its next meeting, and the candidate must not sit on council until the chief administrative officer reports to council that the candidate's statement has been filed.

Forfeiture of seat

93.16(2) *Every registered candidate elected in an election forfeits his or her seat on council if the candidate fails to comply with Section 93.12 (filing election finance statement) within 270 days after the day of the election.*

Failure of other registered candidates to file

93.16(3) *Where an individual who is registered as a candidate in an election and who is not nominated, withdraws, or is not elected in the election, fails to comply with Section 93.12 (filing election finance statement), the individual is disqualified from being nominated for or elected as a member of council until after the next general election.*

Recommendation #10: That the City amend the language in *Bylaw No. 8491* within the section that describes late filings, to thoroughly discuss the penalties, including potential disqualification of an elected person from holding office, and Acts governing these rules.

Consequences for Failure to Provide Statements

When a Saskatoon municipal election candidate's campaign is successful, but they are found to have contravened any provision of *Bylaw No. 8491*, they are disqualified from holding office. This creates disruption in City Governance, deprives the public of appropriate representation, and incurs significant costs in administration and may result in a by-election.

Disqualification from Office

25. (1) *In addition to the penalties set out in Section 24, if a candidate who is elected contravenes any provision of this Bylaw, the candidate is disqualified from Council and shall resign immediately.*

(2) *Notwithstanding subsection (1), where on application a judge of the Court of Queen's Bench is of the opinion that the disqualification of the candidate arose through*

inadvertence or by reason of an honest mistake, the candidate shall not be required to resign.

British Columbia¹⁹, Manitoba²⁰, Ontario²¹, and Quebec²² add additional consequences for election disruption, and state that failure to file an election finance statement disqualifies an elected candidate from being nominated or elected as a member of council until after the next general election removing the candidate from municipal politics for approximately eight years. In Saskatchewan, such penalties are strict. *The Cities Act, C-11.1, Section 120(2)(a)(b)*, mirrors *Section 147(2)(a)(b) of The Municipalities Act*, which states:

A member of council who is disqualified from council pursuant to this section is not eligible to be nominated or elected in an election in any municipality until the earlier of:
(a) 12 years following the date of the disqualification; and
(b) the date of any pardon obtained with respect to a disqualification pursuant to a conviction pursuant to clause (1)(d).

Bylaw No. 8491 does not refer to these sections in *The Cities Act, C-11.1* and *The Municipalities Act*, and even if it did, the penalties do not explicitly refer to late filing of disclosure statements.

Recommendation #11: That the City amend the language in *Bylaw No. 8491, Section 25, Disqualification from Office*, to refer to *The Cities Act, C-11.1, Section 120(2)(a)(b)*, and *The Municipalities Act, Section 147(2)(a)(b)*, and clarify that filing late disclosure statements may result in disqualification, as well as being barred from elections in any Saskatchewan Municipality for a period of 12 years. **Provincial Act Amendments**

Matters of electoral candidate disqualification due to late filings are a serious matter that can trigger a by-election. The Government of Saskatchewan's policies would benefit from an update as there is little guidance on the topic of late filings, and existing legislation is challenging to interpret. The provinces of British Columbia, Alberta, and Ontario provide clear and significant guidance on candidate disclosure statement filings, with the Province of Alberta's *Local Authorities Election Act Section 147.7*, and *Municipal Government Act, RSA 2000, Part 5, Division 7*, appears to be the most comparable policy model.

Recommendation #12: That City Council request that the Government of Saskatchewan amend *The Cities Act, C-11.1, Sections 120-124*, and *The Municipalities Act, M-36.1, Sections 147-151* as necessary to address the topic of late disclosure statement filings in municipal elections.

ADMINISTRATION OF THE ELECTION

¹⁹ *Local Elections Campaign Financing Act, Section 64(2)(a)*

²⁰ *The Municipal Act, C.C.S.M. c. M225. Section 93.16(3)*

²¹ *The Municipal Act, 2001. Sections 88.23(2)(b)*

²² *Act Respecting Elections and Referendums in Municipalities, Article 300, 302*

The 2020 post-election surveys prompted questions and feedback, and the SMRC discussed these matters with the RO. Many of these topics were procedural, and not within the purview of the SMRC to address through policy recommendations. The SMRC would like to acknowledge that the RO understood and accepted all points raised in this discussion, and that the City has already addressed, or had laid plans to address, most issues. Of these, the most relevant to the SMRC mandate were improvements in communications procedures, as well as longer terms of engagement for the RO, and additional support for that office.

Election Outreach and the Voter's List

The RO, candidates, and elections experts expressed that municipal election public education and outreach should be a priority, especially after the low turnout (27.4%) in the 2020 election. Presently, the Saskatoon Civic Election does not use a voter's list for their municipal election, due to expense, but it may be possible to develop lower cost election outreach solutions in conjunction with the provincial and federal government.

Recommendation #13: That the City increase voter participation by developing partnerships with the provincial and federal governments, as well as the University of Saskatchewan, and identify opportunities to work with election outreach initiatives, such as the Voters List.

Procedures, Conduct, and Rule Enforcement

Candidates expressed that they were interested in learning more about running for office and appreciated the style and content of the 2020 *Candidate's Guide*. However, there is a vast amount of information to learn about procedures in running for office, and in surveys, it many candidates had little knowledge of campaign finance rules and procedures. The SMRC spoke with the RO and the City Clerk about the development of resources for candidates to accommodate different modes of learning and busy schedules, and reviewed how to improve future materials, such as online resources and the 2024 *Candidate's Guide*.

Some SMRC post-election surveys held complaints regarding sign theft and vandalism, signs being left up after campaigns, and concerns regarding candidate behaviour with the public, other candidates, and in disclosure statements. The SMRC spoke with the RO and the City Clerk regarding procedures of how such issues are revealed and how complaints are enforced; they found that general procedural reform may aid the RO. Further, strategies were discussed about setting expectations for candidate conduct.

Recommendation #14: That the Returning Officer ensure that future Candidates Guides be expanded to include more fulsome sections on frequently asked questions, rules clarifications, and descriptions of complaints, penalties, and enforcement procedures.

Recommendation #15: That the City develop a series of online video/webinar resources that explains the procedures involved in running for municipal office, with special attention to issues that candidates may find challenging or where there is lower compliance.

Recommendation #16: That the City support the offices of the Returning Officer and City Clerk, in developing streamlined processes regarding candidate prohibitions, offences, and penalties, including those of campaign signs and late filings, as per the *Local Government Election Act, 2015, L-30.11*.

Recommendation #17: That the City develop a Candidate Code of Conduct that would set base expectations of respectful behaviour during the campaign period. The nomination process would include a voluntary agreement, to be signed, that states that the candidate has read and agreed to meeting this standard of conduct during the election period. When official nominations are made public, the status of nominee's agreement or non-agreement to this standard would be included.

Municipal Election Legislation and Rules

A large body of policies, bylaws, and other rules affect the City of Saskatoon’s elections. The SMRC has endeavoured to be comprehensive in its review of this body of literature and remains committed to aiding electoral candidates navigate these rules successfully.

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Saskatchewan

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The Municipalities Act, Division 9, Part VIII, Section 147(1)(b), and Section 147(2)(a)(b)

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The Municipal Government Act, Sections 35 and 98(4)

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Elections Canada - Appointment of Candidate's Auditor form

Elections Canada - Appointment of Candidate's Official Agent form