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# The Code of Ethical Conduct for Members of City Council Bylaw, 2018

## Recommendations

1. That City Council consider Bylaw No. 9537, *The Code of Ethical Conduct for Members of City Council Bylaw, 2018*.
2. That the Code of Conduct for Members of Saskatoon City Council, adopted by City Council on March 12, 2012, be repealed.

## Topic and Purpose

This report is in response to a resolution from City Council instructing the City Solicitor to draft a new Code of Ethics Bylaw incorporating the recommendations of the Saskatoon Municipal Review Commission (“MRC”). The City Solicitor was further directed, in redrafting the Code of Ethics, to bring forward options dealing with gifts and benefits, reimbursable expenses, and support for charities and to include provisions establishing an independent Integrity Commissioner.

This report presents *The Code of Ethical Conduct for Members of City Council Bylaw, 2018* (the “Bylaw”) for City Council’s consideration and enactment.

## Report Highlights

1. The Bylaw incorporates the recommendations of the MRC’s Municipal Code of Conduct Committee Report, dated February 11, 2016.
2. The existing Code of Conduct for Members of Saskatoon City Council and *The Code of Ethics for Members of City Council Bylaw, 2017* are both replaced by the Bylaw.
3. Under the Bylaw, a member of Council may only accept a gift or benefit that is permitted by the list of exceptions, and all gifts and benefits accepted must be disclosed.
4. The Bylaw describes how members of Council may continue to support community and charitable organizations, while clarifying that members must not directly or indirectly manage or control any monies received relating to community or charitable organization fundraising.
5. The mandate, authority and scope of duties for an independent Integrity Commissioner are established in the Bylaw, as are complaint and investigation processes.

## Strategic Goals

This report supports the Strategic Goals of Continuous Improvement and Quality of Life as it promotes transparency of municipal government and supports City Council in providing good governance to the citizens of Saskatoon.

## Background

At its Regular Business Meeting on March 27, 2017, City Council adopted the following recommendations of its Governance and Priorities Committee (“GPC”):

- “1. That the City Solicitor be instructed to draft a new Code of Ethics Bylaw which incorporates the recommendations of the Saskatoon Municipal Review Commission as outlined in its February 11, 2016 report. In the redrafting of the Code of Ethics, the City Solicitor bring forward options dealing with the appropriateness of the exceptions in the current Code’s Gifts and Benefits section and options to address reimbursable expenses and support for charities;
2. That the frequency review of the Code of Ethics by the Saskatoon Municipal Review Commission be as outlined in *The Saskatoon Municipal Review Commission Bylaw, 2014*”.

At the same meeting, City Council adopted GPC’s recommendation that “the City Solicitor report further respecting the possible governance model, mandate, authority and scope of duties for an independent Integrity Commissioner”. Following the City Solicitor’s report in response, City Council instructed the City Solicitor on August 27, 2018 “to include in the drafting of the Code of Conduct Bylaw, provisions which establish an Independent Integrity Commissioner. The Bylaw would include the mandate, authority and scope of duties for an Independent Integrity Commissioner as outlined in the report of the City Solicitor dated August 20, 2018.”

## Report

City Council adopted the Code of Conduct for Members of City Council by resolution on March 12, 2012 (the “2012 Code of Conduct”), and enacted *The Code of Ethics for Members of City Council Bylaw, 2017* (the “2017 Bylaw”) on February 27, 2017. It was understood, at the time of its enactment, that the 2017 Bylaw was an interim step and it would be incorporated into the new Code of Conduct Bylaw that was expected based on the report of the MRC.

The attached *Code of Ethical Conduct for Members of City Council Bylaw, 2018* incorporates the 2012 Code of Conduct, the 2017 Bylaw, and the recommendations of the MRC. A draft of the Bylaw was reviewed by Ombudsman Saskatchewan and, where appropriate, its suggestions have also been incorporated.

Following are highlights from each Part of the Bylaw:

### Preamble

- The preamble reflects the City's values and principles, to inform the spirit of the Bylaw, and includes a statement of intent for interpretation.

### Part I – General

- Many of the definitions included to ease interpretation of the Bylaw reflect *The Procedures and Committees Bylaw, 2014*.
- The Bylaw does not apply to violations of sections 114-119 of *The Cities Act*, which deal with conflict of interest.
- Information notes are provided throughout the Bylaw to aid both members of Council ("members") and members of the public with interpretation. These information notes have no legal effect.
- The Bylaw will be reviewed in accordance with subsection 13(4) of *The Saskatoon Municipal Review Commission Bylaw, 2014*.

### Part II – Standards and Values

- This Part mimics the 2017 Bylaw, which is the model code of ethics required by *The Cities Act*.

### Part III – Ethical Conduct

- All members must attend a mandatory ethical conduct and conflict of interest course to be held within one month of the first meeting of Council following the general election.
- Members must comply with all obligations imposed on them by statute or other legal enactment, and by the City's bylaws and policies.
- Confidential information and personal information are defined, as are a member's obligations in dealing with this information.
- The respectful conduct expected of members towards members of the public, other members, and City staff is established. The expected conduct of members in Council and Committee meetings is also set out, as are expectations when members communicate with the media and the public.
- A gift or personal benefit is defined, and members may only accept a gift or personal benefit connected directly or indirectly with the performance of their duties if it is one of the enumerated exceptions. Many of the exceptions are similar to what appeared in the 2012 Code of Conduct. All gifts and benefits received must be disclosed annually and the disclosure is a matter of public record.
- Members may support community and charitable organizations, but may not directly or indirectly manage or control any monies received relating to community or charitable organization fundraising.
- With respect to expenses, members must comply with the *Communications and Constituency Relations Allowance* and *City Councillors' Travel and Training* policies.
- Members must only use the influence of their office for the exercise of their official duties. The improper use of influence is fully addressed.

- The conduct expected of members during City elections and elections for other levels of government is established.

#### Part IV – Integrity Commissioner

- The mandate, authority and scope of duties for an independent Integrity Commissioner are established.
- The appointment of an Integrity Commissioner may be made, suspended, or revoked only if the majority of Council vote to do so, and Council may not dismiss an Integrity Commissioner except for cause. These measures are intended to protect the independence of the Integrity Commissioner.
- A process is established for the handling of written complaints when an Integrity Commissioner is not appointed or cannot act. In these circumstances, the City Solicitor and City Clerk jointly consider the written complaint and, if it is within an Integrity Commissioner's jurisdiction and there are sufficient grounds, appoint an Integrity Commissioner for the investigation and determination of that complaint.
- In addition to the investigation, determination, and reporting of complaints, the Integrity Commissioner will also:
  - provide oral advice and written advance rulings and recommendations to members, and provide Council with specific and general advice, on questions of compliance with the Bylaw;
  - prepare written materials for distribution to, and use by, members regarding the role of the Integrity Commissioner and the ethical obligations and responsibilities of members under the Bylaw;
  - prepare written materials and content for the City's website for distribution to, and use by, the public, to aid in their understanding of the role of the Integrity Commissioner and the ethical obligations and responsibilities of members under the Bylaw;
  - deliver educational programs to members and staff regarding the role of the Integrity Commissioner and the ethical obligations and responsibilities of members under the Bylaw;
  - provide advice and recommendations to Council regarding amendments to the Bylaw; and
  - publish an annual report on the work of the Integrity Commissioner including examples in general terms of advice and advance rulings rendered and complaints received and disposed of.

#### Part V – Complaints

- Informal and formal complaint procedures and investigation procedures are set out.
- Complaints may be made in writing by an identifiable person to the Integrity Commissioner, although the Integrity Commissioner has the discretion to investigate non-compliant complaints.
- Any complaint will first be reviewed to ensure it falls within the Integrity Commissioner's jurisdiction. If it does not, the complainant will be directed to a more appropriate process.
- The Integrity Commissioner may attempt to settle a complaint.

- A complaint will be served on the member of Council against whom it was made and the member will have the opportunity to respond. The Integrity Commissioner may speak to anyone relevant to the complaint and may access any relevant records, with a few legal exceptions.
- Before making a report finding a violation of the Bylaw, the Integrity Commissioner will first give notice to the member of the proposed finding and recommended sanction and the member will have the opportunity to comment.
- Any report to Council from the Integrity Commissioner on a violation of the Bylaw will first be heard *in camera* by the Governance and Priorities Committee. Should sanctioning of a member be recommended, the matter will be dealt with by City Council.
- If a complaint is dismissed, it will only be reported as part of an annual report, except in exceptional circumstances.
- Council may impose any sanctions, censure and corrective actions permitted by law.

#### Part VI – Repeal and Coming Into Force

- The 2017 Bylaw is repealed and the Bylaw comes into effect on its passing.

#### **Communication Plan**

The Administration will issue a News Release and prepare relevant materials to inform the public and news media outlets of the Bylaw and the forthcoming appointment of an Integrity Commissioner.

The Integrity Commissioner contract will be advertised as considered appropriate by Administration.

Following appointment, the Integrity Commissioner will prepare written materials and content for the City's website for distribution to, and use by, the public, to aid in their understanding of the role of the Integrity Commissioner and the ethical obligations and responsibilities of members of Council under the Bylaw.

#### **Policy Implications**

The Code of Conduct for Members of Saskatoon City Council, adopted by Council on March 12, 2012, must be repealed; it is replaced by the Bylaw. Many existing policies are supported by the Bylaw, including *City Councillors' Travel and Training* (C01-023), *City of Saskatoon Anti-Harassment Policy and Investigative Procedures for Members of City Council and Senior Administration* (C01-025), *Communications and Constituency Relations Allowance* (C01-027), *Computer Acceptable Use* (A02-035), *Privacy and Confidentiality Policy* (A02-042).

### **Financial Implications**

In the City Solicitor's report dated August 20, 2018, it was recommended that the Integrity Commissioner be hired on a part-time, contract for service with remuneration similar to the examples given in the report (\$12,000 per year plus \$500 per day for days worked or \$2,000 for partial year 1, \$5,000 for year 2, and in year 3, \$2,500 plus an hourly rate of \$375). A recommendation for the appointment of the Integrity Commissioner, including remuneration, will be brought forward following enactment of Bylaw No. 9537.

### **Other Considerations/Implications**

There are no options to the recommendation, environmental, Privacy, or CPTED implications or considerations.

### **Due Date for Follow-up and/or Project Completion**

As directed by City Council on August 27, 2018, Administration will bring forward recommendations for appointment of an independent Integrity Commissioner, including remuneration, at the appropriate time. These recommendations will be brought forward following the enactment of Bylaw 9537.

### **Public Notice**

Public Notice pursuant to Section 3 of Policy No. C01-021, Public Notice Policy, is not required.

### **Attachment**

1. Proposed Bylaw No. 9537, *The Code of Ethical Conduct for Members of City Council Bylaw, 2018*.

### **Report Approval**

Written by: Reché McKeague, Solicitor  
Approved by: Patricia Warwick, City Solicitor

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