

THE CITY OF EDMONTON
BYLAW 20841
COUNCIL CODE OF CONDUCT BYLAW Amendment No. 5

Edmonton City Council enacts:

1. Bylaw 18483, Council Code of Conduct Bylaw, is amended by this bylaw.
2. Schedule B - Complaints is deleted and replaced with the attached Schedule B - Complaints.
3. Schedule C - Sanctions is deleted and replaced with the attached Schedule C - Sanctions.

Read a first time

Read a second time

Read a third time

SIGNED AND PASSED

THE CITY OF EDMONTON

MAYOR

CITY CLERK

SCHEDULE B COMPLAINTS

Submission Process

If any person believes that a Councillor has contravened this code of conduct, that person may make a written complaint to the Integrity Commissioner. A sample complaint form will be made available on the City's website.

Written complaints must include the following:

- a) the provisions of the Council Code of Conduct allegedly contravened and the facts surrounding the allegation, including any witnesses;
- b) the name of the Councillor(s) alleged to have contravened the Council Code of Conduct; and
- c) the complainant's name and contact information,

and may be submitted by electronic mail to: integrity.commissioner@edmonton.ca or delivered to:

Integrity Commissioner
c/o Office of the City Clerk
3rd Floor, City Hall
1 Sir Winston Churchill Square
Edmonton AB T5J 0R2

A complaint must be received by the Integrity Commissioner not later than 60 days after the date the person became aware of the conduct giving rise to the complaint. The Integrity Commissioner may use their discretion to grant extensions if:

- a) the delay occurred in good faith;
- b) it is in the public interest to conduct an investigation or to give consideration whether to conduct an investigation; and
- c) no substantial prejudice will result to any person because of the delay.

On receipt of a complaint, an initial assessment will be completed. Complaints that:

- a) are not about a current Councillor;
- b) are about the conduct of a Councillor's employee;
- c) allege criminal activity;
- d) allege a violation of the Municipal Government Act or the Freedom of Information and Protection of Privacy Act;
- e) are covered by other applicable legislative appeal, complaint, or court processes; or
- f) relate to conduct for which there is under any enactment a right of appeal or objection or a right to apply for a review on the merits of the matter to any court or to any tribunal

until that right of appeal or objection or application has been exercised or until after the time prescribed for the exercise of that right has expired,

will be immediately refused and the complainant will be advised in writing, with reasons, and provided with information regarding other options, if applicable.

Investigation

Complaints accepted by the Integrity Commissioner will be investigated, however:

- a) complaints received or under investigation within 90 days prior to a municipal election may be suspended until after election day; and
- b) if the Integrity Commissioner determines that a complaint is frivolous, vexatious, or made in bad faith, the Integrity Commissioner will immediately dismiss the complaint.

If the Integrity Commissioner determines that informal resolution may be possible, they may, with written consent of both the complainant and respondent Councillor:

- a) refer the complaint to the Ethics Advisor or another third party for resolution;
- b) facilitate direct communication between the complainant and respondent Councillor;
- c) facilitate discussions between the complainant and respondent Councillor; or
- d) retain an independent mediator to facilitate discussions between the complainant and respondent Councillor.

If a complaint cannot be resolved informally, the Integrity Commissioner will conduct a formal investigation. Formal investigations must be conducted in a fair, timely, and confidential manner that respects the principles of procedural fairness and natural justice.

The complainant and respondent Councillor will receive written notice of the investigation, and the respondent Councillor will receive a copy of the complaint. Names of complainants and witnesses may be provided to the respondent Councillor if:

- a) the investigation cannot be completed without releasing the name(s); or
- b) the respondent Councillor requires the name(s) to properly respond to the allegations.

During an investigation, a complainant or witness may be asked to provide additional information and may be asked to provide information through a statutory declaration. If a statutory declaration is requested, the Office of the City Clerk may provide a Commissioner for Oaths, free of charge. City employees or Councillor's employees may also be requested to provide information, and any person conducting an investigation on behalf of the Integrity Commissioner may look at any record or thing belonging to or used by the City, and enter any City facility for the purpose of completing the investigation. The respondent Councillor is entitled to disclosure of all relevant information gathered during an investigation.

At all times during an investigation, the complainant, respondent Councillor, and any witnesses must keep all information relevant to the investigation, including the status of the investigation

itself, confidential. If the complainant breaches this confidentiality, the Integrity Commissioner may deem the complaint to be frivolous, vexatious, or made in bad faith, and will immediately dismiss the complaint. If the respondent Councillor breaches this confidentiality, the Integrity Commission may investigate the breach as a potential violation of this code of conduct.

Once all relevant information has been provided to the respondent Councillor by the Integrity Commissioner, the respondent Councillor will have 10 days to respond to the complaint in writing and may provide any further information in support of their response. This deadline may be extended at the discretion of the Integrity Commissioner.

The Integrity Commissioner will strive to complete investigations within 90 days of the date the complaint is accepted. This deadline may be extended at the discretion of the Integrity Commissioner.

Nothing in this bylaw restricts the Integrity Commissioner from providing interim reports to Council on any matter relevant to a complaint, including reports of any interference, obstruction, or retaliation with an ongoing investigation.

Reporting

Following the investigation, if the Integrity Commissioner believes the complaint is substantiated they must provide a report addressed to Council. The report must contain:

- a) a summary of the complaint;
- b) a summary of information gathered and conclusions made; and
- c) a recommended resolution, including any recommended sanctions in accordance with Schedule C - Sanctions.

Report Submission

Reports of a substantiated complaint will first be submitted by the Integrity Commissioner to the City Clerk for the purpose of reviewing upcoming Council meeting agendas for potential appropriate dates to hold a sanction hearing.

Immediately after submitting the report to the City Clerk, the Integrity Commissioner must provide a copy to the respondent Councillor. The Integrity Commissioner may provide a copy to the complainant, if doing so would not contravene the Freedom of Information and Protection of Privacy Act, or another enactment.

Once advised that the Integrity Commissioner has provided a copy of the report to the respondent Councillor, the City Clerk will contact the respondent Councillor to determine a reasonable timeline for scheduling a sanction hearing at a special Council meeting.

The agenda for the Council meeting where the sanction hearing will be held will be published on the City's website at least 10 clear days before the meeting. The item(s) related to the sanction hearing must include:

- a) a public covering report from the City Clerk that contains all of the following:
 - i) the name of the respondent Councillor;
 - ii) the sections of this code of conduct where the Integrity Commissioner has substantiated a breach;
 - iii) the Integrity Commissioner's recommended sanction; and
 - iv) a recommendation from the City Clerk, in their capacity as delegated Freedom of Information and Protection of Privacy Act head, regarding whether Council should pass a motion permitting closing of the meeting and discussion of the Integrity Commissioner's report in private; and
- b) the Integrity Commissioner's report as a private attachment.

No later than 12 clear days before the sanction hearing, the respondent Councillor and complainant, if applicable, may provide a written response to the Integrity Commissioner's report and submit that response to the City Clerk for inclusion on the meeting agenda as additional private attachments.

SCHEDULE C SANCTIONS

On receipt of a substantiated complaint received from the Integrity Commissioner, Council must consider the complaint and results of the investigation, and may impose sanctions on the Councillor subject to the complaint. Council may accept, vary, replace, or reject the recommendations of the Integrity Commissioner. The Councillor subject to the complaint will have regard to the public perception and appropriateness of participating in the meeting where the complaint is discussed by Council, but cannot be prevented from participating in debate and voting on the motion, should they wish to.

Council may, by motion passed by special resolution, impose any of the following sanctions:

- a) issue a letter of reprimand addressed to the Councillor;
- b) require the Councillor to issue a letter of apology;
- c) direct the publication of a letter of reprimand or request for apology and the Councillor's response;
- d) pass a motion to censure;
- e) require the Councillor to attend specified training;
- f) suspend the Councillor from acting as deputy Mayor or acting Mayor, and assign those roles to another Councillor;
- g) suspend the Councillor's duties as chair of Council or council committee meetings and assign those duties to another Councillor;
- h) suspend the Councillor's membership on a council committee;
- i) restrict the Councillor's access to electronic confidential records and require the Councillor to return copies of Council records following each meeting; or
- j) any other sanction Council deems appropriate.

Council may not impose any sanction that has the effect of preventing the Councillor from fulfilling their legislated duties.

If Council imposes a sanction that involves a reduction or suspension of a Councillor's non-legislated duties, Council may also direct that the remuneration payable to the Councillor be reduced or suspended by a proportionate amount.

When imposing a sanction Council should consider the following:

- a) the nature, extent, severity, consequences, or impact of the contravention;
- b) the principles and intent of this code of conduct;
- c) the public interest, including the need to promote public confidence in the integrity of Council;
- d) whether the Councillor has previously contravened this code of conduct;
- e) the presence of any legitimate mitigating circumstances; and
- f) the need to deter future contraventions.

Nothing in this bylaw requires Council to impose a sanction for every substantiated complaint. Contraventions that were inadvertent or made in good faith may result in no sanction being imposed.

Sanction Hearing Procedures

*If the respondent Councillor has retained legal counsel, their legal counsel may speak or ask questions on their behalf, or provide supplementary remarks, except for casting votes.

Unless varied by these procedures, the procedures set out in the Council Procedures Bylaw, Bylaw 18155, apply to a sanction hearing and cannot be further varied. The steps listed below must be completed in the order presented.

A. For all Sanction Hearings

1. A motion must be put on the floor to consider closing the meeting to the public and discussing the Integrity Commissioner's report in private based on a stated exception to disclosure in the Freedom of Information and Protection of Privacy Act. If the motion fails, the public sanction hearing process in part B, below, must be used. If the motion is carried, the private sanction hearing process in Part C, below, must be used and the discussion will be recorded for the sole purpose of ensuring a record of the proceedings and all reasons are available in case a record is required for a review by the Court.

B. Public Sanction Hearing

1. The respondent Councillor must be given an opportunity to leave their regular seat so they may be seated next to their legal counsel.
2. Participants will be heard from in the following order:
 - a. the Integrity Commissioner may provide a brief presentation on their report.
 - b. Councillors may, in 5-minute increments, ask questions regarding the Integrity Commissioner's presentation to ensure the process was reasonable and to clarify the sanction recommendations in the Integrity Commissioner's report. The more significant the sanctions being recommended, the more Council should take this opportunity to clarify how the Integrity Commissioner reached their conclusions and develop comfort with the fairness of the recommendation. However, questions to the Integrity Commissioner should deal solely with matters relating to the results of the investigation process and potential sanctions. Questions related to the process used by the Integrity Commissioner to reach the results and recommendations are acceptable, but questions that second-guess or challenge the findings of the Integrity Commissioner are not. The respondent Councillor may also ask questions, and has 10 minutes to do so.
 - c. the respondent Councillor may make submissions on the reasonableness of the investigation process and on what sanctions, if any, are appropriate. The respondent Councillor has 10 minutes to speak. If the respondent Councillor needs additional time to present a meaningful response, then Council may allow

- the respondent Councillor to speak in additional 10-minute increments. For complicated matters, the 10-minute limit may be increased by Council.
- d. if other Councillors wish to question the submissions of the respondent Councillor, or ask clarifying questions that have arisen to the Integrity Commissioner, they may do so.
 - e. the Integrity Commissioner will have 5 minutes to make a final submission to provide clarification on any matter raised by the respondent Councillor, but may not raise any new matters. No questions may be put to the Integrity Commissioner.
3. Given the nature of a sanction hearing, the Chair will approve questions as they are asked, and may seek legal advice on the suitability of any question from the City's legal counsel.
 4. In exceptional circumstances, Council may, by motion, approve hearing from other interested persons, including the complainant, who have a direct connection to the substantiated breach and an interest in the recommended sanction. Speakers approved at this stage will have 5 minutes to speak to the appropriateness of the sanction and how the conduct of the respondent Councillor impacted them. No questions may be put to approved speakers.
 5. A motion regarding a sanction must be put on the floor. The respondent Councillor must be given an opportunity to leave before the hearing continues.
 6. When speaking to the motion, the respondent Councillor will speak last and have 10 minutes to speak to the motion and, if the respondent Councillor needs additional time to present a meaningful response, Council may allow the respondent Councillor to speak in additional 10-minute increments. The 10-minute limit may be adjusted to reflect the severity of potential sanctions.
 7. Prior to calling the vote on the motion, the respondent Councillor must be given the opportunity to leave.
 8. The vote on the motion will take place. If the motion carries, the sanction hearing is concluded. If the motion fails, a different motion may be made, debated, and voted.
 9. No subsequent motions or notices of motion related to the sanction hearing are permitted.

C. Private Sanction Hearing

1. The respondent Councillor must be given an opportunity to leave their regular seat so they may be seated next to their legal counsel.
2. Participants will be heard from in the following order:
 - a. the Integrity Commissioner may provide a brief presentation on their report.
 - b. Councillors may, in 5-minute increments, ask questions regarding the Integrity Commissioner's presentation to ensure the process was reasonable and to clarify the sanction recommendations in the Integrity Commissioner's report. The more significant the sanctions being recommended, the more Council should take this opportunity to clarify how the Integrity Commissioner reached their conclusions and develop comfort with the fairness of the recommendation. However, questions to the Integrity Commissioner should deal solely with matters relating to the results of the investigation process and potential sanctions. Questions related to the process used by the Integrity Commissioner to reach the results and

recommendations are acceptable, but questions that second-guess or challenge the findings of the Integrity Commissioner are not. The respondent Councillor may also ask questions, and has 10 minutes to do so.

- c. the respondent Councillor may make submissions on the reasonableness of the investigation process and on what sanctions, if any, are appropriate. The respondent Councillor has 10 minutes to speak. If the respondent Councillor needs additional time to present a meaningful response, then Council may allow the respondent Councillor to speak in additional 10-minute increments. For complicated matters, the 10-minute limit may be increased by Council.
 - d. if other Councillors wish to question the submissions of the respondent Councillor, or ask clarifying questions that have arisen to the Integrity Commissioner, they may do so.
 - e. the Integrity Commissioner will have 5 minutes to make a final submission to provide clarification on any matter raised by the respondent Councillor, but may not raise any new matters. No questions may be put to the Integrity Commissioner.
3. Given the nature of a sanction hearing, the Chair will approve questions as they are asked, and may seek legal advice on the suitability of any question from the City's legal counsel.
 4. Council may, by motion, approve hearing from the complainant. If approved, the complainant will be permitted to enter the meeting and have 5 minutes to speak to the appropriateness of the sanction and how the conduct of the respondent Councillor impacted them. No questions may be put to the complainant, and the complainant must leave the meeting following their presentation.
 5. The respondent Councillor must be given an opportunity to leave before the hearing continues. All other participants, except members of Council, the City's legal counsel, and the City Clerk, must leave.
 6. Without putting a motion on the floor, Council may discuss the Integrity Commissioner's report, any submissions made during the sanction hearing, and the potential sanctions prior to making a motion to move in public.
 7. Council must make a motion to move in public.
 8. A motion regarding a sanction must be put on the floor with the reasons for the sanction.
 9. When speaking to the motion, the respondent Councillor will speak last and have 10 minutes to speak to the motion and, if the respondent Councillor needs additional time to present a meaningful response, Council may allow the respondent Councillor to speak in additional 10-minute increments. The 10-minute limit may be adjusted to reflect the severity of potential sanctions. All Councillors speaking to the motion must ensure information discussed in private is not disclosed.
 10. Prior to calling the vote on the motion, the respondent Councillor must be given the opportunity to leave.
 11. The vote on the motion must take place. If the motion carries, the sanction hearing is concluded. If the motion fails, a different motion may be made, debated, and voted.
 12. No subsequent motions or notices of motion related to the sanction hearing are permitted.