

# Report to Council



**Date:** November 18, 2024  
**To:** Council  
**From:** City Manager  
**Subject:** Review of Council Policy No. 388 – Code of Conduct  
**Department:** Office of the City Clerk

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## **Recommendation:**

THAT Council receive, for information, the report from the Office of the City Clerk dated November 18, 2024, regarding a review of Council Policy No. 388 – Code of Conduct;

AND THAT Council direct staff to bring forward for Council consideration revisions to Council Policy No. 388 – Code of Conduct and Council Remuneration and Expense Bylaw No. 7547 as outlined in the report from the Office of the City Clerk dated November 18, 2024.

## **Purpose:**

To review Council Policy No. 388 – Code of Conduct and advance revisions to strengthen and clarify the Policy.

## **Background:**

Council Policy No. 388 – Code of Conduct was adopted by Council on September 11, 2023. The Policy sets out standards of responsible conduct for members of Council and establishes the process for alleged breaches of these standards of conduct to be identified, assessed, investigated and resolved appropriately. Staff provided an implementation overview of the Code of Conduct to Council on [February 26, 2024](#), with observations based on experience implementing the Code to date.

On September 23, 2024 Council received and provided feedback on a [staff report](#) concerning a Union of British Columbia Municipalities (UBCM) and Local Government Management Association (LGMA) discussion paper on responsible conduct frameworks. On Council's behalf, the Mayor submitted a letter to the UBCM summarizing Council's feedback, with general support for mandatory codes of conduct and a desire for stronger enforcement options. Staff continue to monitor and be involved in discussions around potential changes to the provincial framework for local elected official responsible conduct.

This report reflects observations and recommendations based on the current framework and experience with Council's Code of Conduct.

## Discussion:

### *Implementation of the Code of Conduct Policy*

The Policy expresses in section 20 that it is “intended to be self-enforcing and becomes most effective when Council Members are thoroughly familiar with it and embrace its provisions”. To provide for enforcement when breaches of the Policy do occur, sections 24-28 establish a process whereby a Council member, staff member or resident may file a complaint alleging a breach of the Policy. A complaint that is accepted for investigation will be referred to an independent third-party investigator.

Between adoption of the Policy and the end of Q3 2024 (September 30, 2024), four complaints were submitted, each of them by members of the public. Three of the four complaints were dismissed at the preliminary assessment stage in accordance with section 29 of the Policy, which creates a non-discretionary obligation to close a complaint when one of the prescribed circumstances is present. The other complaint was dismissed as it did not meet the time requirements to submit a complaint. The circumstances of each complaint are briefly summarized below:

Complaint	Section cited	Result	Reason
#1	s. 10 (Interactions with the Public and Advocacy)	<u>Closed</u>	Preliminary assessment found that s. 29(g) applies – there were no possible grounds on which to conclude that a violation of the Policy occurred.
#2	s. 2 (General Conduct), s. 10 (Interactions with the Public and Advocacy)	<u>Closed</u>	Preliminary assessment found that s. 29(c) and s. 29(g) apply – the complaint would be more appropriately addressed through another process; there were no possible grounds on which to conclude that a violation of the Policy occurred.
#3	s. 10 (Interactions with the Public and Advocacy)	<u>Closed</u>	Preliminary assessment found that s. 29(c) and s. 29(g) apply – the complaint would be more appropriately addressed through another process; there were no possible grounds on which to conclude that a violation of the Policy occurred.
#4	s. 9, 10 (Interactions with the Public and Advocacy), s. 16 (Use of Public Resources)	<u>Not accepted</u>	The complaint was submitted outside the time limits set out in s. 25 and an extension was not found to be warranted.

The most common section cited in complaints is section 10, particularly relating to Council members not explicitly stating the views they’re expressing are their own and they do not represent Council or the City. This observation was raised with Council in the implementation overview in February 2024 with a reminder to include a disclosure statement when sharing individual opinions.

### *Recommended Amendments to the Code of Conduct Policy*

As noted above, the Policy has been in place since September 2023. Over the past year both staff and Council have gained experience in interpreting and applying the Policy. As a result of this experience,

staff have identified a number of areas where the current Policy can be strengthened and clarified. The amendments to the Policy that staff are recommending are summarized below in general terms.

### Summary of Recommended Amendments to Code of Conduct Policy

Section #	Current Text	Proposed Change	Rationale
<b>Section 3</b>	Council Members will not use their office to attempt to gain personal benefits for themselves, their family members or their friends.	Add a list of general examples of conduct that may constitute a breach of this section, particularly as they relate to conflict of interest provisions in the Community Charter.	The existing text could apply to a broad range of situations, leaving considerable discretion to an investigator to make a finding that this section has been breached. A list of examples will provide greater clarity as to the types of conduct that are prohibited by this section.
<b>Section 4</b>	Council Members will direct questions and inquiries regarding departmental issues in accordance with protocols established by the City Manager and will only contact Staff directly to seek administrative clarity.	Add clarification that only Senior Staff should be contacted for administrative clarity on matters.	Clarify that administrative clarity, such as procedural matters, should only be sought directly with senior members of staff, primarily the Senior Leadership Team.
<b>Section 10</b>	The Mayor is the designated spokesperson for the City on Council matters. Council Members will represent the official policies or positions of Council to the best of their ability when designated as a delegate of Council. When presenting their individual opinions and positions, Council Members will explicitly state that it is their own personal view and that they do not represent Council or the City in those views.	Add a provision that a single statement on a social media account covers all posts from that account.	Based on complaints and inquiries staff have received, clarity around how Council members may use social media to express their personal views would help to address confusion related to the provisions of s. 10. It is reasonable for a Council member to make one statement, viewable on their profile, that addresses this requirement instead of being expected to state it on every post.

Section #	Current Text	Proposed Change	Rationale
<b>Section 12</b>	Council Members will not interact or communicate with members of the public during open or closed Council meetings about matters being considered at that meeting via email, text or other social media applications.	Limit use of technology during Council meetings to only a City-issued device stationed at each Council member's space to access the Council agenda software (e.g., eScribe), with an exception for emergency situations.	Council makes decisions collectively after all members have had the same information presented to them. Individual Council members receiving additional information from members of the public during a meeting undermines Council governance and procedural fairness. A new device stationed at each Council member's seat in Chambers will provide access to the Council agenda and meet the intent of the existing provision.
<b>Section 16</b>	Council Members will not undertake federal, provincial or municipal election campaign related activities at City Hall or on other premises owned by the City.	Limit to prohibiting at City facilities where the main function is employee workspaces (e.g., City Hall, Public Works Yard). Add that Council Members must follow procedures for any other candidate to campaign at other City-owned property or facilities.	This section was intended to prevent Council members from using their access to City-owned premises to gain an unfair advantage in an election campaign. However, a blanket prohibition against campaigning on all City property creates an advantage for candidates who are not Council members.
<b>Various Sections</b>	N/A	Minor text improvements and clarifications.	Various minor amendments will improve the clarity and consistency of the Policy throughout.

The recommended revisions focus on Part 1 – Conduct of the Code. While no revisions to Part 2 – Investigation, Compliance and Enforcement are recommended, staff acknowledge concerns Council has expressed with the limitations on remedies that may be imposed should a Council member be found to have violated the Code. Council currently has a series of sanctions available within their authority, with criteria to consider when determining appropriate options. Council's feedback on this topic has been shared with UBCM.

To strengthen the possible remedy of a temporary reduction in remuneration (Code of Conduct s. 46.i), staff recommend amending Council Remuneration and Expense Bylaw No. 7547 to reflect this provision, along with other administrative bylaw updates.

**Conclusion:**

A relatively modest set of amendments to the Policy will provide greater clarity to Council, staff and the public as to the standards of conduct expected of Council members under the Policy. Should Council direct staff to proceed with the recommended revisions summarized in this report, a revised Policy and bylaw amendments will be brought back to Council for further consideration.

**Considerations applicable to this report:**

**Existing Policy:** [Council Policy No. 388 – Code of Conduct](#)

**Legal/Statutory Authority:** [Community Charter s 113.1](#)

**Considerations not applicable to this report:**

**Legal/Statutory Procedural Requirements:**

**Financial/Budgetary Considerations:**

**Consultation and Engagement:**

**Communications Comments:**

Submitted by:

M. Jud, Deputy City Clerk

Approved for inclusion: L. Bentley, City Clerk