



## COUNCIL REPORT

Report Date: March 29, 2023  
Contact: Jason Twa  
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Meeting Date: April 26, 2023  
[Submit comments to Council](#)

TO: Standing Committee on Policy and Strategic Priorities  
FROM: Director of Legal Services  
SUBJECT: Annual Report of the Office of the Integrity Commissioner and Review of the Code of Conduct By-law

### **RECOMMENDATION**

- A. THAT Council, pursuant to section 145.93 of the *Vancouver Charter*, resolve to review the Code of Conduct By-law No. 12886 (the “Code of Conduct”) and for that purpose receive for information the Annual report of the Office of the Integrity Commissioner for the period of January 1, 2022 to October 31, 2022 (the “Annual Report”) attached as Appendix “A” to this report.
- B. THAT Council endorse the recommendations drawn from the Annual Report and attached as Appendix “B” to this report in order to improve the text or operation of the Code of Conduct By-law.
- C. THAT Council instruct staff to bring forward proposed amendments to the Code of Conduct and Mayor and Councillor Expenses By-Law No. 11529 (the “Expenses By-law”) to reflect the recommendations endorsed.

### **REPORT SUMMARY**

This report recommends that Council resolve to review the Code of Conduct By-law No. 12886 (the “Code of Conduct”) in accordance with the requirements of the *Vancouver Charter*. In satisfaction of the requirement to review, it recommends receiving the Annual Report for information and further recommends adoption of those recommendations in the Annual Report requiring action by Council.

## **COUNCIL AUTHORITY/PREVIOUS DECISIONS**

On February 9, 2021, Council enacted the Code of Conduct. The Code of Conduct required Council to appoint an Integrity Commissioner and provided, among other duties and responsibilities, that the Integrity Commissioner prepare an annual report containing any advice or recommendations that the Integrity Commissioner has to improve the text and operation of the Code of Conduct.

On January 1, 2022, Council appointed Lisa Southern to serve as the Integrity Commissioner under the Code of Conduct.

## **REPORT**

### **Background/Context**

On June 13, 2022, the *Vancouver Charter* was amended to require that Council consider whether to review the Code of Conduct within 6 months of its first meeting following a general election.

On June 13, 2022, the Province of British Columbia enacted the Principles for Codes of Conduct (Vancouver Charter) Regulation B.C. Reg. 138/2022 (the “Regulation”) requiring Council to consider the following principles when deciding whether to review the Code of Conduct:

- (a) council members must carry out their duties with integrity;
- (b) council members are accountable for the decisions that they make, and the actions that they take, in the course of their duties;
- (c) council members must be respectful of others;
- (d) council members must demonstrate leadership and collaboration.

On December 1, 2022, Lisa Southern released the Annual Report of the Office of the Integrity Commissioner reporting for the period of January 11, 2022 to October 31, 2022 (the “Annual Report”).

The duties and responsibilities of the Integrity Commissioner are set out in section 5.7 of the Code of Conduct and include publishing an annual report with any advice or recommendations that the Integrity Commissioner has to improve the text or the operation of the Code of Conduct.

The Annual Report contains nine recommendations to improve the operation of the Code of Conduct. The recommendations may be summarized as follows:

1. Make Integrity Commissioner educational presentations mandatory with absences to be reported in the Integrity Commissioner’s annual report;
2. Require Advisory Board Members to complete a minimum of 4 hours of compulsory education on key topics of conflicts of interest, Code of Conduct and communications each year, with failure to complete to be reported in the Integrity Commissioner’s annual report;

3. Allow Council Members, including the Mayor, to incur eligible expenses of up to \$5,000 per year for obtaining independent legal advice as to their duties and obligations under the Code of Conduct, *Financial Disclosure Act* and conflict of interest provisions in the *Vancouver Charter* (sections 145.2-145.91);
4. Expressly allow the Integrity Commissioner to provide their opinion or make recommendations regarding indemnification of legal fees of a Council Member;
5. Amend the definition of “leadership in the public interest”, to take into account the principle of collaboration as set out in the Regulation;
6. Minimize the overlap between the Code of Conduct and City employment policies by clarifying the extent to which the Code of Conduct applies to complaints made by employees and mandating certain disclosure to the City Manager when a complaint under the Code of Conduct may be subject to City employment policies or applicable employment related legislation;
7. Expressly permit the Integrity Commissioner to pause the timeline for formal investigations where mediation may be an option for resolution;
8. That the Integrity Commissioner’s annual report be made public by no later than December 1 each year for planning, budgetary and transitional reasons;
9. Adding transitional provisions to the Code of Conduct.

Further details and support for each recommendation are set out in the Annual Report.

### **Strategic Analysis**

Staff has reviewed the recommendations and recommends that Council adopt recommendations 1 through 9 for the reasons set out in the Annual Report. Recommendations 1, 2 and 4 through 9 will require amendments to the Code of Conduct. Staff notes that recommendations 1, 5 and 6 are similar to provisions included in the Park’s Board Code of Conduct Policy which was enacted on July 18, 2022. Recommendation 2 will require amendments to the *Mayor and Councillor Expenses By-Law* No. 11529 (the “Expenses By-Law”). Staff seeks instruction from Council to bring forward drafts of the proposed amendments to the Code of Conduct and Expenses By-Law for consideration at a future meeting.

As Council has previously enacted the Code of Conduct, section 145.93 of the Vancouver Charter requires Council to consider whether the Code of Conduct should be reviewed and decide by resolution at a Council meeting within six months after its first meeting following the general local election. Prior to making its decision, Council must consider the four principles set out in the Regulation. If Council decides not to review the Code of Conduct, it must make available to the public, on request, a statement respecting the reasons for its decision.

Section 2 of the Code of Conduct sets out the standards and values that a member must uphold and this includes competence, fairness, integrity, leadership in the public interest, respect, responsibility and transparency. It is staff’s opinion that these standards and values substantially address the principles set out in the Regulation with the exception of the principle that Council Members must demonstrate collaboration. Recommendation 5 set out in the Annual Report would

address this principle and ensure the Code of Conduct substantially addresses all of the principles prescribed in the Regulation.

In resolving to review the Code of Conduct and receiving and reviewing the Annual Report in light of the principles outlined in the Regulation, it is the view of staff that Council will have complied with the requirements of section 145.93(1)(b) of the Vancouver Charter.

### **Financial Implication**

Proposed amendment would expand scope of approved discretionary expenses but would not necessitate an increase in these expenses unless requested by Council.

### **Legal Implication**

Approval of Recommendation C in this Report will result in the City Solicitor preparing amendments to the Code of Conduct and Expense By-Law for approval at a future meeting.

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# Appendix A

OFFICE OF THE  
INTEGRITY COMMISSIONER  
FOR THE CITY OF VANCOUVER

## Annual Report

Office of the Integrity Commissioner

The City of Vancouver

*Council Code of Conduct By-law No. 12886*

Reporting for the period January 1, 2022 to October 31, 2022

Submitted to Paul Mochrie, City Manager, City of Vancouver

Submitted by Lisa Southern, Integrity Commissioner, City of Vancouver

December 1, 2022

## Appendix B

1. Make Integrity Commissioner educational presentations mandatory with absences to be reported in the Integrity Commissioner's annual report;
2. Require Advisory Board Members to complete a minimum of 4 hours of compulsory education on key topics of conflicts of interest, Code of Conduct and communications each year, with failure to complete to be reported in the Integrity Commissioner's annual report;
3. Allow Council Members, including the Mayor, to incur eligible expenses of up to \$5,000 per year for obtaining independent legal advice as to their duties and obligations under the Code of Conduct, *Financial Disclosure Act* and conflict of interest provisions in the *Vancouver Charter* (sections 145.2-145.91);
4. Expressly allow the Integrity Commissioner to provide their opinion or make recommendations regarding indemnification of legal fees of a Council Member;
5. Amend the definition of "leadership in the public interest", to take into account the principle of collaboration as set out in the Regulation;
6. Minimize the overlap between the Code of Conduct and City employment policies by clarifying the extent to which the Code of Conduct applies to complaints made by employees and mandating certain disclosure to the City Manager when a complaint under the Code of Conduct may be subject to City employment policies or applicable employment related legislation;
7. Expressly permit the Integrity Commissioner to pause the timeline for formal investigations where mediation may be an option for resolution;
8. Require that the Integrity Commissioner's annual report be made public by no later than December 1 each year for planning, budgetary and transitional reasons; and
9. Add transitional provisions to the Code of Conduct.