



Guardian of Public Trust

October 29, 2021

BRIEFING NOTE:

Purpose: Action

TO: Chair and Members of Governance Committee

FROM: Bonnie Riddell, Policy & Research Analyst

SUBJECT: Policy Revisions: Code of Conduct & Breach of Code of Conduct

BRIEFING INTENT:

- Currently the Commission's policies on Code of Conduct & Reporting a Breach of Code of Conduct did not contemplate procedures should a Commissioner be charged or convicted of a criminal offense. Guidelines and procedures have been added to both policies to address this scenario should this ever occur.
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BACKGROUND:

- The Commission directed administration to add a provision in policy which dealt with suspension or dismissal of a Commissioner if they were to be charged or convicted of a criminal offense. (Note: this work was placed on hold as the City of Edmonton was formulating a Code of Conduct policy for all of its agencies, boards, and commissions. The bylaw was approved on Aug. 30, 2021 and it was not applicable to the EPC).

- The *Police Act* states the following on the dismissal of a Commissioner:

“(12) The appointment of a member to a commission may not be revoked by the council except for cause.”

- As part of the City of Edmonton's processes for recruiting Commission members they require all successful applicants to clear an enhanced security clearance and criminal records check.

Preliminary Analysis:

Overview:

- A comprehensive scan across Canada of other Police Commission's and Board policies was undertaken to see how this issue is addressed in other jurisdictions. Very little was found in policy or Code of Conducts that addressed this specific issue with exception of Taber and Calgary Police Commissions.

- Taber's policy states the following:

(12) Any member of the Commission, Council appointed or public appointed shall be disqualified from their position if the member is:

(d) convicted of any offence under the Criminal Code of Canada

- Under the CPC Code of Conduct the following statement is made:

15. The Commission requests that if the Chief is aware of a formal charge under a federal statute of Canada against a Commission staff member or Commissioner, s/he will immediately notify the Chair or, in the event that the Chair is the subject, a Vice-Chair.

- The EPC has 2 policies where the guidelines and procedures needed to be revised in order to address this subject. The first is *Appendix C – EPC Code of Conduct* (attached) and the second is EPC policy *Reporting a Breach of the Oath of Office and/or Code of Conduct* (attached).

Recommendations:

- 1) That the Governance Committee recommend that EPC policies *Code of Conduct* and *Reporting a Breach of the Oath of Office and/or Code of Conduct* be forwarded to the Commission for approval.

**APPENDIX C – EDMONTON POLICE
COMMISSION CODE OF CONDUCT**

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| Effective: March 2015 | Revised: May 17, 2018 |
| Repealed: | October 18, 2018 |
| | April 22, 2021 |

EDMONTON POLICE COMMISSION CODE OF CONDUCT

DEFINITIONS:

For the purpose of this policy the following words and phrases mean:

- a) Political activity: political related activities include canvassing, campaigning and fundraising, that aim to advance an individual’s or a group’s interests. This includes, but is not limited to, post, solicit, distribute, wear, or otherwise display political material or messages during board meetings and board-related activities (This includes vehicles and equipment).
- b) Elected office: applies to statutory elections set out in municipal, provincial, and federal legislation.

The proper operation of democratic local government requires that persons appointed by Edmonton City Council to its boards, agencies and committees be independent, impartial and duly responsible to the people of Edmonton.

Accordingly it is the purpose of this Code of Conduct to outline certain basic rules for persons appointed as members of the Edmonton Police Commission (the “Commission”) so that they may carry out their entrusted duties with impartiality and dignity, recognizing that the function of the Edmonton Police Commission is, at all times, service to its community and the public.

To further these objectives, certain ethical principles should govern the conduct of Commissions in order that they maintain the highest standards in public office and faithfully discharge their duties. Accordingly, Commissioners shall:

1. Govern their conduct in accordance with the requirements and obligations set out in the Province of Alberta *Police Act* and Regulations, and the bylaws and policies of the City of Edmonton and the Edmonton Police Commission Policy Manual.
2. At all times conduct themselves in a manner that is respectful and courteous of other Commissioners, Commission staff, members of the Edmonton Police Service, and the public.
3. Preserve the integrity and impartiality of the Commission and of City Council.
4. Not use their position to secure any special privileges, favours, or exemptions for themselves or any other person.
5. Not use their position to advance their interests or the interests of any person or organization with whom or with which they are associated.
6. Be politically neutral in the performance of their Commission duties.

- a) A Commissioner may participate in political activity; however, such activity must be conducted during non-Commission time and outside of the Commission office.
 - b) A Commissioner may not make use of information obtained during their course of work with the Commission for political purposes.
 - c) Commission members must take an approved leave of absence when running for elected office.
 - d) Commissioners must resign from the Commission if successfully elected.
7. Not use their position as Commissioner to obtain employment with the Edmonton Police Commission or Edmonton Police Service for themselves, family members, close associates or their firms.
- a. If a Commissioner is considered for employment with the Commission, then they must temporarily withdraw from the Commission. If the Commissioner is successful in gaining employment, they shall immediately resign from the Commission.
 - b. A Commissioner shall immediately resign if a family member (parent, spouse, and child) gains employment with the Commission.
8. Not attempt to exercise individual authority over the Commission or the Edmonton Police Service. Commission members have no individual authority over the Chief of Police and other Edmonton Police Service members.
9. Not speak to the media on behalf of the Commission unless delegated to do so by the Commission Chairperson. The Chair will be the spokesperson for the Commission. Delegation of this authority may be made from time to time to designated members of the Commission.
- a) If speaking to the media in their individual capacity, individual Commissioners must notify the media that they are not speaking as a spokesperson for the Commission.
 - b) A Commissioner who expresses disagreement with a decision of the Commission shall make it clear that the member is expressing a personal opinion, and not the opinion of the Commission.
10. Keep confidential any information discussed at an *in-camera* or *closed* meeting.
11. Abide by their Oath of Office.
12. Attend and actively participate in Commission meetings and notify the Chair or Executive Director of any anticipated absences.
13. Not interfere with the management or day to day operations of the Service.

14. Avail themselves of training or educational opportunities that may be provided for them to assist in carrying out their duties.
15. Avoid real or perceived conflicts of interest.
16. Declare any potential, real or perceived conflict of interest. A conflict of interest is any situation in which a Commissioner's personal interests (e.g. financial, occupational or political) may affect, or appear to affect, their objectivity, judgment or ability to act in the best interests of the Commission. The interests of immediate relatives of a Commissioner are also considered to be the interests of a Commissioner.
 - a) If a Commissioner is not certain whether there is a potential, real or perceived conflict of interest, they must bring it forward to the Commission.
 - b) It is the responsibility of every Commissioner who is aware of a real, potential or perceived conflict of interest on the part of a fellow Commissioner to raise the issue for clarification, first with the Commissioner in question, and, if still unresolved, with the Chair.
 - c) The Commission will determine by majority vote if a conflict exists. The Commissioner potentially in conflict shall be absent from the discussion and shall not vote on the issue of whether a conflict exists.
 - d) Where a Commissioner has declared a conflict in a matter or a majority of the Commission has voted that a conflict of interest exists for a specific Commissioner in a matter, the affected Commissioner shall leave the meeting room for the duration of any discussion on the matter, abstain from participating in any discussion on the matter, shall not attempt to personally influence the outcome, and shall not vote on the matter.
17. Any Commission member who becomes aware that another Commission member may have breached the Oath of Office and/or Code of Conduct shall bring the matter forward to the Commission.
18. *All suspected breaches will follow the procedures outlined in EPC policy **Breach of Oath of Office and/or Code of Conduct**.*
19. *Commissioners will withdraw as a member of the Commission for the duration of an investigation or inquiry if their conduct or performance is under investigation by City Council.*
20. For a period of twelve months after leaving the Commission, abide by the ethical standards of conduct listed above, except those related to confidential information which shall apply in perpetuity.

Commissioners should not assume that any unethical activities not covered by or specifically prohibited by these ethical guidelines of conduct, or by any legislation, are therefore condoned. If in doubt about actions they may be contemplating, Commissioners are encouraged to seek advice from the Chair, Executive Director, or legal counsel of the Edmonton Police Commission.

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| Effective: Nov. 30, 2007 | Revised: September 17, 2015 May 17, 2018 |
| Repealed: | |

4.2.2 BREACH OF OATH OF OFFICE OR CODE OF CONDUCT

Guidelines:

- 1) Any unbecoming conduct, personal, professional, electronic or otherwise, from a member of the Edmonton Police Commission (Commission) may be grounds for rescinding a Commissioner's appointment, after assessment, by the City of Edmonton Council (Council).
- 2) Membership on the Commission can only be revoked by Council for just cause as per Section 28(12) of the *Police Act*.

Where it appears that a Commission member may have breached the Oath of Office and/or Code of Conduct, the following procedures will apply:

Procedures:

1. Commission members or the Executive Director of the Commission who becomes aware that a Commission member may have breached the Oath of Office and/or Code of Conduct shall advise the Chair.
2. Any Commission member who suspects the Chair of a breach of the Oath of Office and/or Code of Conduct shall advise the Vice-Chair, who will perform the duties required of the Chair as set out in the following paragraphs.
3. When the Chair is advised of a suspected breach, they will review the allegation or concern with the Commission member who is the subject to the allegation. The Chair may, if they determine it to be appropriate in the circumstances, initiate such investigations or inquiries as they may deem necessary in an effort to identify all of the facts which may be relevant to the issue. In order to conduct such investigations or inquiries, the Chair shall seek the advice of the Commission's Executive Director and appropriate City Administration and will be at liberty to engage the assistance of outside agencies or experts to the extent they deem necessary and/or appropriate having regard to all of the circumstances.
4. If the suspected breach is substantiated, the Chair shall advise all Commission members, in a Closed or Special Meeting that a suspected breach has been brought to their attention. Commission members will be given the opportunity to seek or lend clarity, to the matter. The Commission member who is suspected of the breach will be entitled to attend this meeting and will be entitled to respond to the issue of the alleged breach or to any questions which may be put forward by any of the Commission members.

5. When the Commission meeting is concluded, the Chair will prepare a report to the Commission outlining the inquiries made and/or steps taken as part of the investigative process and the results obtained.
6. If, following the investigation and the conclusion of the Commission meeting referred to in section 4 above, the Chair is satisfied that the Commission member has in fact breached the Oath of Office and/or Code of Conduct, the Chair will:
 - a. Call a Special Meeting of the Commission where the Commission members, in the absence of the Commission member suspected of the breach, can review the Chair's report and determine their recommendation to Council on whether the revocation of the Commission member's appointment is warranted.
 - b. After consulting with City of Edmonton Administration, arrange to meet directly with Council in private, in order to provide them with the report and the Commission's recommendation, and to answer questions from Council members.
7. The decision as to whether or not to revoke the appointment of the Commission member who is the subject of the investigation, rests with Council.
8. Following the meeting with Council, the Commission will receive the Chair's report for information at the next scheduled meeting.
9. The following additional procedures will apply if a Commission member has been charged or convicted of an offense under the *Criminal Code of Canada* and/or the *Controlled Drugs and Substances Act*:
 - a) Commissioners are to immediately declare if they have been charged or convicted of a charge under the *Criminal Code of Canada* and/or the *Controlled Drugs and Substances Act* by notifying the Chair. If individual needing to declare is Chair, they will make this declaration to the Vice Chair.
 - b) Any member that has been charged with an offense under either of these Federal Statutes will be suspended from the Commission until the matters are resolved before the courts.
 - c) Any member of the Commission will be disqualified from their position if the member is convicted of an offense under the *Criminal code of Canada* and/or the *Controlled Drugs and Substances Act*.
10. Commissioners should not assume that any other illegal activities not covered by the *Criminal Code of Canada* or the *Controlled Drugs and Substances Act* are condoned and excluded from this policy. If in doubt about charges under other federal or provincial statutes that may be cause for dismissal Commissioners should seek advice from the Chair, Executive Director, or legal counsel of the Commission.

References:

1. *Police Act, RSA 2000, c P-17, Schedule 1.*
2. *Criminal Code of Canada (RSC 1985, c. C-46)*
3. *Controlled Drugs and Substances Act (SC 1996, C. 19)*
4. *Appendix A – The City of Edmonton Bylaw, No 14040, Edmonton Police Commission Bylaw, (15 December 2015).*