

# handouts



# COMMUNITY CHARTER

## [SBC 2003] CHAPTER 26

### SELECTED EXCERPTS

## Division 1 — Council Roles and Responsibilities

### Council as governing body

114 (1) The members of a municipal council are the mayor and the councillors.

(2) Despite a change in its membership, the council of a municipality is a continuing body and may complete any proceedings started but not completed before the change.

(3) The powers, duties and functions of a municipality are to be exercised and performed by its council, except as otherwise provided under this or another Act, and a council, in exercising or performing its powers, duties and functions, is acting as the governing body of the municipality.

(4) A council has all necessary power to do anything incidental or conducive to the exercise or performance of any power, duty or function conferred on a council or municipality by this or any other enactment.

### Responsibilities of council members

#### COUNCIL RESPONSIBILITIES



115 Every council member has the following responsibilities:

- (a) to consider the well-being and interests of the municipality and its community;
- (b) to contribute to the development and evaluation of the policies and programs of the municipality respecting its services and other activities;
- (c) to participate in council meetings, committee meetings and meetings of other bodies to which the member is appointed;
- (d) to carry out other duties assigned by the council;
- (e) to carry out other duties assigned under this or any other Act.

### Responsibilities of mayor

#### MAYOR RESPONSIBILITIES



116 (1) The mayor is the head and chief executive officer of the municipality.

(2) In addition to the mayor's responsibilities as a member of council, the mayor has the following responsibilities:

- (a) to provide leadership to the council, including by recommending bylaws, resolutions and other measures that, in the mayor's opinion, may assist the peace, order and good government of the municipality;
- (b) to communicate information to the council;
- (c) to preside at council meetings when in attendance;
- (d) to provide, on behalf of the council, general direction to municipal officers respecting implementation of municipal policies, programs and other directions of the council;
- (e) to establish standing committees in accordance with section 141;
- (f) to suspend municipal officers and employees in accordance with section 151;
- (g) to reflect the will of council and to carry out other duties on behalf of the council;
- (h) to carry out other duties assigned under this or any other Act.

### **Duty to respect confidentiality**

117 (1) A council member or former council member must, unless specifically authorized otherwise by council,

(a) keep in confidence any record held in confidence by the municipality, until the record is released to the public as lawfully authorized or required, and

(b) keep in confidence information considered in any part of a council meeting or council committee meeting that was lawfully closed to the public, until the council or committee discusses the information at a meeting that is open to the public or releases the information to the public.

(2) If the municipality suffers loss or damage because a person contravenes subsection (1) and the contravention was not inadvertent, the municipality may recover damages from the person for the loss or damage.

### **Size of council**

118 (1) Unless otherwise provided by letters patent or by a bylaw under this section, the council size for municipalities must be as follows:

(a) for a city or district having a population of more than 50 000, the council is to consist of a mayor and 8 councillors;

(b) for a city or district having a population of 50 000 or less, the council is to consist of a mayor and 6 councillors;

(c) for a town or village, the council is to consist of a mayor and 4 councillors.

(2) For the purposes of this section, any change to a council size under subsection (1) is to be based on the population of the municipality as at January 1 in a general local election year and the change takes effect for the purposes of that election.

(3) A council may, by bylaw, establish the number of council members as a mayor and 4, 6, 8 or 10 councillors.

(4) If a bylaw under subsection (3) would

(a) reduce the number of council members, or

(b) maintain the current number of council members, despite an increase that would otherwise result under subsection (2),

it may only be adopted if it receives the assent of the electors.

(5) A bylaw under subsection (3)

(a) must be made at least 6 months before the next general local election, and

(b) does not become effective until that general local election.

(6) The size of council as established under subsection (3) applies despite any provision of a municipality's letters patent.

### **Term of office for council members**

119 (1) Subject to subsections (2) to (4), the term of office for a council member elected at a general local election

- (a) begins on the first council meeting date referred to in section 125 (1) [council meetings] that follows the election, and
- (b) ends immediately before the first council meeting date referred to in section 125 (1) that follows the next general local election.

(1.1) Subject to subsections (3) and (4), the term of office for a council member appointed to office ends immediately before the first council meeting date referred to in section 125 (1) that follows the next general local election.

(2) A person who has delivered the oath or affirmation of office to the corporate officer in accordance with section 120 (5) takes office

- (a) on the date referred to in subsection (1) (a), if delivery to the corporate officer is done before this time, and
- (b) otherwise, at the time of delivery.

(3) For the purpose of maintaining continuity in the office of mayor, if the incoming mayor has not taken office on the date referred to in subsection (1) (a), the previous mayor continues to hold office until the successor has taken office.

(4) As a transitional measure, if, on the date referred to in subsection (1) (a), the number of incoming council members who have taken office is less than a quorum, until such a quorum has taken office the council consists of

- (a) the previous councillors, who continue in office until that time,
- (b) if applicable under subsection (3), the previous mayor, and
- (c) the incoming council members who have taken office.

#### **Oath or affirmation of office**

120 (1) A person elected or appointed to office on a council must make an oath or solemn affirmation of office within the following applicable time limit:

- (a) in the case of a person elected by acclamation, within 50 days after the date set for general voting day had an election by voting been required;
- (b) in the case of a person elected by voting, within 45 days after the declaration of the results of the election;
- (c) in the case of a person appointed to office, within 45 days after the effective date of the appointment.

(1.1) If a person referred to in subsection (1) does not make the required oath or solemn affirmation of office within the time limit established by that subsection, the person is disqualified from holding office

- (a) on a local government,
- (b) on the council of the City of Vancouver or on the Park Board established under section 485 of the Vancouver Charter, or
- (c) as a trustee under the Islands Trust Act

until the next general local election.

(2) A council may, by bylaw, establish the oath or solemn affirmation of office for the purposes of this section, which may be different for the office of mayor and the office of councillor.

(3) If no bylaw under subsection (2) applies, the oath or solemn affirmation of office to be made is that prescribed by regulation.

(4) The oath or solemn affirmation of office must be made before a judge of the Court of Appeal, Supreme Court or Provincial Court, a justice of the peace, a commissioner for taking affidavits for British Columbia, the corporate officer or the chief election officer.

(5) Before a person takes office as a council member, the person must produce the completed oath or affirmation, or a certificate of it, to the corporate officer.

### **Resignation from office**

121 (1) A council member may only resign his or her office by delivering a written resignation to the council at a council meeting or to the corporate officer at any time.

(2) A resignation is effective

(a) from the date specified in the resignation, or

(b) if no date is specified, from the time the resignation is delivered to the council or corporate officer, as applicable.

(3) Once a resignation has been delivered under subsection (1), it may not be revoked.

## Division 3 — Open Meetings

### General rule that meetings must be open to the public

89 (1) A meeting of a council must be open to the public, except as provided in this Division.

(2) A council must not vote on the reading or adoption of a bylaw when its meeting is closed to the public.

### Meetings that may or must be closed to the public

90 (1) A part of a council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:

- (a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;
- (b) personal information about an identifiable individual who is being considered for a municipal award or honour, or who has offered to provide a gift to the municipality on condition of anonymity;
- (c) labour relations or other employee relations;
- (d) the security of the property of the municipality;
- (e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality;
- (f) law enforcement, if the council considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment;
- (g) litigation or potential litigation affecting the municipality;
- (h) an administrative tribunal hearing or potential administrative tribunal hearing affecting the municipality, other than a hearing to be conducted by the council or a delegate of council;
- (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- (j) information that is prohibited, or information that if it were presented in a document would be prohibited, from disclosure under section 21 of the Freedom of Information and Protection of Privacy Act;
- (k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the council, could reasonably be expected to harm the interests of the municipality if they were held in public;
- (l) discussions with municipal officers and employees respecting municipal objectives, measures and progress reports for the purposes of preparing an annual report under section 98 [annual municipal report];
- (m) a matter that, under another enactment, is such that the public may be excluded from the meeting;

- (n) the consideration of whether a council meeting should be closed under a provision of this subsection or subsection (2);
- (o) the consideration of whether the authority under section 91 [other persons attending closed meetings] should be exercised in relation to a council meeting.

(2) A part of a council meeting **must be closed to the public** if the subject matter being considered relates to one or more of the following:

- (a) a request under the Freedom of Information and Protection of Privacy Act, if the council is designated as head of the local public body for the purposes of that Act in relation to the matter;
- (b) the consideration of information received and held in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party;
- (c) a matter that is being investigated under the Ombudsperson Act of which the municipality has been notified under section 14 [Ombudsperson to notify authority] of that Act;
- (d) a matter that, under another enactment, is such that the public must be excluded from the meeting.
- (e) a review of a proposed final performance audit report for the purpose of providing comments to the auditor general on the proposed report under section 23 (2) of the Auditor General for Local Government Act.

(3) If the only subject matter being considered at a council meeting is one or more matters referred to in subsection (1) or (2), the applicable subsection applies to the entire meeting.

### **Other persons attending closed meetings**

91 (1) If all or part of a meeting is closed to the public, the council may allow one or more municipal officers and employees to attend or exclude them from attending, as it considers appropriate.

(2) If all or part of a meeting is closed to the public, the council may allow a person other than municipal officers and employees to attend,

- (a) in the case of a meeting that must be closed under section 90 (2), if the council considers this necessary and the person
  - (i) already has knowledge of the confidential information, or
  - (ii) is a lawyer attending to provide legal advice in relation to the matter, and
- (b) in other cases, if the council considers this necessary.

(3) The minutes of a meeting or part of a meeting that is closed to the public must record the names of all persons in attendance.

### **Requirements before meeting is closed**

92 **Before holding a meeting or part of a meeting that is to be closed to the public, a council must state, by resolution passed in a public meeting**

- (a) the fact that the meeting or part is to be closed, and
- (b) the basis under the applicable subsection of section 90 on which the meeting or part is to be closed.

### **Application of rules to other bodies**

93 In addition to its application to council meetings, this Division and section 133 [expulsion from meetings] also applies to meetings of the following:

- (a) council committees;
- (b) a municipal commission established under section 143;
- (c) a parcel tax roll review panel established under section 204;
- (d) a board of variance established under section 899 of the Local Government Act;
- (e) an advisory body established by a council;
- (f) a body that under this or another Act may exercise the powers of a municipality or council;
- (g) a body prescribed by regulation.

## Division 2 — Council Proceedings

### Exercise of powers by bylaw or resolution

122 (1) A council may only exercise its authority by resolution or bylaw.

(2) If an enactment provides that a council is required or empowered to exercise a power by bylaw, that power may only be exercised by bylaw.

(3) If a council may exercise a power by resolution, that power may also be exercised by bylaw.

(4) An act or proceeding of a council is not valid unless it is authorized or adopted by bylaw or resolution at a council meeting.

### General voting rules

123 (1) Unless otherwise provided, a motion on a bylaw or resolution, or on any other question before council, is decided by a majority of the council members present at the meeting.

(2) Each council member has one vote on any question.

(3) Each council member present at the time of a vote must vote on the matter.

(4) If a council member does not indicate how he or she votes, the member is deemed to have voted in the affirmative.

(5) If the votes of the members present at a council meeting at the time of the vote are equal for and against a motion, the motion is defeated.

(6) A requirement under an enactment for an affirmative vote of a specified portion of all members of a council means an affirmative vote of that portion of the number of members of which the council consists under section 118 [size of council].

(7) The voting rules established by this section also apply to council committees.

### Procedure bylaws

124 (1) A council must, by bylaw, establish the general procedures to be followed by council and council committees in conducting their business.

(2) Without limiting the matters that may be dealt with under this section, a council must, by bylaw, do the following:

- (a) establish rules of procedure for council meetings, including the manner by which resolutions may be passed and the manner by which bylaws may be adopted in accordance with Division 3 [Bylaw Procedures] of this Part;
- (b) establish rules of procedure for meetings of council committees;
- (c) provide for the taking of minutes of council meetings and council committee meetings, including requiring certification of those minutes;
- (d) provide for advance public notice respecting the time, place and date of council committee meetings and establish the procedures for giving that notice;
- (e) identify places that are to be public notice posting places for the purposes of section 94 [public notice];
- (f) establish the procedure for designating a person under section 130 [designation of member to act in place of the mayor];

(g) establish the first regular council meeting date referred to in section 125 (1) [council meetings] as a day in the first 10 days of December following a general local election.

(3) A bylaw under this section must not be amended, or repealed and substituted, unless the council first gives notice in accordance with section 94 [public notice] describing the proposed changes in general terms.

### **Council meetings**

125 (1) The first regular council meeting following a general local election must be on the day set by procedure bylaw under section 124 (2) (g).

(2) If a quorum of council members elected at the general local election has not taken office by the time referred to in subsection (1), the first regular council meeting must be called by the corporate officer and held as soon as reasonably possible after a quorum has taken office.

(3) After the first regular meeting, a council must meet

- (a) regularly in accordance with the applicable procedure bylaw, and
- (b) as it decides and as provided in this Act.

(4) A special council meeting is a council meeting other than a regular meeting or an adjourned meeting.

(5) Subject to subsection (7), if a council member is absent from council meetings for

- (a) a period of 60 consecutive days, or
- (b) 4 consecutive regularly scheduled council meetings,

whichever is the longer time period, the council member is disqualified from holding office in accordance with subsection (6).

(6) Disqualification under subsection (5) is disqualification from holding office

- (a) on a local government,
- (b) on the council of the City of Vancouver or on the Park Board established under section 485 of the Vancouver Charter, or
- (c) as a trustee under the Islands Trust Act

until the next general local election.

(7) The disqualification under subsection (5) does not apply if the absence is because of illness or injury or is with the leave of the council.

### **Calling of special council meetings**

126 (1) The mayor may call a special council meeting in his or her discretion.

(2) Two or more council members may, in writing, request that the mayor call a special council meeting.

(3) Two or more council members may themselves call a special council meeting if,

- (a) within 24 hours after receiving a request under subsection (2), no arrangements are made under subsection (1) for a special council meeting to be held within the next 7 days, or

(b) both the mayor and the person designated under section 130 [designation of member to act in place of mayor] are absent or otherwise unable to act.

(4) If a special council meeting is called under subsection (3), the council members calling the meeting or the corporate officer must sign the notice under section 127 [notice of council meetings] in place of the mayor.

### **Notice of council meetings**

127 (1) A council must

(a) make available to the public a schedule of the date, time and place of regular council meetings, and

(b) give notice of the availability of the schedule in accordance with section 94 [public notice] at least once a year.

(2) Subject to subsection (4), notice of a special council meeting must be given at least 24 hours before the time of meeting by

(a) posting a copy of the notice at the regular council meeting place,

(b) posting a copy of the notice at the public notice posting places, and

(c) leaving one copy for each council member at the place to which the member has directed notices be sent.

(3) The notice under subsection (2) must include the date, time and place of the meeting, describe in general terms the purpose of meeting and be signed by the mayor or the corporate officer.

(4) Notice of a special council meeting may be waived by unanimous vote of all council members.

### **Electronic meetings and participation by members**

128 (1) If this is authorized by procedure bylaw and the requirements of subsection (2) are met,

(a) a special council meeting may be conducted by means of electronic or other communication facilities, or

(b) a member of council or a council committee who is unable to attend at a council meeting or a council committee meeting, as applicable, may participate in the meeting by means of electronic or other communication facilities.

(2) The following rules apply in relation to a meeting referred to in subsection (1):

(a) the meeting must be conducted in accordance with the applicable procedure bylaw;

(b) the facilities must enable the meeting's participants to hear, or watch and hear, each other;

(c) for a special council meeting referred to in subsection (1) (a),

(i) the notice under section 127 (2) [notice of special meetings] must include notice of the way in which the meeting is to be conducted and the place where the public may attend to hear the proceedings that are open to the public, and

(ii) except for any part of the meeting that is closed to the public, the facilities must enable the public to hear, or watch and hear, the meeting at the specified place, and a designated municipal officer must be in attendance at the specified place;

(d) for a meeting referred to in subsection (1) (b), except for any part of the meeting that is closed to the public, the facilities must enable the public to hear, or watch and hear, the participation of the member.

(3) Members of council or a council committee who are participating under this section in a meeting conducted in accordance with this section are deemed to be present at the meeting.

### **Quorum for conducting business**

129 (1) Subject to an order under subsection (3) or (4), the quorum is a majority of the number of members of the council provided for under section 118 [size of council].

(2) The acts done by a quorum of council are not invalid by reason only that the council is not at the time composed of the number of council members required under this Act.

(3) If the number of members of a council is reduced to less than a quorum, the minister may either

- (a) order that the remaining members of the council constitute a quorum until persons are elected and take office to fill the vacancies, or
- (b) appoint qualified persons to fill the vacancies until persons are elected and take office to fill them.

(4) The municipality may apply to the Supreme Court for an order under subsection (5) if, as a result of section 100 [disclosure of conflict], the number of council members who may discuss and vote on a matter falls below

- (a) the quorum for the council, or
- (b) the number of council members required to adopt the applicable bylaw or resolution.

(5) On an application under subsection (4), the court may

- (a) order that all or specified council members may discuss and vote on the matter, despite sections 100 [disclosure of conflict] and 101 [restrictions on participation], and
- (b) make the authority under paragraph (a) subject to any conditions and directions the court considers appropriate.

(6) An application under subsection (4) may be made without notice to any other person.

### **Designation of member to act in place of mayor**

130 (1) The council must, in accordance with its applicable procedure bylaw, provide for the designation of a councillor as the member responsible for acting in the place of the mayor when the mayor is absent or otherwise unable to act or when the office of mayor is vacant.

(2) If both the mayor and member designated under subsection (1) are absent from a council meeting, the members present must choose a member to preside.

(3) The member designated under subsection (1) or chosen under subsection (2) has the same powers and duties as the mayor in relation to the applicable matter.

### **Mayor may require council reconsideration of a matter**

131 (1) Without limiting the authority of a council to reconsider a matter, the mayor may require the council to reconsider and vote again on a matter that was the subject of a vote.

(2) As restrictions on the authority under subsection (1),

- (a) the mayor may only initiate a reconsideration under this section
  - (i) at the same council meeting as the vote took place, or
  - (ii) within the 30 days following that meeting, and
- (b) a matter may not be reconsidered under this section if
  - (i) it has had the approval of the electors or the assent of the electors and was subsequently adopted by the council, or
  - (ii) there has already been a reconsideration under this section in relation to the matter.

(3) On a reconsideration under this section, the council

- (a) must deal with the matter as soon as convenient, and
- (b) on that reconsideration, has the same authority it had in its original consideration of the matter, subject to the same conditions that applied to the original consideration.

(4) If the original decision was the adoption of a bylaw or resolution and that decision is rejected on reconsideration, the bylaw or resolution is of no effect and is deemed to be repealed.

### **Authority of presiding member**

132 (1) The mayor or the member presiding at a council meeting must preserve order and decide points of order that may arise, subject to an appeal under this section.

(2) On an appeal by a council member from a decision of the presiding member under subsection (1), the question as to whether the chair is to be sustained must be immediately put by the presiding member and decided without debate.

(3) As exceptions to section 123 [general voting rules],

- (a) the mayor or other presiding member may not vote on a motion under subsection (2),
- (b) the motion passes in the affirmative if the votes are equal, and
- (c) the mayor or other presiding member must be governed by the result.

(4) If the mayor or presiding member refuses to put the question under subsection (2),

- (a) the council must immediately appoint another member to preside temporarily,
- (b) that other member must proceed in accordance with subsection (2), and
- (c) a motion passed under this subsection is as binding as if passed under subsection (2).

### **Expulsion from meetings**

133 (1) If the person presiding at a council meeting considers that another person at the meeting is acting improperly, the person presiding may order that the person is expelled from the meeting.

(2) If a person who is expelled does not leave the meeting, a peace officer may enforce the order under subsection (1) as if it were a court order.

### **Authority to compel witnesses**

134 (1) A council or council committee

- (a) has power, under the signature of the mayor, to summon witnesses for examination on oath respecting matters related to the administration of the municipality, and
- (b) has the same power to enforce the attendance of witnesses and compel them to give evidence as is vested in a court of law in civil cases.

(2) A member of council or the corporate officer may administer the oath to or take the solemn affirmation of a witness.

(3) A witness may be examined, cross examined and re-examined according to the rules and practice of the Supreme Court in civil cases.

### **Meetings and hearings outside municipality**

134.1 (1) If authorized under subsection (2), the following meetings, hearings and other proceedings may be held, and all powers, duties and functions may be exercised in relation to those proceedings, outside the boundaries of the municipality:

- (a) council meetings;
- (b) council committee meetings;
- (c) other public meetings conducted by or on behalf of the council or a council committee;
- (d) council hearings that are required by law or authorized by an enactment;
- (e) council proceedings in which a person is entitled under this Act to make representations to the council.

(2) A council may do either or both of the following:

- (a) by bylaw, provide that meetings, hearings or other proceedings referred to in subsection (1) may be held outside the boundaries of the municipality;
- (b) by resolution in a specific case, allow a meeting, hearing or other proceeding to be held outside the boundaries of the municipality.

## Division 6 — Conflict of Interest

### Disclosure of conflict

- 100** (1) This section applies to council members in relation to
- (a) council meetings,
  - (b) council committee meetings, and
  - (c) meetings of any other body referred to in section 93 [*application of open meeting rules to other bodies*].
- (2) If a council member attending a meeting considers that he or she is not entitled to participate in the discussion of a matter, or to vote on a question in respect of a matter, because the member has
- (a) a direct or indirect pecuniary interest in the matter, or
  - (b) another interest in the matter that constitutes a conflict of interest,
- the member must declare this and state in general terms the reason why the member considers this to be the case.
- (3) After making a declaration under subsection (2), the council member must not do anything referred to in section 101 (2) [*restrictions on participation*].
- (4) As an exception to subsection (3), if a council member has made a declaration under subsection (2) and, after receiving legal advice on the issue, determines that he or she was wrong respecting his or her entitlement to participate in respect of the matter, the member may
- (a) return to the meeting or attend another meeting of the same body,
  - (b) withdraw the declaration by stating in general terms the basis on which the member has determined that he or she is entitled to participate, and
  - (c) after this, participate and vote in relation to the matter.
- (5) For certainty, a council member who makes a statement under subsection (4) remains subject to section 101 [*restrictions on participation if in conflict*].
- (6) When a declaration under subsection (2) or a statement under subsection (4) is made,
- (a) the person recording the minutes of the meeting must record
    - (i) the member's declaration or statement,
    - (ii) the reasons given for it, and
    - (iii) the time of the member's departure from the meeting room and, if applicable, of the member's return, and
  - (b) unless a statement is made under subsection (4), the person presiding at that meeting or any following meeting in respect of the matter must ensure that the member is not present at any part of the meeting during which the matter is under consideration.

### Restrictions on participation if in conflict

- 101** (1) This section applies if a council member has a direct or indirect pecuniary interest in a matter, whether or not the member has made a declaration under section 100.
- (2) The council member must not
- (a) remain or attend at any part of a meeting referred to in section 100 (1) during which the matter is under consideration,
  - (b) participate in any discussion of the matter at such a meeting,
  - (c) vote on a question in respect of the matter at such a meeting, or

(d) attempt in any way, whether before, during or after such a meeting, to influence the voting on any question in respect of the matter.

(3) A person who contravenes this section is disqualified from holding office as described in section 108.1 *[disqualification for contravening conflict rules]* unless the contravention was done inadvertently or because of an error in judgment made in good faith.

### **Restrictions on inside influence**

**102** (1) A council member must not use his or her office to attempt to influence in any way a decision, recommendation or other action to be made or taken

- (a) at a meeting referred to in section 100 (1) *[disclosure of conflict]*,
- (b) by an officer or an employee of the municipality, or
- (c) by a delegate under section 154 *[delegation of council authority]*,

if the member has a direct or indirect pecuniary interest in the matter to which the decision, recommendation or other action relates.

(2) A person who contravenes this section is disqualified from holding office as described in section 108.1 *[disqualification for contravening conflict rules]* unless the contravention was done inadvertently or because of an error in judgment made in good faith.

### **Restrictions on outside influence**

**103** (1) In addition to the restriction under section 102, a council member must not use his or her office to attempt to influence in any way a decision, recommendation or action to be made or taken by any other person or body, if the member has a direct or indirect pecuniary interest in the matter to which the decision, recommendation or other action relates.

(2) A person who contravenes this section is disqualified from holding office as described in section 108.1 *[disqualification for contravening conflict rules]* unless the contravention was done inadvertently or because of an error in judgment made in good faith.

### **Exceptions from conflict restrictions**

**104** (1) Sections 100 to 103 do not apply if one or more of the following circumstances applies:

- (a) the pecuniary interest of the council member is a pecuniary interest in common with electors of the municipality generally;
- (b) in the case of a matter that relates to a local service, the pecuniary interest of the council member is in common with other persons who are or would be liable for the local service tax;
- (c) the matter relates to remuneration, expenses or benefits payable to one or more council members in relation to their duties as council members;
- (d) the pecuniary interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member in relation to the matter;
- (e) the pecuniary interest is of a nature prescribed by regulation.

(2) Despite sections 100 to 103, if a council member

- (a) has a legal right to be heard in respect of a matter or to make representations to council, and
- (b) is restricted by one or more of those sections from exercising that right in relation to the matter,

the council member may appoint another person as a representative to exercise the member's right on his or her behalf.

### **Restrictions on accepting gifts**

**105** (1) A council member must not, directly or indirectly, accept a fee, gift or personal benefit that is connected with the member's performance of the duties of office.

(2) Subsection (1) does not apply to

(a) a gift or personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office,

(b) compensation authorized by law, or

(c) a lawful contribution made to a member who is a candidate for election to a local government.

(3) A person who contravenes this section is disqualified from holding office as described in section 108.1 [*disqualification for contravening conflict rules*] unless the contravention was done inadvertently or because of an error in judgment made in good faith.

### **Disclosure of gifts**

**106** (1) This section applies if

(a) a council member receives a gift or personal benefit referred to in section 105 (2) (a) that exceeds \$250 in value, or

(b) the total value of such gifts and benefits, received directly or indirectly from one source in any 12 month period, exceeds \$250.

(2) In the circumstances described in subsection (1), the council member must file with the corporate officer, as soon as reasonably practicable, a disclosure statement indicating

(a) the nature of the gift or benefit,

(b) its source, including, if it is from a corporation, the full names and addresses of at least 2 individuals who are directors of the corporation,

(c) when it was received, and

(d) the circumstances under which it was given and accepted.

(3) A person who contravenes this section is disqualified from holding office as described in section 108.1 [*disqualification for contravening conflict rules*] unless the contravention was done inadvertently or because of an error in judgment made in good faith.

### **Disclosure of contracts with council members and former council members**

**107** (1) If a municipality enters into a contract in which

(a) a council member, or

(b) a person who was a council member at any time during the previous 6 months,

has a direct or indirect pecuniary interest, this must be reported as soon as reasonably practicable at a council meeting that is open to the public.

(2) In addition to the obligation under section 100 [*disclosure of conflict*], a council member or former council member must advise the corporate officer, as soon as reasonably practicable, of any contracts that must be reported under subsection (1) in relation to that person.

(3) A person who contravenes subsection (2) is disqualified from holding office as described in section 108.1 [*disqualification for contravening conflict rules*] unless the contravention was done inadvertently or because of an error in judgment made in good faith.

### **Restrictions on use of insider information**

**108** (1) A council member or former council member must not use information or a record that

- (a) was obtained in the performance of the member's office, and
- (b) is not available to the general public,

for the purpose of gaining or furthering a direct or indirect pecuniary interest of the council member or former council member.

(2) A person who contravenes this section is disqualified from holding office as described in section 108.1 [*disqualification for contravening conflict rules*] unless the contravention was done inadvertently or because of an error in judgment made in good faith.

### **Disqualification from office for contravening conflict rules**

**108.1** A person disqualified from holding office under this Division is disqualified from holding office

- (a) on a local government,
- (b) on the council of the City of Vancouver or on the Park Board established under section 485 of the *Vancouver Charter*, or
- (c) as a trustee under the *Islands Trust Act*

until the next general local election.

### **Court order for person to give up financial gain**

**109** (1) If a council member or former council member has

- (a) contravened this Division, and
- (b) realized financial gain in relation to that contravention,

the municipality or an elector may apply to the Supreme Court for an order under this section.

(2) Within 7 days after the petition commencing an application under this section is filed, it must be served on

- (a) the council member or former council member, and
- (b) in the case of an application brought by an elector, the municipality.

(3) On an application under this section, the Supreme Court may order the council member or former council member to pay to the municipality an amount equal to all or part of the person's financial gain as specified by the court.

(4) In the case of an application made by an elector, if the court makes an order under subsection (3), the municipality must promptly pay the elector's costs within the meaning of the Supreme Court Civil Rules.

(5) The court may order that costs to be paid under subsection (4) may be recovered by the municipality from any other person as directed by the court in the same manner as a judgment of the Supreme Court.

(6) Except as provided in subsection (4), the costs of an application are in the discretion of the court.