

# Public Disclosure Guide For Saskatchewan Municipalities

November 2020

## Introduction

The mandatory public disclosure forms help to assure the public that, when you are elected to office, council's decisions are made in the best interests of the municipality. They also:

- Have a direct impact when dealing with a conflict of interest;
- Assist with transparency and accountability as pillars of good governance; and
- Assist the public's understanding of any dealings that may compromise the council member's ability to make decisions.

The public disclosure forms do not include specific financial details such as salary, the value of holdings or number of shares. Legislative provisions about public disclosure statements can be found in:

- Section 116 of *The Cities Act*;
- Section 142 of *The Municipalities Act*; or
- Section 160 of *The Northern Municipalities Act, 2010*.

There are three separate forms relating to public disclosure statements:

- Public Disclosure Statements - Form 1 of 3;
- Public Disclosure Annual Declaration - Form 2 of 3; and
- Public Disclosure Statement Amendment - Form 3 of 3.

This document explains each form, with particular focus on the Public Disclosure Statement (PDS).

Council members should keep a copy of all their public disclosure forms so they can be reminded of items that could cause a conflict of interest.

The filing of the original PDS and annual update, by using the Public Disclosure Annual Declaration (PDAD), is an eligibility requirement for all municipalities' Municipal Revenue Sharing (MRS) Grants (*The Municipal Grants Regulations*, section 26.1). Eligibility requirements will be implemented in November 2020 with potential impacts on municipalities' 2021 grants. This means that if council members do not complete the required documents, the municipality's MRS Grant may be withheld.

## Key Definitions

**"Closely connected person"** means the agent, business partner, family or employer of a member of council.

**"Controlling interest"** means an interest that a person has in a corporation if the person beneficially owns, directly or indirectly, or exercises control or direction over shares of the corporation carrying more than 25 per cent of the voting rights attached to all issued shares.

**"Council, council committee, controlled corporation, or other body"** includes any committee or subcommittee of a committee, as well as any board, agency or commission, appeal board or other body that a council member serves in his or her capacity as a member of council.

**"Family"** means the spouse and dependent children of a council member.

“**Meeting**” includes any regular, special, emergency or other meeting of a council, council committee, controlled corporation or other body, whether formal or informal.

“**Private interest**” does not include an interest in a decision:

- That is of general public application (taxation or water utility); or
- That affects a person as one of the broad class of persons.

“**Senior officer**” means the chairperson or vice chairperson of the board of directors, the president, any vice president, the secretary, the treasurer or the general manager of a corporation or any other person who performs functions for the corporation similar to those normally performed by a person occupying any of those offices.

## 1. Public Disclosure Statement - Form 1 of 3

Public Disclosure Statements (PDSs) – Form 1 of 3 are required throughout a council member’s term of office. PDSs, once completed and filed with the administrator, are public documents and accessible to anyone wishing to inspect or view them. The first two PDSs include:

- A PDS to be completed and attached to nomination papers [*Local Government Election Act, 2015*, clause 67(6)(d)].
- A PDS within 30 days of being elected (*The Cities Act*, section 116; *The Municipalities Act*, section 142; and *The Northern Municipalities Act, 2010*, section 160).

Council members, after completing their PDSs as stated above, also need to be aware of the following:

- Annually, by November 30<sup>th</sup>, all council members are required to complete and file with the administrator a Public Disclosure Annual Declaration (PDAD) - Form 2 of 3.
- When changes occur to a council member’s information, a council member would reflect those changes by completing the Public Disclosure Statement Amendment (PDSA) - Form 3 of 3 and filing it with the administrator.
- The administrator must then attach all PDSAs and PDADs to the original PDS to keep each council member’s file up-to-date.

### i. Disclosure of Employer, etc.

Quote from the ministry’s sample form:

*“I hereby disclose **the name** of every employer, person, corporation, organization, association, or other body from which I or someone in my family receives **remuneration for services** performed as an employee, director, manager, operator, contractor or agent.”*

- Only the ‘name’ of the employer is required to be disclosed, not the actual amount of any money paid for work or a service. The disclosure could include:
  - o appointments to boards as the employee, director, manager, operator, contractor or agent where money is received (e.g. per diems, honourariums, expenses, or other compensation); or
  - o contracts with the municipality to provide certain services, such as electrician, excavating or other trades.

- Examples may also include a regional park board, public utility board or housing authority.

## ii. Disclosure of Corporate Interests

Quote from the ministry's sample disclosure form:

*"I hereby disclose the name of each corporation in which I or someone in my family has a controlling interest, or of which I or someone in my family is a director or a senior officer."*

- Disclosure of corporate interests include those interests that the elected official or family member has a controlling interest in a corporation or is a director or senior officer in a corporation.
- Corporations outside of Saskatchewan are included if a controlling interest is held.
- A council member may consider consulting with an accountant or lawyer to verify that 25 per cent or greater of voting shares are held.

## iii. Disclosure of Partnerships

Quote from the ministry's sample disclosure form:

*"I hereby disclose the name of each partnership or firm of which I or someone in my family is a member."*

- This section would include partnerships or firms, where a council member has direct decision making authority, established for business purposes that may, or may not, be incorporated, such as:
  - o a law firm where a group of lawyers share the same office space but operate independently;
  - o a medical clinic where a group of doctors share the same clinic space but operate independently; or
  - o a farmer or rancher partnership where individuals work together as partners in the operation but have not incorporated as a corporation.
- This section does not include a local Co-op or Credit Union.

## iv. Disclosure of Other Involvements

Quote from the ministry's sample disclosure form:

*"I hereby disclose the name of any corporation, enterprise, firm, partnership, organization, association or body that I or someone in my family directs, manages, operates or is otherwise involved in that:*

- a) transacts business with the municipality;*
- b) the council considers appropriate or necessary to disclose; or*
- c) is prescribed."*

- Item "a" is meant to include any other involvements that are not already covered under the other sections of the disclosure statement that do business with the municipality.
  - o This could include:
    - retailers who routinely provide certain goods to a municipality, such as fuel,

- stationery, gravel, road work; or
  - boards, clubs, organizations or associations, such as skating club, volunteer firefighter, pickleball club.
- Item “b” is dependent on if a council has developed a policy regarding the types of arrangements that a council member must disclose.
- Item “c” is if there is currently nothing prescribed in legislation or regulations but may be required at a later date.

## v. Disclosure of Property Holdings

Quote from the ministry’s sample disclosure form:

*“I hereby disclose the municipal address or legal description of any property located in the municipality or an adjoining municipality that is owned by:*

- a) *me or someone in my family; or*
- b) *a corporation, incorporated or continued pursuant to The Business Corporations Act or the Canada Corporations Act, of which I or someone in my family is a director or senior officer or in which I or someone in my family has a controlling interest.”*

- Property generally means real property having an address and location, principally land and improvements.
- Property does not include material holdings. Some examples would include:
  - o vehicles; or
  - o farm equipment.
- “Improvement” includes buildings, resource production equipment of any mine, petroleum oil or gas well and any pipeline on or under land.
- An adjoining municipality includes:
  - o urban municipalities within a rural municipality (RM);
  - o RMs that share a common border, including the corner (i.e. a square shaped RM could have eight adjoining RMs); and
  - o a RM surrounding an urban municipality.
- Property located in an adjoining municipality would not include property within:
  - o municipalities located outside of Saskatchewan; or
  - o provincial or regional parks.

## vi. Disclosure of Contracts and Agreements

Quote from the ministry’s sample disclosure form:

*“I hereby disclose the general nature and any material details of any contract or agreement involving me or someone in my family that could reasonably be perceived to be affected by a decision, recommendation or action of the council and to affect my impartiality in the exercise of my office.”*

- Some examples could include:
  - o lease agreements for any land or improvements located in the municipality;
  - o agreements for sale of property; or
  - o a contract or agreement with a developer or a consultant in the area.

## 2. Public Disclosure Annual Declaration - Form 2 of 3

All council members are required to submit to the administrator a PDAD - Form 2 of 3 by November 30<sup>th</sup> each year. **By filing the PDAD, a council member is declaring that:**

- **No material change has occurred since the last PDS was filed; or**
- **Changes have occurred since the last PDS, which will be noted in the section provided.**

Once the PDAD is completed and filed, it is attached to the original PDS on file. This becomes a public document and is accessible to anyone wishing to inspect it.

## 3. Public Disclosure Statement Amendment - Form 3 of 3

All council members are required to submit to the administrator a Public Disclosure Statement Amendment (PDSA) - Form 3 of 3. The PDSA would be filed at any time a council member feels that his/her PDS needs to be updated due to a new circumstance. Each council member has an ongoing duty of disclosure and is required as soon as possible to:

- Declare a conflict of interest at a meeting of council;
- Report any material change to the information detailed in the PDS (within 30 days); or
- Correct an error or omission when recognized by himself/herself or by another person.

## Further information

If you require more information regarding Public Disclosure Statements, please contact a municipal advisor by calling 306-787-2680.