



PROPOSED

C2021-0231
ATTACHMENT 1

BYLAW NUMBER 8M2021

ITEM: 44.3.1 *C2021-0231* **BEING A BYLAW OF THE CITY OF CALGARY
TO AMEND THE CITY SOLICITOR BYLAW 48M2000**
Rhonda Upmeyer
CITY CLERK'S DEPARTMENT

WHEREAS the City Solicitor and General Counsel is a designated officer under the Municipal Government Act, R.S.A. 2000 c. M-16 (the "Act"), pursuant to Bylaw 48M2000 and has the powers, duties and functions specified by that Bylaw including the power to initiate, prosecute, maintain or defend any action, claim or other proceeding at law or in equity deemed to be in the best interests of The City of Calgary ("The City");

AND WHEREAS The City has all the powers of a natural person under section 6 of the Act and Council or the City Manager may exercise those powers pursuant to section 202 of the Act;

AND WHEREAS Council may delegate natural person powers by bylaw pursuant to sections 202(1) and 203 of the Act to any person including a designated officer and the City Manager may delegate natural person powers to any employee pursuant to section 209 of the Act;

AND WHEREAS there are legal matters that naturally arise with the operation of The City and timely and informed decisions must be made on whether to retain external legal counsel and clear authority to authorize payment for such services;

AND WHEREAS historic direction has been provided through City Council and otherwise on the indemnification of Members of Council, City of Calgary employees, appointees and volunteers through various policies, including but not limited to Council Policy CC010, Indemnification of Members of Council;

AND WHEREAS section 535 of the Act protects councillors, employees, appointees and volunteers against personal liability for loss or damage caused by anything said or done or omitted to be done in good faith in the performance or intended performance of their functions, duties or powers under this Act or any other enactment;

AND WHEREAS indemnification policies and section 535 of the Act create a duty on The City to defend and indemnify in certain circumstances which is a legal obligation that must be met and which necessarily requires the expenditure of funds or resources to fulfill;

AND WHEREAS acting in the best interests of The City requires, among other things, decisions on the application of indemnification policies, section 535 of the Act, and determining The City's duty to defend and the expenditure of resources to fulfill this duty;

AND WHEREAS the application of indemnification policies, the duty to defend and related legal considerations require a legal analysis and the City Solicitor and General Counsel is best positioned to make decisions on these matters;

AND WHEREAS Council has considered C2021-0231 and has decided to amend the City Solicitor and General Counsel Bylaw to clarify the powers, duties and functions of that designated officer;

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AND WHEREAS Council recognizes that delegations from various sources, including Council and the City Manager, to the City Solicitor and General Counsel may exist outside of Bylaw 48M2000, and the intention is that those delegations will continue to operate.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF CALGARY ENACTS AS FOLLOWS:

1. Bylaw 48M2000 as amended is hereby further amended.
2. Section 2 is deleted in its entirety and the following is substituted:
 - "2. The City Solicitor and General Counsel has the power to initiate, prosecute, maintain or defend any action, claim or other proceeding at law or in equity deemed by the City Solicitor and General Counsel to be in the best interests of The City of Calgary including but not limited to the powers, duties and functions:
 - A. to make decisions on the duty to defend and to indemnify any employee, volunteer, Member of Council, or appointee to a City Board, Commission, or Committee for any action, claim or other proceeding;
 - B. to settle any action, claim or other proceeding provided the amount does not exceed \$250,000.00;
 - C. to retain and pay external legal counsel when the City Solicitor and General Counsel deems it to be in the best interests of The City of Calgary;
 - D. to report to Council with respect to any legal matter where in the City Solicitor and General Counsel's independent judgment a Council decision is necessary; and
 - E. to take such other actions and decisions as are similar or necessarily incidental to implementing the above including but not limited to expenditure of funds and other resources."
3. The following is added after section 4 as sections 4.1 and 4.2:
 - "4.1 Nothing in this Bylaw supersedes or limits any benefit or protection available to an employee, volunteer, Member of Council, or appointee of a City Board, Commission, or Committee under a Council Policy, policy of insurance, collective agreement, or other contract, statute or bylaw, or otherwise.
 - 4.2 Nothing in this Bylaw detracts from, or specifies otherwise, with respect to delegations of authority received by the City Solicitor and General Counsel from the City Manager or City Council prior to the coming into force of this Bylaw or limits the ability of the City Manager or City Council to delegate further powers, duties and functions to the City Solicitor and General Counsel."

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TRANSITIONAL

4. For further clarity, The City Solicitor and General Counsel may make any decision involving a power, duty, or function available under section 2 of this Bylaw for any legal proceeding that is ongoing as of the date this Bylaw comes into force.

COMING INTO FORCE

5. This Bylaw comes into force on the day it is passed.

READ A FIRST TIME ON _____

READ A SECOND TIME ON _____

READ A THIRD TIME ON _____

MAYOR

SIGNED ON _____

CITY CLERK

SIGNED ON _____