



Integrity and Ethics Office

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## **Integrity and Ethics Office memorandum on potential amendments to the *Municipal Government Act***

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This memo provides information to support Members of Council in their engagement with Municipal Affairs concerning any amendments to the *Municipal Government Act* (MGA) related to codes of conduct.

### ***Background***

In 2017, MGA amendments came into force, which required that Council establish a code of conduct by bylaw. The MGA amendments also provide that a Councillor cannot be disqualified or removed from office for a breach of a code of conduct. The *Code of Conduct for Elected Official Regulation (Regulation)* sets out the topics that must be included in a code of conduct, a complaints process and possible sanctions. There is considerable flexibility in terms of the provisions in such codes and this variation is observable in codes of conduct across various Alberta municipalities.

Members of Council at the City of Calgary established an Integrity and Ethics office in 2016. In response to the MGA amendments, Council adopted the Code of Conduct Bylaw in July 2018. Two sets of amendments to the Code of Conduct were adopted by Council in 2020 and 2021. The MGA requires that Council review their code of conduct every 4 years. At the next combined Council meeting, the Integrity and Ethics Office will request that Council establish a Sub-Committee to review and make recommendations to Council regarding revisions and additions to the Code of Conduct.

### ***Engagement with Municipal Affairs***

Municipal Affairs asked two questions, which we will answer briefly.

#### **1. Has your municipality experienced challenges related to enforcing its Code of Conduct? a. If so, what were those challenges?**

Most complaints, formal and informal, have been resolved before a report is made to Council. Recall that reports are only made to Council if, after a formal investigation, the Integrity Commissioner determines that the Councillor violated the Code of Conduct. Thus far, four reports have been made to Council in total. In these reports, the Integrity Commissioner recommends a sanction, which Council must decide to adopt, or it may substitute with a different sanction. In two cases, the Councillor did not comply with the sanctions imposed by Council.

Several Councillors have recommended strengthening the sanctions available to Council. There is certainly scope for the Sub-Committee to explore a broader range of sanctions, but they must be in the same range of severity as those that currently exist. Stronger sanctions would include, for example, suspension of salary, which is available in municipalities in Ontario.

Council may consider making a recommendation to Municipal Affairs that stronger sanctions should be made available to Council. However, we strongly advise that this recommendation is not made. In our view, more serious sanctions could change the nature of the Integrity Commissioner's investigation and adjudication function. Stronger sanctions might necessitate Councillors retaining counsel and would necessitate an even more formal, expensive and time-consuming process. At the moment, the office operates both as a collaborative, advisory and educational office, and as a dispute resolution and adjudication body. Councillors

are held accountable through public communication of reports and failure to comply with a sanction can be the basis for a further complaint of misconduct.

**2. Do you think the current legislation on Code of Conduct is sufficient and meets the requirement of municipalities to provide fair and accountable governance? If no, please provide your suggestions**

The current legislation concerning codes of conduct is sufficient. However, we advise that Council consider making a recommendation to Municipal Affairs to amend s. 174 of the MGA, which provides reasons for disqualification from Council. Section 174 (1) (e) of the MGA provides that a Councillor is disqualified if convicted of certain *Criminal Code* offences. They include an offence punishable by imprisonment for five or more years, municipal corruption (s. 123), selling or purchasing office (s. 124) or influencing or negotiating appointments or dealings in offices (s. 125).

We recommend that further matters should be added to the list of offences leading to disqualification, which are punishable by less than 5 years, in particular: frauds on government (s. 121) and breach of trust (s. 122).

Kind Regards,

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Integrity Commissioner

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