

# PROPOSED

EC2022-1368  
ATTACHMENT 1

## BYLAW NUMBER 7M2023

### BEING A BYLAW OF THE CITY OF CALGARY TO AMEND BYLAW 26M2018, THE CODE OF CONDUCT FOR ELECTED OFFICIALS BYLAW

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**WHEREAS** Council has considered EC2022-1368 and considers it desirable to amend Bylaw 26M2018, the Code of Conduct for Elected Officials Bylaw;

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

1. Bylaw 26M2018, the Code of Conduct for Elected Officials Bylaw, as amended, is hereby further amended.
2. In section 3:
  - (a) subsection 3(i) is deleted and replaced with the following:
    - “(i) *“Gift or Personal Benefit”* is an item or service of value that is received by a *Member of Council* for their personal use. It includes but is not limited to money, gift cards, tickets to events, clothing, jewelry, pens, food or beverages, discounts/rebates on personal purchases, free or subsidized drinks or meals, entertainment, participation in sport and recreation activities, and invitations to social functions. *Gift or Personal Benefit* does not include:
      - (i) campaign contributions received by a *Member* in compliance with the *Local Authorities Election Act*, R.S.A. 2000, c. L-21; or
      - (ii) funds received by a *Member* in accordance with the *Indemnification of Members Policy*, CC10, 1977 August 22;”;
  - (b) the following is added after subsection 3(j) as subsection (j.1):
    - “(j.1) *“Integrity and Ethics Office”* means the office of the *Integrity Commissioner* and *Ethics Advisor*,”;and
  - (c) subsection 3(m) is deleted and replaced with the following:
    - “(m) *“Member of Council”* or *“Member”* means all current elected officials on *Council*, including the *Mayor*, but does not include past members of *Council*,”.

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3. The following is added after section 8 as section 8.1:
  - “8.1 The *Integrity and Ethics Office* will prepare an annual report to *Council* to provide information about the office’s activities during the preceding year. The annual report must contain the information set out in Appendix “B”.”.
4. Section 9 is deleted and replaced with the following:
  - “9. A *Member* must approach their obligations under this Bylaw in good faith, taking into account all obligations imposed on the *Member* by statute or other legal enactment, and by applicable *City* bylaws, policies and procedures, as well as any reports, opinions, guidelines or interpretation bulletins issued by the *Integrity and Ethics Office*.”.
5. In section 18:
  - (a) in subsection 18(j), the “.” is deleted and replaced with “; and”;  
and
  - (b) the following is added after subsection 18(j) as subsection 18(k):
    - “(k) *Alberta Human Rights Act*, R.S.A. 2000, c. A-25.5.”.
6. In section 19, the words “abuse, bullying or intimidation” are deleted and replaced with “abuse, bullying, intimidation, harassment or discrimination.”.
7. In section 34:
  - (a) in subsection 34(a), the words “Alberta Urban Municipalities Association (AUMA)” are deleted and replaced with “Alberta Municipalities”;
  - (b) in subsection 34(g), after the word “lodging,”, the word “or” is deleted and replaced with “transportation and”;  
  
and
  - (c) in subsection 34(h):
    - (i) the words “reimbursement of expenses” are deleted and replaced with “food, lodging, transportation and entertainment”;  
  
and
    - (ii) after the word “speak” the words “or is attending in an official capacity” are added.
8. The following is added after section 40 as section 40.1:
  - “40.1 (1) A *Member* must not directly or indirectly demand, request, induce or aid, *City* employees, *Members*’ staff, members of any boards, commissions,

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associations and committees to do something which, if done by the *Member*, would be a breach of this Bylaw.

- (2) A *Member* must not use or attempt to use their authority for the purpose of intimidating, coercing, or influencing *City* employees or *Members'* staff with the intent of interfering with such staff's duties. ”.
9. In section 53, the words “by the City Manager” are deleted and replaced with “in writing by the Ethics Advisor.”.
10. Section 61.1 is deleted and replaced with the following:

“61.1 All *Members* must attend the indigenous relations and anti-racism sessions of *Orientation Training*, and any other session identified as mandatory by the City Solicitor and General Counsel, City Clerk and *Ethics Advisor*.”.
11. In section 62.1, the word “reported” is deleted and replaced with “confirmed”.
12. After section 63, the title “**B - Reporting**” is deleted and replaced with “**B - Complaints**”.
13. In section 64:
  - (a) the words (“the reporter”)” are deleted and replaced with (“the complainant”);
  - (b) the word “report” is deleted and replaced with “complaint”;and
  - (c) the word “reporter’s” is deleted and replaced with “complainant’s”.
14. In section 65, the word “Reports” is deleted and replaced with “Complaints”.
15. Section 66 is deleted and replaced with the following:

“66. A complainant who does not provide the *Integrity Commissioner* with their name, residential address and email address will not receive any notice or other communication from the *Integrity Commissioner* notwithstanding any contrary requirement in this Bylaw. In such circumstances, the *Integrity Commissioner* may exercise their discretion to investigate or dismiss such complaints.”.
16. The following is added after section 66 as sections 66.1, 66.2 and 66.3:
  - “66.1 A complaint may be withdrawn at any time by notice in writing to the *Integrity Commissioner* by regular mail or by email. In such circumstances, the *Integrity Commissioner* may use their discretion to continue to investigate the matter without further participation of the complainant.
  - 66.2 Every reasonable effort will be made to maintain the confidentiality of the complainant. If disclosure of the complainant identity is necessary to ensure that a thorough investigation is conducted, the *Integrity Commissioner* will ask the

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complainant for permission to disclose their identity or give the option to withdraw the complaint. The complainant's identity may be disclosed as required by law.

- 66.3 The *Integrity Commissioner* may initiate an investigation without a complaint if there are reasonable grounds for believing that a violation of this Bylaw may have occurred.”.
17. Before section 67, the title “**C – Reporter Protection**” is deleted and replaced with “**C – Complainant Protection**”.
  18. In section 67, the word “Reporter” is deleted and replaced with “Complainant” wherever it appears.
  19. Section 68 is deleted.
  20. Section 69 is deleted.
  21. In section 70:
    - (a) the word “Code” is deleted and replaced with “*Bylaw*”;  
and
    - (b) the words “Integrity and Ethics Office” are deleted and replaced with “*Integrity and Ethics Office*”.
  22. In section 71:
    - (a) the word “reporter” is deleted and replaced with “complainant” wherever it appears;  
and
    - (b) the word “Reporting” is deleted and replaced with “Making a complaint”.
  23. In section 72:
    - (a) the word “report” is deleted and replaced with “complaint” wherever it appears;  
and
    - (b) after the words “*Member* conduct” the words “may have occurred” are added.
  24. Section 73 is deleted and replaced with:

“73. (1) Complaints must be submitted no later than:
    - (a) 90 days after the alleged Bylaw violation occurred; or

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- (b) 90 days after the complainant became aware of the alleged Bylaw violation;  
  
whichever is later.
  - (2) Despite subsection (1), the *Integrity Commissioner* may accept complaints after the 90 day deadline at their sole discretion.”.
- 25. In section 74:
  - (a) the word “report” is deleted and replaced with “complaint”;  
  
and
  - (b) the word “reporter” is deleted and replaced with “complainant”;  
  
wherever they appear.
- 26. In section 75, the word “reporter” is deleted and replaced with “complainant and/or the *Member*”.
- 27. Section 76 is deleted and replaced with the following:
  - “76. (1) If the *Integrity Commissioner* is of the opinion that there are no reasonable grounds for believing that a violation of this Bylaw or a *City* policy governing *Member* conduct has occurred, the *Integrity Commissioner* will advise the complainant and *Member* in writing, setting out reasons for the decision, and dismiss the complaint. The *Integrity Commissioner’s* decision is final.
  - (2) If the *Integrity Commissioner* is of the opinion that there are reasonable grounds for believing that a violation of this Bylaw or a *City* policy governing *Member* conduct has occurred, the *Integrity Commissioner* will issue a notice of investigation and proceed with a formal investigation in accordance with sections 81 to 87.”.
- 28. The following is added after section 76 as section 76.1:
  - “76.1 A *Member* may provide the *Integrity Commissioner* with written advice given by the *Ethics Advisor* regarding the incident being investigated. The *Integrity Commissioner*, upon confirmation of the advice by the *Ethics Advisor*, must consider such advice in investigating the complaint, or in any subsequent related complaint.”.
- 29. Section 77 is deleted and replaced with the following:
  - “77. When a complaint concerns the conduct of a *Member’s* staff:
    - (a) if the conduct was undertaken on the *Member’s* behalf directly or indirectly by demand, request, inducement, encouragement or aid the

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*Integrity Commissioner* will proceed with a formal investigation in accordance with sections 81 to 87;

- (b) if the conduct was not undertaken on the *Member's* behalf, directly or indirectly, by demand, request, inducement, encouragement or aid, the *Integrity Commissioner* must refer the complaint to the *Member* concerned and advise the complainant in writing that the complaint is dismissed.”.

30. Sections 78, 79 and 80 are deleted.

31. After section 80, the title “**G – Investigation**” is deleted and replaced with “**G – Formal Investigation**”.

32. Section 81 is deleted and replaced with the following:

“81. A formal investigation will be commenced by the *Integrity Commissioner* serving a notice of investigation, the complaint and any supporting material on the *Member* personally or by e-mail.”.

33. In section 82:

- (a) the words “10 days” are deleted and replaced with “10 business days”;
- (b) the words “notice of intention to conduct an” are deleted and replaced with “the notice of”;

and

- (c) the word “report” is deleted and replaced with “complaint”.

34. The following is added after section 82 as section 82.1:

“82.1 Except for the purposes of obtaining legal or other confidential professional advice, failure by the *Member* to keep confidential all documents and records the *Integrity Commissioner* provides to the *Member* in the investigation may result in an adverse finding against the *Member* and may be considered in the report to *Council*.”.

35. Section 83 is deleted and replaced with the following:

“83. The *Integrity Commissioner* will provide the complainant with a copy of the response and submissions received from the *Member* on a strictly confidential basis. If the complainant wishes to respond to the *Member's* response and submission, they must do so within 10 business days of receiving the copy of the response and submission, subject to the *Integrity Commissioner's* discretion to extend this timeline.”.

36. The following is added after section 83 as section 83.1:

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- “83.1 Except for the purposes of obtaining legal or other confidential professional advice, failure by the complainant to keep confidential all documents and records the *Integrity Commissioner* provides to the complainant in the investigation may result in the dismissal of the complaint.”.
37. Section 84 is deleted and replaced with the following:
- “84. The *Integrity Commissioner* may request any person whose evidence is necessary to the investigation to provide it in a statutory declaration sworn or affirmed and declared before a lawyer, notary public or commissioner of oaths.”.
38. Section 87 is deleted and replaced with the following:
- “87. In the period 90 days prior to the date of a Municipal election, the *Integrity Commissioner* may suspend any investigation underway, decline to commence an investigation or proceed with an investigation at their discretion. If the *Integrity Commissioner* decides the investigation should proceed, they will advise the *Member* in writing of the reasons for the decision.”.
39. The following is added after section 87 as sections 87.1, 87.2, 87.3, 87.4 and 87.5”
- G.1 – Informal Resolution**
- 87.1 At any time after a notice of investigation has been issued, the *Integrity Commissioner* may refer the complaint to the *Ethics Advisor*, who will take steps, in consultation with the complainant and the *Member*, to resolve the issue informally.
- 87.2 If the *Ethics Advisor* at any time concludes that an informal resolution is not possible, the *Ethics Advisor* must return the complaint to the *Integrity Commissioner* to commence or continue a formal investigation. The *Ethics Advisor* will not provide any information to the *Integrity Commissioner* about the informal process except that the complaint was not resolved.
- G.2 – Cooperating with Investigations**
- 87.3 Upon the notice of investigation being sent to the *Member*, evidence in the possession of the *Member* and/or their staff, including any records, must be preserved pending the outcome of the investigation.
- 87.4 The obstruction of an *Integrity Commissioner’s* investigation by a *Member* is presumed to be a violation of this Bylaw.
- 87.5 Failure to cooperate and participate in an investigation may result in an adverse finding against the *Member* and will be noted in the report to *Council*.”.
40. In section 88, the word “report” is deleted and replaced with “complaint”.
41. In section 89:

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- (a) the words “reviewing all pertinent information” are deleted and replaced with “formal investigation”;
  - (b) the word “reporter” is deleted and replaced with “complainant”.
42. In section 90:
- (a) the words “reviewing all pertinent information” are deleted and replaced with “formal investigation”;
  - (b) the word “decision” is deleted and replaced with the word “report” wherever it appears;
  - (c) in subsection 90(e), the words “Integrity and Ethics Office” are deleted and replaced with “*Integrity and Ethics Office*”;
  - (e) subsection 90(f) is deleted and replaced with the following:
    - “(f) not less than 24 hours nor more than 48 hours prior to the start of the *Council* meeting at which the verbal report is to be considered, the *Integrity Commissioner* will provide a copy of the report, on a strictly confidential basis, to all *Members*, the City Clerk and the City Solicitor and General Counsel. A breach of confidentiality under this section will be considered a violation of this Bylaw; ”;
- and
- (f) subsection 90(g) is deleted and replaced with the following:
    - “(g) the *Integrity Commissioner* will provide their verbal report to *Council* at the closed meeting.”.
43. Section 91 is deleted and replaced with the following:
- “91. (1) The *Integrity Commissioner’s* report that a *Member* violated this Bylaw or a *City* policy governing *Member* conduct is final and may not be reviewed or reconsidered by *Council*.
  - (2) *Council* must decide whether to adopt the *Integrity Commissioner’s* recommendation as to sanction or whether to substitute a different lesser or greater sanction. ”.
44. In section 92:
- (a) the words “include the following” are deleted and replaced with “include, but are not limited to, the following”;
  - (b) in subsection 92(h), the “.” is deleted and replaced with “; or”;
- and



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(c) the following is added after subsection 92(h) as subsection 92(i):

“(i) any other sanction that *Council* deems reasonable in the circumstances.”.

45. The following is added after **Appendix “A”** as **Appendix “B”**:

## **“Appendix “B”**

### **Annual Report**

The *Integrity and Ethics Office* annual report must include the following information:

1. Statistics about Investigations
  - The number of complaints received, dismissed, withdrawn, ongoing and reported to *Council*.
  - The number of investigations referred for informal resolution and the number successfully resolved.
2. Investigation Trends
  - Description of trends in the number and/or nature of complaints.
3. Policy
  - Description of policy development support provided to *Council*.
  - Description of interpretation bulletins provided to *Council*.
  - The number of memorandums and other guidelines prepared for *Council*.
4. Education and Reporting
  - Description of education support provided to *Council*.
  - The number of attendances by the *Integrity Commissioner* and/or *Ethics Advisor* at *Council* or *Council* Committee meetings.
5. Office Administration
  - Information about key administrative tasks undertaken by the office.

The *Ethics Advisor* will not report statistics on advice to individual *Members of Council* as it is protected by solicitor-client privilege.

The *Integrity and Ethics Office* will not report on attendance at closed meetings where their attendance is not reported in the minutes of the meeting.”.

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46. 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 \_\_\_\_\_