

Resolution ?-

**Creation of Municipal Affairs Process to Resolve Disputes  
regarding Council Sanctions and Disqualifications**  
Rocky View County

Items noted in red font will  
be completed by RMA

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**WHEREAS** Section 146.1 of the *Municipal Government Act* requires municipalities to establish, by bylaw, a Code of Conduct that governs the conduct of Councillors and how violations of municipal Codes of Conduct should be resolved, including the placement of sanctions on Councillors; and

**WHEREAS** Section 174 of the *Municipal Government Act* states the circumstances in which a Councillor is disqualified from Council; and

**WHEREAS** Section 175 of the *Municipal Government Act* requires a disqualified Councillor to resign immediately, and if they fail to do so, the only alternative is to refer the matter to the Court of Queen's Bench for resolution; and

**WHEREAS** there have been a number of cases in Alberta municipalities that have resulted in legal action because a Councillor refutes imposed sanctions or does not resign from Council as the result of a disqualification; and

**WHEREAS** there is no intermediate step for the resolution of conflict regarding Code of Conduct sanctions or disqualifications between resolving the issue internally at the municipal level and a formal judiciary process; and

**WHEREAS** legal action is costly, combative, and time-consuming to the municipality and all parties involved; and

**WHEREAS** the courts do not have the same level of awareness and understanding of the responsibilities, obligations, and internal processes of municipalities as does the Minister of Municipal Affairs; and

**WHEREAS** municipalities derive their authority, requirements, and responsibility from the Minister of Municipal Affairs; and

**WHEREAS** the Minister of Municipal Affairs has the authority to adjudicate on municipal matters and could create a process that serves as an intermediate step to adjudicate on disagreements regarding Council sanctions and the removal of disqualified Councillors;

**THEREFORE, BE IT RESOLVED** that the Rural Municipalities of Alberta advocate to the Government of Alberta for Municipal Affairs to amend the *Municipal Government Act* and create a process whereby the Minister of Municipal Affairs can enforce, amend, or remove sanctions for Code of Conduct violations and enforce the removal of disqualified Councillors, as an alternative to referring matters directly to the Court of Queen's Bench.

## Member Background

Conflict and dispute can arise among Councillors in municipalities. The *Municipal Government Act* (MGA) provides mechanisms and requirements for Councils to resolve their problems internally. Section 146.1 enables Councils to create a Code of Conduct Bylaw to define how individual Councillors must conduct themselves as representatives of the municipality. If violations occur, the Code of Conduct Bylaw outline steps to follow and actions that can occur. The MGA allows Councils to place sanctions on Councillors who violate Codes of Conduct. If a Councillor does not agree with the sanctions and the matter cannot be resolved internally, that Councillor's only recourse is to refer the matter to the Court of Queen's Bench.

Section 174 of the MGA describes the circumstances by which a Councillor is disqualified, while Section 175 states that disqualified Councillors must immediately resign from Council. If a Councillor does not resign, Section 175(2) states that the only recourse is to refer the matter to the Court of Queen's Bench. As a result, to ensure that the legislative requirements of the MGA are met, a Council must proceed through a costly and time-consuming judiciary process. This also leaves municipalities in a situation where disqualified Councillors can continue to sit while the process is resolved through the courts.

There are no intermediate steps to resolve Councillor sanctions and disqualifications. The only options are to resolve it internally or to refer it to the courts. Legal action is costly, time-consuming, and combative, which further exacerbates internal Council tensions. Additionally, courts often lack the intimate understanding of municipal affairs possessed by the Minister of Municipal Affairs, which may result in decisions that fail to understand the nuances of local government. There are certain types of quasi-judicial items that could be resolved without a lengthy, expensive court process, specifically disputes about Councillor sanctions and removal of disqualified Councillors. Section 574 of the MGA provides the Minister with the ability to adjudicate on Council conduct after an investigation. Minor amendments to Section 175 of the MGA could allow this process to be used for disqualifications as well.

Municipalities derive their authority from provincial statutes, and are thus bound by the authority of the Minister, who can adjudicate on municipal matters. Minor amendments to the *Municipal Government Act* would clarify the Minister's authority and allow for creation of a streamlined process to adjudicate on Council sanctions and the removal of disqualified Councillors. The process could be used by either the affected Councillor or the Council to oppose or enforce a sanction. For example, if a sanctioned Councillor disagrees with the sanctions that have been imposed, they could make a case to Municipal Affairs to review the circumstances. The Minister would then have the option of upholding, removing, or amending the sanctions. This process could also be used by the Minister to remove a Councillor who has clearly been disqualified under Section 174 of the MGA.

This would provide an alternate option for resolving conflict, rather than having to resort immediately to legal action if the matter cannot be resolved internally through the Code of Conduct Bylaw. These changes would significantly reduce costs for municipalities and provide a mechanism for the swift resolution of these issues. If an adjudication from the Minister is still not agreeable to either parties, the judicial process remains an option.

#### **RMA Background**

RMA will provide after resolution is endorsed at district level.