

BYLAW 3696/2023

A BYLAW TO ESTABLISH A CODE OF CONDUCT FOR MEMBERS OF COUNCIL

WHEREAS, pursuant to section 146.1(1) of the *Municipal Government Act*, a council must, by bylaw, establish a code of conduct governing the conduct of Members of Council;

AND WHEREAS, pursuant to section 153 of the *Municipal Government Act*, Members of Council have a duty to adhere to the code of conduct established by the council;

AND WHEREAS the public is entitled to expect the highest standards of conduct from the Members of Council that it elects to council for The City of Red Deer;

AND WHEREAS the establishment of a code of conduct for Members of Council is consistent with the principles of transparent and accountable government;

AND WHEREAS a code of conduct ensures that Members of Council share a common understanding of acceptable conduct extending beyond the direction provided through legislative provisions governing the conduct of Members of Council;

NOW THEREFORE the Council of The City of Red Deer, in the Province of Alberta, duly assembled, enacts as follows:

PART I – TITLE, PURPOSE AND DEFINITIONS

Title

1 This Bylaw may be referred to as the “Council Code of Conduct Bylaw”.

Purpose

2 The purpose of this Bylaw is to establish standards for the ethical conduct of Members relating to their roles and obligations as representatives of the Municipality and a procedure for the investigation and enforcement of those standards.

Definitions

3 In this Bylaw, words have the meanings set out in the Act, except that:

- (a) “**Act**” means the *Municipal Government Act*, RSA 2000, c. M-26, and associated regulations, as amended;
- (b) “**Administration**” means the administrative and operational arm of the Municipality, comprised of the various departments and business units and including all employees who operate under the leadership and supervision of the City Manager;
- (c) “**City Manager**” means the chief administrative officer of the Municipality, or their delegate;
- (d) “**Closed Meeting**” means the portion of a meeting of Council or a Council committee which is held without the public and media present;

- (e) “**FOIP**” means the *Freedom of Information and Protection of Privacy Act*, RSA 2000, c. F-25, any associated regulations, and any amendments or successor legislation;
- (f) “**Integrity Commissioner**” means the person or persons appointed by Council to fulfill the duties of Integrity Commissioner;
- (g) “**Member**” means a member of Council and includes a councillor or the Mayor;
- (h) “**Municipality**” means the municipal corporation of The City of Red Deer;
- (i) “**Person**” is defined as any person who: (a) resides within Red Deer; (b) is a Member of Council; (c) is a City employee; (d) has witnessed what they believe is a contravention of the Bylaw by a Member while that Member was acting in their official capacity, regardless of where that incident occurred; (e) owns land in Red Deer; (f) owns a business in Red Deer; or (g) works in Red Deer; and
- (j) “**Responding Member**” means the Member named in the complaint as having allegedly contravened the Bylaw.

PART 2 – REPRESENTING THE MUNICIPALITY

Representing the Municipality

4 Members shall:

- (a) act honestly and, in good faith, serve the welfare and interests of the Municipality as a whole;
- (b) perform their functions and duties in a conscientious and diligent manner with integrity, accountability and transparency;
- (c) conduct themselves in a professional manner and make every effort to participate in the meetings of Council, committees of Council and other bodies to which they are appointed by Council, as well as Deputy Mayor duties; and
- (d) arrange their private affairs and conduct themselves in a manner that promotes public confidence.

Communicating on Behalf of the Municipality

5 Unless Council directs otherwise, the Mayor is Council’s official spokesperson and in the absence of the Mayor it is the Deputy Mayor or Acting Mayor. All inquiries from the media regarding the official Council position on an issue shall be referred to Council’s official spokesperson.

6 A Member who is authorized to act as Council’s official spokesperson must ensure that their comments accurately reflect the will or official position of Council as a whole, even if the Member personally disagrees with Council’s position.

- 7 A Member must not claim to speak on behalf of Council unless authorized to do so.
- 8 No Member shall make a statement when they know that statement is false.
- 9 No Member shall make a statement with the intent to mislead Council or members of the public.

Respecting the Decision-Making Process

- 10 Decision-making authority lies with Council, and not with any individual Member. Council may only act by bylaw or resolution passed at a Council meeting held in public at which there is a quorum present. No Member shall, unless authorized by Council, attempt to bind the Municipality or give direction to employees in Administration, agents, contractors, consultants or other service providers or prospective vendors to the Municipality.
- 11 Members shall conduct and convey Council business in an open and transparent manner, other than for those matters which, by law, are authorized to be dealt with in a Closed Meeting. This allows the public to view the process and rationale which was used to reach decisions and the reasons for taking certain actions.
- 12 Members shall accurately communicate the decisions of Council, even if they disagree with Council's decision, such that respect for the decision-making processes of Council is fostered.

Adherence to Policies, Procedures and Bylaws

- 13 Members shall uphold the law established by the Parliament of Canada and the Legislature of Alberta and the bylaws, policies and procedures adopted by Council.
- 14 Members shall respect the Municipality as an institution, its bylaws, policies and procedures and shall encourage public respect for the Municipality, its bylaws, policies and procedures.
- 15 A Member must not encourage disobedience of any bylaw, policy or procedure of the Municipality in responding to a member of the public, as this undermines public confidence in the Municipality and in the rule of law.

Respectful Interactions with Council Members, Staff, the Public and Others

- 16 Council members will establish and model a respectful workplace where they will not speak disrespectfully about the organization, other members of Council, the City Manager or employees of the City.
- 17 Members shall act in a manner that demonstrates fairness, respect for individual differences and opinions, and an intention to work together for the common good and in furtherance of the public interest.
- 18 Members shall treat one another, employees of the Municipality and members of the public with courtesy, dignity and respect and without abuse, bullying or intimidation.
- 19 Members shall treat one another, the employees of the Municipality and members of the public with courtesy, dignity and respect and without abuse, bullying or intimidation.

- 20 Members shall speak and act in a manner that is consistent with the *Alberta Human Rights Act*.
- 21 Members of Council are committed to creating, and sustaining, a vibrant, healthy, safe and caring work environment. Under the direction of the City Manager, Administration serves Council as a whole. There are distinct and specialized roles of Administration both in carrying out their responsibilities and in dealing with Council. Members of Council shall be respectful of the role of Administration to provide advice based on political neutrality and objectivity, and with undue influence from any individual member of Council. Should members of Council have any questions, or concerns, of Administration, those questions or concerns shall directed through the City Manager.
- 22 Members of Council should be committed to performing their functions with integrity and to avoiding the improper use of the influence of their office, both apparent and real. No member of Council shall use the influence of their office for any purpose other than for the exercise of their official duties.
- 23 Members will deal with Administration performance concerns or feedback by communicating them privately to the City Manager.
- 24 Nothing in this section shall be deemed to interfere with freedom of expression and opinion on any subject.

Confidential Information

- 25 Members must not disclose information, even after their term of office has concluded, related to matters discussed in a Closed Meeting, unless authorized to disclose the information by Council.
- 26 In the course of their duties, Members may also become privy to confidential information received outside of a Closed Meeting. Members must not:
 - (a) disclose or release by any means to any member of the public, including the media, any confidential information acquired by virtue of their office, unless the disclosure is required by law or authorized by Council;
 - (b) access or attempt to gain access to confidential information held by the Municipality unless it is needed for the performance of the Member's duties and then only through appropriate channels; or
 - (c) use confidential information for personal benefit or for the benefit of any other individual or organization.
- 27 Confidential information includes information in the possession of, or received in confidence by, the Municipality that the Municipality is prohibited from disclosing pursuant to legislation, court order or by contract, or is required to refuse to disclose under FOIP or any other legislation, or any other information that pertains to the business of the Municipality, and is generally considered to be of a confidential nature, including but not limited to information concerning:

- (a) the security of the property of the Municipality;
- (b) a proposed or pending acquisition or disposition of land or other property;
- (c) a tender that has or will be issued but has not been awarded;
- (d) contract negotiations;
- (e) employment and labour relations;
- (f) draft documents and legal documents, including reports, policies, bylaws and resolutions, that have not been the subject matter of deliberation in a meeting open to the public;
- (g) law enforcement matters;
- (h) litigation or potential litigation, including matters before administrative tribunals; and
- (i) advice that is subject to solicitor-client privilege.

Conflicts of Interest

- 28** Members have a statutory duty to comply with the pecuniary interest provisions set out in Part 5, Division 6 of the Act and a corresponding duty to vote unless required or permitted to abstain under the Act or another enactment.
- 29** Members are expected to carry out their duties free from improper influence and must not act or appear to be acting in order to gain financial benefits for themselves, family, friends or associates, business or otherwise.
- 30** Members shall approach decision-making with an open mind that is capable of persuasion.

Improper Use of Influence

- 31** No Member shall use their position as a Member for their own private gain, or for that of persons or organizations that the Member is personally associated with.
- 32** No Member shall act as a paid agent to advocate on behalf of any individual, organization or corporate entity before Council or a committee of Council or any other body established by Council.
- 33** Members shall not contact or otherwise attempt to influence members of any adjudicative body regarding any matter before it relating to the Municipality.
- 34** Members shall refrain from using their positions to assist any person to obtain employment with the Municipality. The only exception to this is for the City Manager, who is Council's sole employee. Members may provide a reference for a person who is or has been employed by the Municipality in the role of City Manager at their discretion. Members are ineligible to

apply or be considered for any position with the Municipality while they hold their elected position and for one year after leaving office.

Use of Municipal Assets and Services

- 35** Members shall use municipal property, equipment, services, supplies and staff resources only for the performance of their duties as a Member, subject to the following limited exceptions:
- (a) municipal property, equipment, service, supplies and staff resources that are available to the general public may be used by a Member for personal use upon the same terms and conditions as members of the general public, including booking and payment of any applicable fees or charges; and
 - (b) electronic communication devices, including but not limited to desktop computers, laptops, tablets and smartphones, which are supplied by the Municipality to a Member, may be used by the Member for personal use, provided that the use is not offensive or inappropriate.

Orientation and Other Training Attendance

- 36** Every Member of Council must attend the orientation training offered by the Municipality following a municipal election, unless doing so is not practically possible.
- 37** Every Member of Council must attend retreats and workshops organized at the direction of Council for the benefit of Members of Council throughout the Council term, unless doing so is not practically possible.

Remuneration and Expenses

- 38** Members are stewards of public resources and shall avoid waste and abuse in the use of public resources.
- 39** Members shall be transparent and accountable with respect to all expenditures and strictly comply with all municipal bylaws, policies and procedures regarding claims for remuneration and expenses.

Gifts and Hospitality

- 40** Members shall not accept gifts, hospitality or other benefits that would, to a reasonable member of the public, appear to be in gratitude for influence, to induce influence, or otherwise to go beyond the necessary and appropriate public functions involved.
- 41** Members may accept hospitality, gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation. Members will file a disclosure with the Legal and Legislative Services Manager for all accepted gifts, discounts, or hospitality valued at greater than \$250.00.
- 42** Gifts received by a Member on behalf of the Municipality as a matter of official protocol which have significance or historical value for the Municipality shall be left with the Municipality when the Member ceases to hold office.

Election Campaigns

- 43** No Member shall use any facilities, equipment, supplies, services, City data, municipal logo or other resources, including staff resources, of the Municipality for any election campaign or campaign-related activity.

PART 3 – COMPLAINT PROCESS

Resolving Conduct Concerns Informally

- 44** A person who believes that a Member has contravened this Bylaw may raise their concerns directly to the Member prior to filing a formal complaint under Section 48.
- 45** A Member who receives a concern about their conduct, will in good faith attempt to informally resolve the matter if practical to do so. If the Member believes the matter should be addressed by the Integrity Commissioner, or if an informal resolution is not reached, the Member will suggest the person file a formal complaint under Section 48.
- 46** Any person who believes that a Member has contravened this Bylaw is encouraged to pursue informal complaint resolution. However, informal complaint resolution is not required prior to pursuing the formal complaint procedure outlined below.

Jurisdiction

- 47** The Integrity Commissioner has the authority to investigate and adjudicate any formal complaint that a Member has contravened this Bylaw.

Complaint reporting

- 48** Any person (“the complainant”) who believes that a Member has contravened this Bylaw may make a complaint, which must be completed in accordance with the following procedure:
- (a) complaints must be addressed to the Integrity Commissioner, be in writing, and be made by e-mail or delivered to:

The City of Red Deer Box 5008 Red Deer, AB, Canada T4N 3T4
Email: Integrity.Commissioner@reddeer.ca
Attention: Integrity Commissioner
 - (b) complaints must set out:
 - i. the provisions of this Bylaw that the complainant believes were contravened;
 - ii. a detailed description of the facts giving rise to the allegation, including any witnesses and the dates of events;
 - iii. the name of the Member(s) alleged to have contravened the Bylaw; and
 - iv. the complainant’s name, current address, and phone number.

A sample complaint form is available on the City’s website.

- 49** The complainant's name may be publicly released if the complaint proceeds to the investigative report stage.

Complainant Protection

50 No Member shall threaten or undertake any reprisal against a person, including any employee, who makes a complaint under this Bylaw or against a person who provides information to the Integrity Commissioner.

Initial Assessment

51 The Integrity Commissioner may reject any complaint received:

- (a) 90 or more days after the date of the alleged contravention; or
- (b) 90 or more days after the complainant became aware of the alleged contravention.

52 The Integrity Commissioner may grant an extension of the time in Section 51 if:

- (a) the delay occurred in good faith;
- (b) it is in the public interest to consider whether the complaint should be investigated; and
- (c) no substantial prejudice will result to any person because of the delay.

53 When the Integrity Commissioner receives a formal complaint under this Bylaw, the Integrity Commissioner will provide a copy of the complaint and all related documents and records to the Responding Member.

54 The Integrity Commissioner will conduct an initial review of all complaints and may dismiss the complaint if the Integrity Commissioner is of the opinion that:

- (a) the conduct occurred during the period of a municipal election and is election conduct and not related to the legislated duties of a Member;
- (b) the complaint is not about a current Member;
- (c) the complaint was not received within the timeframes provided in this Bylaw;
- (d) the complaint alleges criminal activity;
- (e) the complaint alleges a violation of the Act or FOIP;
- (f) the conduct is covered by other applicable legislative appeal, complaint, or court process;
- (g) the information provided in the complaint does not provide reasonable grounds for believing that a violation occurred;
- (h) the complaint is frivolous, vexatious or otherwise not made in good faith; or

- (i) the complaint should be dismissed under Section 82.
- 55** The Integrity Commissioner may request further information from the complainant and the Responding Member before determining whether to dismiss a complaint under Section 54.
- 56** When the Integrity Commissioner dismisses or suspends a complaint under Section 54 or Section 57, the Integrity Commissioner shall provide reasons to the complainant and a copy of their decision to all Members of Council, including the Responding Member.
- 57** The Integrity Commissioner shall suspend any action on a complaint received by the Integrity Commissioner 90 days prior to a municipal election until after election day. The Integrity Commissioner shall inform Council of the complaint and Council retains the discretion to direct the Integrity Commissioner to commence action on the complaint.
- 58** Where a complaint does not fall under Sections 51 or 54, the Integrity Commissioner must determine whether the circumstances of the complaint require a formal investigation or whether the issues involved can be more promptly and efficiently resolved informally. In the latter case, the Integrity Commissioner will take steps, in consultation with the complainant and the Responding Member, to resolve the issue informally. Such steps may involve engaging a mediator or requesting an informal dispute resolution process with a mutually agreed upon other Member.
- 59** If the complainant or Responding Member is unwilling to participate in an informal process to resolve the complaint, or if the Integrity Commissioner at any time concludes that an informal resolution is not possible, the Integrity Commissioner will conduct a formal investigation into the complaint.

Investigation

- 60** Formal investigations must be conducted in a fair, timely, and confidential manner that respects the principles of procedural fairness and natural justice.
- 61** The complainant, Council and the Responding Member will receive written notice of the investigation.
- 62** The Responding Member is entitled to disclosure of all relevant information gathered during an investigation.
- 63** Once all relevant information has been provided to the Responding Member by the Integrity Commissioner, the Responding Member will have 10 business days to provide the Integrity Commissioner with a written response to the allegations, including any supporting documents. This deadline may be extended at the discretion of the Integrity Commissioner.
- 64** The Integrity Commissioner may request access to the City of Red Deer's records, documents, and information related to the complaint, as necessary to complete an investigation.

- 65** The Integrity Commissioner may request additional information from any person involved in an investigation at any time during the investigation, as necessary to complete an investigation.
- 66** The Integrity Commissioner will strive to complete investigations within 90 days of the date the complaint is accepted. This deadline may be extended at the discretion of the Integrity Commissioner.
- 67** Nothing in this Bylaw restricts the Integrity Commissioner from providing interim reports to Council on any matter relevant to a complaint, including reports of any interference, obstruction, or retaliation with respect to an ongoing investigation.
- 68** In the 90 days prior to the date of a municipal election, the Integrity Commissioner shall suspend any investigation underway or decline to commence an investigation, unless otherwise directed by Council.

Adjudication and Reporting

- 69** Upon conclusion of an investigation, the Integrity Commissioner will either:
- (a) dismiss the complaint with written reasons to the complainant and a copy of their decision to all Members of Council, including the Responding Member if a contravention of this Bylaw has not been proven on the balance of probabilities; or
 - (b) prepare a report to Council if a contravention of this Bylaw has been proven on the balance of probabilities.
- 70** If, after reviewing all pertinent information, the Integrity Commissioner determines that a Council Member did contravene this Bylaw then the Integrity Commissioner will write a report that includes:
- (a) a summary of the complaint;
 - (b) a summary of the information gathered and conclusions made; and
 - (c) a recommendation as to the appropriate sanction (if any) for the violation.
- 71** If the Integrity Commissioner determines that a contravention of this Bylaw occurred, but that the Member took all reasonable steps to prevent it, or that it was trivial or committed through inadvertence or a genuine error of judgment, the Integrity Commissioner will state so in the report and recommend that no sanction be imposed.
- 72** Upon completion of the report, the Integrity Commissioner will advise the City Manager that the Integrity Commissioner has a decision to be provided in a verbal report to Council in a Closed Meeting of Council.
- 73** The City Manager will ask the Mayor to include a verbal report from the Integrity Commissioner in the Closed Meeting portion of the agenda for the next regular Council meeting at which consideration of the verbal report can be accommodated.

- 74** 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 the Member of Council about whom the report was received.
- 75** All other Members of Council will receive the decision on a strictly confidential basis at the time the Integrity Commissioner provides their verbal report to Council at the Closed Meeting.
- 76** The Integrity Commissioner's decision that a Member of Council violated this Bylaw is final and may not be amended or reconsidered by Council. After considering a report by the Integrity Commissioner, Council may by resolution:
- (a) impose sanctions on the Responding Member in accordance with this Bylaw; or
 - (b) not impose sanctions on the Responding Member.
- 77** Following the Closed Meeting the Integrity Commissioner's report will be reviewed and redacted in compliance with FOIP and posted on the City's website along with the total cost of the investigation.

Advice and Recommendations

- 78** A Member may request the Integrity Commissioner to give advice and recommendations on any matter respecting obligations of the Member under this Bylaw.
- 79** The Integrity Commissioner may, in writing, provide the Member with advice and recommendations, which:
- (a) shall state the material facts either expressly or by incorporating facts stated by the Member;
 - (b) shall be based on the facts referred to in clause (a); and
 - (c) may be based on any other considerations the Integrity Commissioner considers appropriate.
- 80** Advice and recommendations under this section are confidential until released by or with the consent of the Member.
- 81** The Integrity Commissioner may make any inquiries that the Integrity Commissioner considers appropriate in order to provide advice and recommendations under Section 78.
- 82** If a Member has, with respect to advice and recommendations under Section 78:
- (a) communicated the material facts to the Integrity Commissioner; and

- (b) complied with any recommendations contained in the advice and recommendations of the Integrity Commissioner,

the Integrity Commissioner will dismiss any complaint arising from those facts and the compliance of the Member with the written recommendation of the Integrity Commissioner.

PART 4 – COMPLIANCE, ENFORCEMENT AND SANCTIONS

Compliance and Enforcement

- 83** Members shall uphold the letter and the spirit and intent of this Bylaw.
- 84** Members are expected to co-operate and comply with the application and enforcement of this Bylaw.
- 85** No Member shall obstruct Council, or any other person, in carrying out the objectives or requirements of this Bylaw.

Sanctions

- 86** Sanctions that may be imposed on a Member, by Council, upon a finding that the Member has breached this Bylaw may include:
 - (a) a letter of reprimand addressed to the Member;
 - (b) requesting the Member to issue a letter of apology;
 - (c) publication of a letter of reprimand or request for apology and the Member's response;
 - (d) suspension or removal of the chief elected official's presiding duties under section 154 of the Act;
 - (e) suspension or removal from some or all Council committees and bodies to which council has the right to appoint members;
 - (f) reduction or suspension of remuneration as defined in section 275.1 of the Act corresponding to a reduction in duties; or
 - (g) any other sanction Council deems reasonable and appropriate in the circumstances provided that the sanction is not contrary to the Act.
- 87** When imposing a sanction Council will consider the following:
 - (a) the nature, extent and gravity of the contravention;
 - (b) the consequences and impact of the contravention;
 - (c) whether the Member has previously contravened this Bylaw;
 - (d) the principles and intent of this Bylaw;

- (e) the presence of any legitimate mitigating circumstances;
- (f) the need to deter future contraventions; and
- (g) the public interest, including the need to promote the public’s confidence in the integrity of Council.

After considering these factors, Council may determine that although there was a breach of this Bylaw, no sanction is warranted.

PART 5 – GENERAL

Review

88 This Bylaw shall be brought forward for review at the beginning of each term of Council, when relevant legislation is amended, and at any other time that Council considers appropriate to ensure that it remains current and continues to accurately reflect the standards of ethical conduct expected of Members.

Repeal

89 Bylaw 3608/2018 is repealed when this Bylaw comes into force and effect.

Effective Date

90 ¹This Bylaw shall come into force and effect on February 1, 2024.

READ A FIRST TIME IN OPEN COUNCIL this 21 day of August 2023.

READ A SECOND TIME IN OPEN COUNCIL this 18 day of September 2023.

READ A THIRD TIME IN OPEN COUNCIL this 18 day of September 2023.

AND SIGNED BY THE MAYOR AND CITY CLERK this 18 day of September 2023.

"Mayor Ken Johnston"
MAYOR

"Jessica Robinson"
CITY CLERK

¹ 3696/A-2023