

BYLAW NO. 3608/2018

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:

1. Short Title

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

2. Definitions

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

- (a) “**Act**” means the *Municipal Government Act*, R.S.A. 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) “**FOIP**” means the *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, any associated regulations, and any amendments or successor legislation;
- (e) “**In Camera**” means a meeting, or a portion of a meeting, which is closed to the public in accordance with the Act;

- (f) **“Investigator”** means Council or the individual or body established by Council to investigate and report on complaints;
- (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; and
- (i) **“Reviewer”** means the Mayor, or at the Mayor’s discretion, the Mayor and two Members, none of whom are the subject of or are implicated in the complaint. Members would be selected on a rotation by the Mayor or Deputy Mayor.

3. Purpose and Application

- 3.1 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.

4. Representing the Municipality

- 4.1 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.

5. Communicating on Behalf of the Municipality

- 5.1 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.
- 5.2 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.
- 5.3 A Member must not claim to speak on behalf of Council unless authorized to do so.

- 5.4 No Member shall make a statement when they know that statement is false.
- 5.5 No Member shall make a statement with the intent to mislead Council or members of the public.

6. Respecting the Decision-Making Process

- 6.1 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.
- 6.2 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 Camera. This allows the public to view the process and rationale which was used to reach decisions and the reasons for taking certain actions.
- 6.3 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.

7. Adherence to Policies, Procedures and Bylaws

- 7.1 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.
- 7.2 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.
- 7.3 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.

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

- 8.1 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.
- 8.2 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.

- 8.3 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.
- 8.4 No Member shall use indecent, abusive, or insulting words or phrases toward another Member, any employee of the Municipality or any member of the public.
- 8.5 No Member shall speak in a manner that is discriminatory to any individual based on the person's race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation.
- 8.6 Members shall respect the fact that employees in Administration work for the Municipality as a corporate body and are charged with making recommendations that reflect their professional expertise and a corporate perspective. Members shall respect that employees are entitled to carry out their work free from pressure or undue influence from any Member or group of Members.
- 8.7 Members must not:
- (a) involve themselves in matters of Administration, which fall within the jurisdiction of the City Manager;
 - (b) use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any employee of the Municipality with the intent of interfering in the employee's duties; or
 - (c) maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of employees of the Municipality.

9. Confidential Information

- 9.1 Members must not disclose matters that were discussed In Camera at a Council or Council committee meeting until the matter is discussed at a meeting held in public.
- 9.2 In the course of their duties, Members may also become privy to confidential information received outside of an In Camera 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.

- 9.3 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.

10. Conflicts of Interest

- 10.1 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.
- 10.2 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.
- 10.3 Members shall approach decision-making with an open mind that is capable of persuasion.

11. Improper Use of Influence

- 11.1 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.
- 11.2 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.

- 11.3 Members shall not contact or otherwise attempt to influence members of any adjudicative body regarding any matter before it relating to the Municipality.
- 11.4 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.

12. Use of Municipal Assets and Services

- 12.1 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.

13. Orientation and Other Training Attendance

- 13.1 Every Member of Council must attend the orientation training offered by the Municipality following a municipal election, unless doing so is not practically possible.
- 13.2 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.

14. Remuneration and Expenses

- 14.1 Members are stewards of public resources and shall avoid waste and abuse in the use of public resources.
- 14.2 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.

15. Gifts and Hospitality

- 15.1 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.
- 15.2 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. Council members will file a disclosure with the Legislative Services Manager for all accepted gifts, discounts, or hospitality valued at greater than \$50.
- 15.3 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.

16. Election Campaigns

- 16.1 No Member shall use any facilities, equipment, supplies, services, municipal logo or other resources of the Municipality for any election campaign or campaign-related activity.

17. Informal Complaint Process

- 17.1 Any Member who has identified or witnessed conduct by another Member that the Member reasonably believes, in good faith, is in contravention of this Bylaw may address the prohibited conduct by:
 - (a) advising the Member that the conduct violates this Bylaw and encouraging the Member to stop; and
 - (b) requesting the Mayor to assist in informal discussion of the alleged complaint with the Member in an attempt to resolve the issue. In the event that the Mayor is the subject of, or is implicated in a complaint, the person may request the assistance of the Deputy Mayor.
- 17.2 Individuals are encouraged to pursue this informal complaint procedure as the first means of remedying conduct that they believe violates this Bylaw. However, an individual is not required to complete this informal complaint procedure prior to pursuing the formal complaint procedure outlined below.

18. Formal Complaint Process

- 18.1 Any Member who has identified or witnessed conduct by another Member that the Member reasonably believes, in good faith, is in contravention of this Bylaw may file a formal complaint in accordance with the following procedure:
 - (a) All complaints shall be made in writing and shall be dated and signed by an identifiable individual;

- (b) All complaints shall be addressed to the Reviewer;
- (c) The complaint must set out reasonable grounds for the allegation that the Member has contravened this Bylaw, including a detailed description of the facts, as they are known, giving rise to the allegation;
- (d) If the facts, as reported, include the name of one or more Members who are alleged to be responsible for the breach of this Bylaw, the Member or Members concerned shall receive a copy of the complaint submitted to the Reviewer;
- (e) Upon receipt of a complaint under this Bylaw, the Reviewer shall review the complaint and decide whether to proceed to investigate the complaint or not. If the Reviewer is of the opinion that a complaint is frivolous or vexatious or is not made in good faith, or that there are no grounds or insufficient grounds for conducting an investigation, the Reviewer may choose not to investigate and may dispose of the complaint in a summary manner. In that event, the complainant and Council, if Council is not the Investigator, shall be notified of the Reviewer's decision;
- (f) In all other cases, the Reviewer will refer the complaint to the Investigator. The Investigator shall take such steps as it may consider appropriate, which may include seeking legal advice. All proceedings of the Investigator regarding the investigation shall be confidential;
- (g) If the Investigator is not Council, the Investigator shall, upon conclusion of the investigation, provide Council and the Member who is the subject of the complaint, the results of the Investigator's investigation;
- (h) A Member who is the subject of an investigation shall be afforded procedural fairness, including an opportunity to respond to the allegations before Council deliberates and makes any decision or any sanction is imposed.

19. Public Complaints

19.1 Members of the public who have identified or witnessed conduct by a Member that they reasonably believe, in good faith, is in contravention of this Bylaw may address their concerns by:

- (a) providing a written complaint, dated and signed by an identifiable individual;
- (b) delivering the complaint to the Mayor or the Deputy Mayor;
- (c) the complaint should set out a detailed description of the facts, as they are known, giving rise to the concern;
- (d) If the facts, as reported, include the name of one or more Members who are alleged to be responsible for the breach of this Bylaw, the Member or Members concerned

shall receive a copy of the complaint submitted to the Reviewer;

- (e) Upon receipt of a complaint under this Bylaw, the Reviewer shall review the complaint and decide whether to proceed to investigate the complaint or not. If the Reviewer is of the opinion that a complaint is frivolous or vexatious or is not made in good faith, or that there are no grounds or insufficient grounds for conducting an investigation, the Reviewer may choose not to investigate and may dispose of the complaint in a summary manner. In that event, the complainant and Council, if Council is not the Investigator, shall be notified of the Reviewer's decision;
- (f) In all other cases, the Reviewer will refer the complaint to the Investigator. The Investigator shall take such steps as it may consider appropriate, which may include seeking legal advice. All proceedings of the Investigator regarding the investigation shall be confidential;
- (g) If the Investigator is not Council, the Investigator shall, upon conclusion of the investigation, provide Council and the Member who is the subject of the complaint, the results of the Investigator's investigation;
- (h) A Member who is the subject of an investigation shall be afforded procedural fairness, including an opportunity to respond to the allegations before Council deliberates and makes any decision or any sanction is imposed.

20. Compliance and Enforcement

20.1 Members shall uphold the letter and the spirit and intent of this Bylaw.

20.2 Members are expected to co-operate and comply with the application and enforcement of this Bylaw.

20.3 No Member shall:

- (a) undertake any act of reprisal or threaten reprisal against a complainant or any other person;
- (b) obstruct Council, or any other person, in carrying out the objectives or requirements of this Bylaw.

20.4 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.

21. Review

21.1 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.

READ A FIRST TIME IN OPEN COUNCIL this 9 day of July 2018.

READ A SECOND TIME IN OPEN COUNCIL this 23 day of July 2018.

READ A THIRD TIME IN OPEN COUNCIL this 23 day of July 2018.

AND SIGNED BY THE MAYOR AND CITY CLERK this 23 day of July 2018.

“Frank Wong”

“Samantha Rodwell”

DEPUTY MAYOR

DEPUTY CITY CLERK