

## TOWN OF WHITECOURT

### BYLAW 1540

#### A BYLAW TO ESTABLISH A CODE OF CONDUCT FOR MEMBERS OF COUNCIL AND COUNCIL COMMITTEES

**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 councillors;

**AND WHEREAS**, pursuant to section 146.1(3) of the Municipal Government Act, a Council may, by bylaw, establish a code of conduct governing the conduct of members of Council Committees and other bodies established by the Council who are not Councillors;

**AND WHEREAS**, pursuant to section 153 of the Municipal Government Act, Councillors 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 that it elects to Council for the Town of Whitecourt;

**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 legislative provisions governing the conduct of Councillors;

**NOW THEREFORE** the Council of the Town of Whitecourt, in the Province of Alberta, duly assembled, enacts as follows:

#### 1. Short Title

1.1. This Bylaw may be referred to as the "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 Chief Administrative Officer;
- (c) "CAO" means the Chief Administrative Officer of the Town of Whitecourt, 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 that the meeting, as defined and permitted in the Municipal Government Act, is closed to the public.
- (f) "Member" means a member of Council and includes a Councillor or Mayor, and includes members of Council Committees or other bodies established by Council who are not Councillors or the Mayor;
- (g) "Municipality" means the municipal corporation of the Town of Whitecourt.

#### 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 with dignity and make every effort to participate diligently in the meetings of Council, Council Committees and other bodies to which they are appointed by Council; and
- (d) arrange their private affairs and conduct themselves in a manner that promotes public confidence and will bear close public scrutiny.

## **5. Communicating on Behalf of the Municipality**

- 5.1. A Member must not claim to speak on behalf of Council unless authorized to do so.
- 5.2. Unless Council directs otherwise, the Mayor is Council's official spokesperson and in the absence of the Mayor it is the Deputy Mayor. All inquiries from the media regarding the official Council position on an issue shall be referred to Council's official spokesperson.
- 5.3. A Member who is authorized to act as Council's official spokesperson must ensure that their comments accurately reflect the official position and will of Council as a whole, even if the Member personally disagrees with Council's position.
- 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.
- 5.6. Each Member, whether representing the Municipality via official Town of Whitecourt social media outlets, or engaging in discussions on the Town of Whitecourt's social media outlets using their own personal social media account, is expected to conduct themselves appropriately and ethically. Ethical social media conduct includes:
  - (a) Ratepayers' protection and respect are paramount.
  - (b) Members will use every effort to keep their interactions factual and accurate.
  - (c) Members will strive for transparency and openness in interactions.
  - (d) Members will provide links to credible sources of information to support their interactions when possible.
  - (e) Members will publicly correct any information that has later found to be in error.
  - (f) Members will protect privacy and permissions.
  - (g) Members will respect the comment/posting guidelines of the social media site.

## **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 and all their duties in an open and transparent manner other than for those matters which by law are authorized to be dealt with in a confidential manner in an In Camera session, and in so doing, allow 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. 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.

8.2. 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.

8.3. No Member shall use indecent, abusive, or insulting words or expressions toward another Member, any employee of the Municipality, or any member of the public.

8.4. 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.

8.5. 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 and that employees are required to do so without undue influence from any Member or group of Members.

8.6. Members must not:

- (a) involve themselves in matters of Administration, which fall within the jurisdiction of the CAO;
- (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 and Privileged Information**

9.1. Members must keep in confidence matters discussed in private at a Council or Council Committee meeting until the matter is discussed at a meeting held in public.

9.2. No Member shall use confidential information for personal benefit or for the benefit of any other individual organization.

9.3. In the course of their duties, Members may also become privy to confidential or privileged 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 to do so;
- (b) access or attempt to gain access to confidential information in the custody or control of the Municipality unless it is necessary for the performance of the Member's duties and is not otherwise prohibited by Council, and only then if the information is acquired through appropriate channels in accordance with applicable Council bylaws and policies;
- (c) use confidential information for personal benefit or for the benefit of any other individual or organization.

9.4. 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 instruments, 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.

9.5. While in office and after leaving office, Members must not make use of confidential information or take improper advantage of knowledge gained due to the Member's position on Council or as a Member of a Council Committee.

## **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 to be free from undue influence and not act or appear to act in order to gain financial or other 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 the influence of the Member's office for any purpose other than for the exercise of the Member's official duties.

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 obtain employment with the Municipality for themselves, family members or close associates. 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;
- (b) electronic communication devices, including but not limited to desktop computers, laptops, tablets and smartphones, which are supplied by Municipality to a Member, may be used by the Member for personal use, provided that the use is not offensive or inappropriate.

12.2 Members shall abide by Town of Whitecourt records management practices including delivering all papers, documents, and other materials acquired to an authorized representative upon the end of term.

## **13. Orientation and Other Training Attendance**

13.1. Town Council will host an orientation session on governance within 90 days after each Council Member takes the oath of office. Attendance at Council orientation sessions are mandatory for Council members after each general election; and mandatory for only newly elected officials after a by-election.

13.2. Council Committee orientations will be scheduled prior to the second Council Committee meeting after the Member's appointment to review board structure and roles, and applicable bylaws, plans and policies.

13.3. Unless excused by Council, every Member must attend any other training organized at the direction of Council for the benefit of Members throughout their appointed term.

#### **14. Gifts and Hospitality**

14.1. 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.

14.2. 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.

14.3. 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.

#### **15. Election Campaigns**

15.1. 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.

#### **16. Partisan Politics**

16.1 Members are entitled to serve as members of provincial and federal parties.

16.2 Members will not allow their party affiliation or responsibilities to interfere with the requirements and responsibilities of serving the Municipality.

16.3 Members will not engage in political activities in the Municipal Administration Office or at any events sponsored by the Municipality or one of its commissions or committees.

#### **17. Dress Code**

17.1 Members shall project a professional and positive image of the Municipality. Members shall maintain a business-like appearance at Council Meetings, which includes formal business attire (i.e. dress shirt, dress pants, dress shoes, etc.) Collared shirts branded with the Municipality's logo are acceptable alternatives to business appropriate attire.

#### **18. Informal Complaint Process**

18.1. Any person who has identified or witnessed conduct by a Member that the person 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,
- (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 Deputy Mayor.

18.2. 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.

#### **19. Formal Complaint Process**

19.1. Any person, in good faith, may report perceived wrongdoing by making a complaint alleging a breach of the Bylaw by a Member. All reasonable attempts shall be made to keep the complaints confidential until a full investigation is completed in order to protect a Member and a complainant.

19.2. The complaint shall be in writing and must set out reasonable and probable 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. The report or complaint must be dated, include the name of the complainant and signature, and delivered or directed in confidence to two of the following positions: the Mayor, the Deputy Mayor and the past Deputy Mayor. If the allegation of misconduct is from or involves any of the three positions listed previously, it is to be delivered or directed in confidence to the two other positions. An anonymous complaint shall not be considered valid. At least two of the following positions: Mayor, Deputy Mayor and past Deputy Mayor, shall review the complaint to determine its validity. The complaint may be dismissed if it is of their opinion that the

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.

19.3. All received and valid complaints shall be included in an In Camera session of a Regular Council Meeting for Council's review, excluding the Member concerned. All discussions surrounding the alleged breach of the Bylaw shall be conducted in an In Camera meeting of Council with the intent that the discussion shall remain confidential under the appropriate sections of the Municipal Government Act and the Freedom of Information and Protection of Privacy Act. All of Council must be present at the In Camera meeting, excluding the Member concerned, during discussion of the suspected or substantiated breach of this Bylaw when reaching a decision.

19.5 A Member who is the subject of a complaint shall be afforded procedural fairness, including an opportunity to respond to the allegations before Council makes any decision or any sanction is imposed;

19.6. After review and consideration of all materials submitted, Council may:

- (a) decide that the complaint submitted was not sufficient to demonstrate a breach of this bylaw;
- (b) authorize the Mayor, Deputy Mayor and/or past Deputy Mayor to investigate the complaint and report to Council;
- (c) request legal opinion regarding the complaint;
- (d) determine the complaint submitted demonstrates a breach of this Bylaw and thus sanctions shall be administered.

## **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 cooperate in every way possible in securing compliance 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 for providing relevant information to Council or to 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 resolution of Council, upon determining 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) a requirement to attend training;
- (e) suspension or removal of the appointment of a Councillor as the Deputy Mayor or acting Deputy Mayor under section 152 of the Act;
- (f) suspension or removal of the chief elected official's presiding duties under section 154 of the Act;
- (g) suspension or removal from some or all Council Committees and bodies to which Council has the right to appoint members;
- (h) reduction or suspension of remuneration as defined in section 275.1 of the Act corresponding to a reduction in duties, excluding allowances for attendance at Council meetings;
- (i) any other sanction Council deems reasonable and appropriate in the circumstances provided that the sanction does not prevent a Member from fulfilling the legislated duties of a Councillor and the sanction is not contrary to the Act.

**21. Review**

21.1. This Bylaw shall be reviewed no later than 12 months prior to a general election, 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 this 25 day of JUNE 2018.

READ a Second time this 25 day of JUNE 2018.

READ a Third time this 25 day of JUNE 2018.

TOWN OF WHITECOURT

Redacted under Section 17 of the FOIP Act.

Mayor

TOWN OF WHITECOURT

Redacted under Section 17 of the FOIP Act.

Chief Administrative Officer

Signed by the Mayor and Chief Administrative Officer this 3 day of JULY, 2018.