

TOWN OF WHITECOURT

BYLAW 1579

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 as defined in the Act 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) "Closed Meeting" means a Council or Council Committee Meeting that is closed to the public pursuant to the Act which only Members and other persons specified by Council or the Council Committee may attend;
- (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 a Closed Meeting, 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 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 or appointment, 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 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.

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. Every Member of Council must attend the orientation session offered by the Municipality within 90 days after the Member takes the oath of office. Attendance at additional training sessions throughout the Council term is discretionary.

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 The Mayor and Councillors have a right to freely and fully participate in the political process in their personal capacity, including contributing personal money or real property, volunteering, or offering financial support of partisan political activity, provided that, when doing so, they disclose that such participation is not in their capacity as elected officials.

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. Informal Complaint Process

17.1. 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.

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 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.

18.2. A complaint must be made in writing, dated and legibly signed, and delivered or directed to the Mayor, or the Deputy Mayor if the complaint is regarding the Mayor.

18.3 The complaint shall contain the following information

- (a) the name of the complainant and the Member who is the subject of the complaint;
- (b) the date of the conduct which is the subject of the complaint;
- (c) the nature of the conduct which is the subject of the complaint;
- (d) other relevant information to the complaint, which may include the names of witnesses.

18.4. Upon receipt of a complaint, the Mayor or Deputy Mayor that received the complaint shall advise Council of the complaint at the next Regular Meeting of Council.

18.5. At the Council meeting at which the complaint is put before Council, Council shall review the complaint and may reject any complaint received:

- (a) more than 60 days after the date of conduct which is the subject of the complaint; or
- (b) after the date of a municipal election which occurs between the date of the conduct which is the subject of the complaint and the date of the appointment of the Investigator.
- (c) If Council is of the opinion that the complaint is frivolous, vexatious or not made in good faith, Council may reject the complaint.

Council may obtain a legal opinion or advice in making this determination. If Council rejects the complaint, Council shall provide written notice to the complainant of Council's decision.

18.6. If Council determines that the complaint should be investigated, the CAO shall provide a list of qualified third party consultants, with legal and/or municipal experience, for Council to choose from to appoint as the Investigator.

18.7. Any legal opinion or advice provided to Council or the Municipality regarding a complaint shall not be made available to the complainant or the Member who is the subject of the complaint.

19.0 Review of Complaint by Investigator

19.1. Within 10 days of the appointment of the Investigator, the Investigator shall determine whether the conduct which is the subject of the complaint is within the Investigator's authority to consider breaches of this Bylaw and whether the information provided by the complainant provides reasonable grounds for believing that the Member has breached this Bylaw.

19.2. The Investigator may request further information from the complainant to assist in determining whether there are reasonable grounds for believing that the Member has breached this Bylaw.

19.3 The Investigator must reject any complaint received where the conduct is an allegation of criminal conduct under the Criminal Code and advise the complainant to make a complaint to the appropriate police service.

19.4. If the Investigator is of the opinion that:

- (a) the matter is not within the Investigator's authority to investigate;
- (b) there are no grounds or insufficient grounds to conduct an investigation; or,
- (c) the complaint is frivolous, vexatious or not made in good faith,

the Investigator shall not conduct an investigation. The Investigator shall provide written reasons for the decision to Council

19.5. The Investigator's decision shall be placed on the Closed Meeting portion of the next regular Council Meeting. Council may discuss the Investigator's decision under section 19.4 during the Closed Meeting and shall notify the complainant and the Member of the conclusion of the Investigator under section 19.4 within 7 days of the Council Meeting.

19.6. Despite sections 23.1 and 23.2 of the Bylaw, Council shall provide a summary of the Investigator's reasons under section 19.4 to the complainant after the Council meeting at which the Investigator's decision is considered.

19.7. If the Investigator does not dismiss the complaint, within 10 days from the Investigator's appointment, the Investigator shall:

- (a) notify the complainant that there will be an investigation;
- (b) notify the Member of the complaint and provide the Member with a copy of the complaint;
- (c) commence the investigation into the complaint as the Investigator considers appropriate, but which must include fair process for the Member, including the opportunity to seek legal counsel and for the Member to provide a response to the complaint.

19.8. The Investigator shall complete the investigation as soon as possible in the circumstances and in any event no later than 90 days from the date of the Investigator's appointment.

19.9. At the completion of the investigation, the Investigator shall:

- (a) prepare a written report advising whether the complaint is substantiated and the Member's conduct is in breach of this Code of Conduct Bylaw;
- (b) include any recommendations the Investigator feels are appropriate in the circumstances, which may include recommendations on sanction; and
- (c) provide a copy of the written report and recommendations, if any, to Council during the Closed Meeting portion of a Council Meeting.

20. Information Resolution of Complaint during Investigation

20.1. The Investigator may attempt to resolve the complaint through mediation with the complainant and the Member who is the subject of the complaint, or may request the Mayor, or Deputy Mayor, to assist in an information discussion of the complaint with the Member in an attempt to resolve the issue. If the Mayor is the subject of a complaint, the Investigator may request the assistance of the Deputy Mayor.

20.2. If the mediation resolves the complaint, the Investigator shall prepare a written report summarizing the nature of the complaint and the result of the mediation and provide a copy of the written report to Council during the Closed Meeting portion of a Council Meeting.

21. Formal Resolution

21.1. If the Investigator concludes that the complaint is not substantiated and the Member's conduct is not in breach of this Code of Conduct Bylaw, during the Closed Meeting portion of the next Regular Council Meeting, Council shall consider the report and decide whether to accept the report and take no further action in regard to the complaint.

21.2. Despite sections 23.1 and 23.2, if Council decides to take no further action in regard to the complaint, Council shall provide to the complainant a summary of the complaint, the Investigator's findings and Council's determination under section 21.1 after the Council Meeting at which the Investigator's determination under section 21.1 is considered.

21.3 If the Investigator concludes that the complaint is substantiated and the Member's conduct is in breach of this Code of Conduct Bylaw, Council shall:

- (a) provide a copy of the report to the Member;
- (b) allow the Member 30 days to provide to Council a written response to the Investigator's report;
- (c) place the Investigator's report and the Member's written response, in any, on the Closed Meeting portion of the next Regular Council Meeting following receipt or a Special Council Meeting called to consider the item.

21.4. During the Closed Meeting portion of the Council meeting where the item is considered:

- (a) The Member who is the subject of the complaint may provide oral comments to Council in addition to any written response provided. The Member is entitled to have legal counsel present during the Council Meeting, at the Member's sole expense. Council may ask questions of the Member.
- (b) Once the Member has completed any oral comments, the Member and legal counsel for the Member, if any, shall leave the meeting.
- (c) If the complainant is a Member, the complainant Member shall leave the meeting for the determination required under section 21.4(d).
- (d) Following the departure of the Member, Council shall determine whether to accept the findings of the Investigator.

21.5. If Council accepts the findings of the Investigator:

- (a) Council shall notify the Member of Council's findings and place the consideration of possible sanctions on the Closed Meeting portion of the next Regular Council Meeting or a

Special Council Meeting called to consider the item which shall be held no sooner than 7 days after notice is given to the Member.

(b) The Member may submit further written submission regarding appropriate sanctions. If the Member does wish to make written submissions, the Member must send them to Council no later than 7 days following the notice referenced in section 21.5(a).

21.6. During the Closed Meeting portion of the Council meeting where sanctions are considered:

(a) The Member who is subject of the complaint may provide oral comments to Council in addition to any written response provided. The Member is entitled to have legal counsel present during the Council Meeting, at the Member's sole expense. Council may ask questions of the Member.

(b) Once the Member has completed any oral comments, the Member and legal counsel for the Member, if any, shall leave the meeting.

(c) If the complainant is a Member, the complainant Member shall leave the meeting for the determination required under section 21.6(d) and may not vote on any motion regarding sanctions against the Member whose conduct is the subject of the complaint.

(d) Following the departure of the Member, Council shall consider the appropriate sanction having regard for the severity and frequency of the conduct.

21.7. Despite sections 23.1 and 23.2 of the Bylaw, if Council determines that the Member's conduct is in breach of the Code of Conduct, Council shall provide to the Complainant a summary of the complaint, the Investigator's findings and Council's determination under section 21.4(d), and Council's decision under section 21.6(d), after the Council meeting at which the item set out under section 21.6(d) is considered.

21.8. No Member shall take retaliatory action against a Complainant with the intention of dissuading or punishing an individual for participating in the complaint process.

22. Sanctions

22.1. 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 Mayor'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.

22.2. In imposing sanctions, Council may consider whether the Member whose conduct is the subject of sanctions has been previously sanctioned for the same or similar conduct.

22.3. The Member whose conduct is the subject of the sanction motion should not vote on the sanction motion.

Regardless of whether the Member's conduct is the subject of a sanction motion, the Member whose conduct is investigated under the Bylaw is responsible for any costs, legal or otherwise, the Member incurs arising from the investigation or any sanction imposed.

23. Confidentiality of Investigation Process

23.1. The Investigator's report to Council is confidential.

23.2. Council may by motion direct the Chief Administrative Officer to publicly disclose an Investigator's report. If Council passes such a resolution then the report shall be reviewed by the Town's FOIP Coordinator under the Freedom of Information and Protection of Privacy Act for any appropriate redactions including redactions to delete any reference to the Complainant's identity when the Complainant has request that their identity not be publicly disclosed, and other personal information before the Investigator's report is publicly disclosed.

24. Compliance and Enforcement

24.1. Members shall uphold the letter and the spirit and intent of this bylaw.

24.2. If a Member fails to comply with a sanction imposed under section 22, the failure to comply is a breach of this Bylaw and may be subject to further sanctions under this Bylaw.

24.3. Members are expected to cooperate in every way possible in securing compliance with the application and enforcement of this bylaw.

24.4. 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.

25. Review

25.1. 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.

26. Effective Date

26.1. This Bylaw comes into force and effect upon third and final reading and is duly signed.

26.2. That Bylaw 1540, and amendments thereto, is hereby rescinded upon this Bylaw coming into force and effect.

READ a first time this 23 day of September, 2024.

READ a second time this 23 day of September, 2024.

READ a third and final time this 23 day of September, 2024.

Redacted under Section 17 of
the FOIP Act.

Mayor

Redacted under Section 17 of
the FOIP Act.

CAO

Signed by the Mayor and CAO this 30 day of September, 2024.