

**BYLAW NO 2035-23**

OF THE

CITY OF WETASKIWIN

IN THE PROVINCE OF ALBERTA

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 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 City of Wetaskiwin;

**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 City of Wetaskiwin, in the Province of Alberta, duly assembled, enacts as follows:

**1. 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:

"Act" means the *Municipal Government Act*, R.S.A. 2000, c. M-26, and associated regulations, as amended;

"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;

"Bias" means, in the context of legislative decision making, that the Elected Official has a closed mind and is incapable of persuasion, and in the context of quasi-judicial or administrative decision making, that a reasonable person, apprised of the facts

would have a reasonable apprehension of bias on the part

of the Elected Official as a consequence of that Elected Officials relationship to a person participating or interest in the matter at issue in the quasi-judicial or administrative process.

"Board" means a board or similar governing entity of a regional service or planning commission, municipal corporation, foundation, association, or other entity to which the Council has the authority to appoint representatives from time to time.

"Bullying" includes repeated and hostile or demeaning behavior by an individual, either directly or through any medium whatsoever, where the behavior results in harm, fear, or distress to one or more individual's including, but not limited to, physical harm, psychological harm or harm to an individual's reputation.

"City Manager" means the chief administrative officer of the Municipality, or their delegate;

"City Staff" means employees of the City of Wetaskiwin who are led by the CAO.

"Elected Official" means a duly elected Member of City of Wetaskiwin Council.

"Harassment" includes, but is not limited to:

- i. written or verbal comments, posts, actions, gestures or other behaviours that are humiliating, offensive, hurtful or belittling;
- ii. Bullying or intimidation;
- iii. abuse of authority; or
- iv. attempting to discredit an Elected Official, a City employee, or member of the public by spreading false and potentially harmful information about him/her.

"FOIP" means the *Freedom of Information and Protection of Privacy Act*,

"Investigator" means a body established by Council or an individual determined by Council as determined in the City Manager Bylaw to investigate and report on complaints;

"Member" means a member of Council and includes a councillor or the Mayor;

"Municipality" means the municipal corporation of the City of Wetaskiwin.

### **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.
- 3.2. This Code of Conduct is one aspect of accountability and transparency both internally, as among Members and between Council and Administration, as well as externally, with other orders of government, the media and the public at large.

#### **4. STATEMENT OF VALUES AND PRINCIPLES**

4.1. For the purpose of providing ethical and effective leadership for the City of Wetaskiwin and its residents, the City of Wetaskiwin City Council has adopted the following principles to ensure that all Elected Officials act honestly, in good faith and in the best interests of the City of Wetaskiwin as a whole. Elected Officials shall abide to the following principles of conduct:

- a. Act honestly, in good faith and in the best interests of the City as a whole.
- b. Uphold the law established by the Federal Parliament and the Alberta Legislature and the bylaws and policies adopted by Council.
- c. Carry out their duties in accordance with all applicable legislation, bylaws and policies pertaining to their position as an elected official.
- d. Observe the highest standard of ethical conduct and perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny.
- e. Engage in respectful, fulsome, and healthy debate on matters in City Council or Committee or Board meetings, approach decision-making with an open mind, and support the majority decision of City Council or the Committee or Board once determined.
- f. Be respectful of personal opinions of other Elected Officials and the public, as well as the professional opinions of City Staff.
- g. Unless authorized by Council to represent Council's position on an issue, ensure that any public statements are clearly stated to reflect the personal opinion of the Elected Official, not the opinion or position of Council.
- h. Publicly express personal opinions in such a manner that maintains respect for Council, other Elected Officials, and City Staff.
- i. Avoid situations which may result in a Conflict of Interest or Bias.
- j. Avoid situations where it may be perceived that the Elected Official is using their position on Council to gain a personal benefit.
- k. Act with integrity, professionalism and respect when interacting with other Elected Officials, City Staff, members of the public, and other government officials.
- l. Actively participate in all meetings respectfully, responsibly, and consistent with approved procedures.

- m. Keep in strict confidence all matters discussed in camera at a Council meeting and not disclose the matter until that matter is discussed at a public meeting of Council.
- n. Members shall not make improper use of their position as an Elected Official to:
  - i. gain or attempt to gain or advance, directly or indirectly, a personal or private interest for themselves or another person;
  - ii. cause or attempt to cause detriment to the City of Wetaskiwin, Council, any individual Elected Official, any Board or Committee, any individual Committee or Board Member, any member of City Staff, any member of the public or third party; or
  - iii. seek personal benefit or gain from any information obtained through their position as an Elected Official.

## **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.

## **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.
- 7.4. Members shall conduct themselves with appropriate decorum at all times. As leaders in the community, Members are held to a high standard of behaviour and conduct and must be mindful that as public figures the lines between public and private behaviour are not readily apparent, nor easily distinguishable by the public at large.

## **8. CONDUCT RESPECTING ADMINISTRATION**

- 8.1. Council is the source of all governance authority and will make decisions on whether and to what extent to delegate Council's authority to others, including the Mayor, committees of Council and to the CAO or a designated officer. Under the direction of the CAO, staff in Administration serves Council as a whole. No individual Member has executive authority over City staff.
- 8.2. Council Members shall respect the fact that staff work for the City and are charged with making recommendations that reflect their professional expertise and a corporate perspective and carrying out directions of Council and administering the policies and programs of the City, and that staff are required to do so without undue influence from any Member or group of Members.
- 8.3. A Member must not:
  - a) involve themselves in matters of Administration, which fall within the jurisdiction of the CAO in accordance with the Act;
  - b) use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering in staff's duties; or
  - c) maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff.

8.4. Council Members shall obtain information about the operation or administration of the City from the CAO or a person designated by the CAO, in accordance with the Act.

8.5. Members are to contact staff according to the procedures authorized by the CAO regarding the interaction of Members and staff.

## **9. ATTENDANCE**

9.1. Members have a statutory duty to participate in Council meetings and failure to attend as required may lead to a Member's disqualification under the Act.

9.2. Members are responsible for participating in Council committee meetings and meetings of other bodies to which they are appointed by Council and failure to attend as required may lead to Members being removed from the committee or body or being subject to other sanctions outlined in this bylaw.

9.3. Members are responsible for attending Council orientation and other training. Failure to attend as required may lead to Members being subject to the sanctions outlined in this bylaw.

## **10. CONFIDENTIAL INFORMATION**

10.1. 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.

- a) In the course of their duties, Members may also become privy to confidential information received outside of an "in-camera" meeting. Members must not:
- i. 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;
  - ii. 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;
  - iii. use confidential information for personal benefit or for the benefit of any other individual or organization.

10.2. 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
- i) tribunals; and
- j) advice that is subject to solicitor-client privilege.

## **11. CONFLICTS OF INTEREST**

- 11.1. The decision with respect to whether or not an Elected Official has a Conflict of Interest is the individual Elected Official's responsibility.
- 11.2. It is the individual responsibility of each Elected Official to seek independent legal advice, at their own expense, with respect to any situation that may result in a Conflict of Interest.
- 11.3. 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.
- 11.4. 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.

## **12. IMPROPER USE OF INFLUENCE**

- 12.1. 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.
- 12.2. 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.
- 12.3. Members shall not contact or otherwise attempt to influence members of any adjudicative body regarding any matter before it relating to the Municipality.
- 12.4. Members shall not use 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 City while they hold their elected position and for one year after leaving office.

### **13. USE OF MUNICIPAL ASSETS AND SERVICES**

- 13.1. Members shall use municipal property, equipment, services, supplies and staff resources only for the performance of their duties as a Member.
- 13.2. Electronic communication devices provided by the City are the property of the City, and shall, at all times, be treated as the City's property. Council Members are hereby notified that they are to have no expectation of privacy in the use of these devices and further that:
  - a) all emails or messages sent or received on City devices are subject to FOIP;
  - b) all files stored on Municipal devices, all use of internal email and all use of the Internet through the City's firewall may be inspected, traced or logged by the City;
  - c) in the event of a Formal Complaint pursuant to this Code of Conduct, Council may require that any or all of the electronic communication devices provided by the City to Members may be confiscated and inspected as part of the investigation including downloading information which is considered relevant to the investigation. All email messages or Internet connections may be retrieved.
- 13.3. No Member shall use any property, equipment, services or supplies of the City, including email, Internet services, or any other electronic communication device, if the use could be offensive or inappropriate.
- 13.4. No Member shall obtain financial gain from the use or sale of City-developed intellectual property (for example, inventions, creative writings and drawings), computer programs, technological innovations, or other patent, trademark or copyright held by the City. Members acknowledge and do not dispute that all such property remains exclusively that of the City.
- 13.5. No Member shall use information gained in the execution of their duties that is not available to the general public, for any purposes other than the Member's official duties.

### **14. ORIENTATION AND OTHER TRAINING ATTENDANCE**

- 14.1. Every Member must attend the orientation training offered by the Municipality within 90 days after the Member takes the oath of office.
- 14.2. Unless excused by Council, every Member must attend any other training organized at the direction of Council for the benefit of Members throughout the Council term.



## **15. REMUNERATION AND EXPENSES**

- 15.1. Members are stewards of public resources and shall avoid waste, abuse and extravagance in the use of public resources.
- 15.2. 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.

## **16. COUNCIL SELF-EVALUATION SESSIONS**

- 16.1. Council Self-Evaluation Sessions should occur every 12 months and may include reviews of Council's working relationships and whether the working relationship is, or have been, inconsistent with this Council's values, approved plans, goals and objectives, this Code of Conduct or any other City bylaw or policy.

## **17. GIFTS**

- 17.1. 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.
- 17.2. Members may accept hospitality, gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol, cultural significance or social obligation, provided that the value of the hospitality, gift or benefit is documented.
- 17.3. Gifts received by a Member on behalf of the Municipality as a matter of official protocol which have cultural significance or historical value for the Municipality shall be left with the Municipality when the Member ceases to hold office.

## **18. ELECTION CAMPAIGNS**

- 18.1. All candidates in an election are entitled to have an equal opportunity to access City resources and expect that no preferential treatment by the City will be afforded to candidates that are incumbent Members.
- 18.2. Council Members must not utilize their position to garner an unfair advantage over candidates who are not Members.
- 18.3. Council Members are required to follow the provisions of the Local Authorities Election Act and are accountable under the provisions of that statute.
- 18.4. Members should not make inquiries of, or rely on, City staff to interpret or provide advice to Members regarding the requirements placed on candidates for municipal office.
- 18.5. Members shall be respectful of the role of the Returning Officer in managing the municipal election process and must not interfere with how the Returning Officer's election duties are carried out.

- 18.6. Council Members shall not use municipal resources, including property, equipment, services, supplies and staff time, for any election-related activities, whether local, provincial or federal.
- a) Online resources hosted, supplied or funded by the City, including but not limited to Member electronic newsletters,
  - b) Member websites linked through the City's website and Member social media accounts shall not be used for any election campaign or campaign-related activities.
  - c) No Member shall use the City logo for campaign purposes.
- 18.7. To avoid confusion with any website or social media account used for the Council Member's duties, Members who choose to create or use websites or social media accounts for campaign communications must include, for the duration of the campaign, a clear statement on each campaign website or social media account's home page indicating the website or account is being used for election campaign purposes.

## **19. FORMAL COMPLAINT PROCESS**

- 19.1. There is a whistle blower complaint line available as per Policy CO - 050.
- 19.2. Any person or Member who has identified or witnessed conduct by a Member that the person or 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 Investigator;
  - c) The complaint 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;
  - 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 Investigator;
  - e) Upon receipt of a complaint under this Bylaw, the Investigator shall review the complaint and decide whether to proceed to investigate the complaint or not. If the Investigator 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 Investigator may choose not to investigate or, if already commenced, may terminate any investigation, or 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 Investigator's decision;
  - f) If the Investigator decides to investigate the complaint, 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 the Council, complainant and the Member who is the subject of the complaint, the results of the Investigator's investigation except as may be required and authorized under the *Freedom of Information and Protection of Privacy Act*, the provisions of this Bylaw or any other applicable law;
- h) A complaint shall not be made available to the public except as may be required and authorized under the *Freedom of Information and Protection of Privacy Act*, the provisions of this Bylaw or any other applicable law.
- i) 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;
- j) A Member who is the subject of an investigation is entitled to be represented by legal counsel, at the Member's sole expense.

## **20. DISPUTE RESOLUTION**

- 20.1. In the event of a dispute between members, the members agree to use best efforts to resolve the dispute between themselves, in a manner that is both respectful and professional;
- 20.2. In the event that members cannot, by exercising their best efforts, resolve the dispute, then the dispute shall be submitted to the Mayor for resolution; or Deputy Mayor if the Mayor is involved in the dispute.
- 20.3. Members shall abide by the resolution as determined by the Mayor.

## **21. COMPLIANCE AND ENFORCEMENT**

- 21.1. Members shall uphold the letter and the spirit and intent of this Bylaw.
- 21.2. Members are expected to co-operate in every way possible in securing compliance with the application and enforcement of this Bylaw.
- 21.3. 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.
- 21.4. 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) demand the Member to issue a letter of apology;
- c) publication of a letter of reprimand or request for apology and the
- d) Member's response;
- e) a requirement to attend training;
- f) suspension or removal of the appointment of a Member as the deputy chief elected official or acting chief elected official under 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 the Act corresponding to a reduction in duties, excluding allowances for attendance at council meetings;
- i) required reimbursement of monies received;
- j) required return of City property or reimbursement of its value
- k) restrictions on access to City facilities, property, equipment, services and supplies;
- l) restrictions on contact with City staff;
- m) restriction on travel and representation on behalf of Council;
- n) restrictions on how documents are provided to the Member (e.g. no electronic copies, but only watermarked paper copies for tracking purposes).
- o) 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. SEVERABILITY**

- 22.1. If a court of competent jurisdiction should declare any Section or Subsection of this bylaw to be invalid, such Section or Subsection shall not be construed as having persuaded or influenced Council to pass the remainder of the bylaw, and it is hereby declared that the remainder of the bylaw shall be valid and remain in force.

## **23. TRANSITION**

- 23.1. 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.

23.2. This Bylaw shall repeal Bylaw No. 2001-21 and any amendments thereto on the date of final passing.

23.3. This bylaw shall come into full force and effect upon third and final reading.

READ a first time this 14<sup>th</sup> day of November, 2022.

READ a second time this this 14<sup>th</sup> day of November, 2022.

READ a third time this this 14<sup>th</sup> day of November, 2022.

ORIGINAL SIGNED

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**TYLER GANDAM, MAYOR**

ORIGINAL SIGNED

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**SUE HOWARD, CITY MANAGER**