

BYLAW NO. 19/005

A BYLAW OF THE REGIONAL MUNICIPALITY OF WOOD BUFFALO TO ESTABLISH THE ROLE OF AN INTEGRITY COMMISSIONER

WHEREAS section 145 of the *Municipal Government Act*, R.S.A. 2000, c.M-26, as amended, (“Act”) provides that a council may pass bylaws in relation to procedures to be followed by council;

AND WHEREAS section 146.1 of the Act indicates that a council must, by bylaw, establish a code of conduct governing the conduct of councillors;

AND WHEREAS the Council Code of Conduct Bylaw contemplates a role for an Integrity Commissioner;

NOW THEREFORE the Council of the Regional Municipality of Wood Buffalo, duly assembled, hereby enacts as follows:

Short Title

1. This Bylaw may be cited as the “Integrity Commissioner Bylaw”.

Definitions

2. The following definitions will apply in interpreting this Bylaw, unless the context otherwise requires:
 - (a) “Act” means the *Municipal Government Act*, R.S.A. 2000, c.M-26, as amended, or any successor legislation;
 - (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) “Chief Administrative Officer” or “CAO” means the individual appointed by Council to the position of Chief Administrative Officer of the Regional Municipality of Wood Buffalo and includes anyone appointed in an interim or acting capacity;
 - (d) “Code of Conduct” means the Council Code of Conduct Bylaw No. 18/009, or any successor bylaw or enactment;
 - (e) “Council” means the elected council of the Regional Municipality of Wood Buffalo;

- (f) “Formal Complaint” means a request by Council, a Council Member, the Chief Administrative Officer, Administration, a resident of the Municipality, or a person who has a business, institutional or other premises in the Municipality, that the Integrity Commissioner will conduct an inquiry into an event or series of events alleged to contravene the Code of Conduct or any other policies, rules or procedures governing the ethical behaviour of Members.
- (g) “Member” means a member of Council and includes a councillor or the Mayor.
- (h) “Municipality” means the Regional Municipality of Wood Buffalo.

Appointment

- 3. Council will appoint an individual, group or organization to fulfill the duties of the Integrity Commissioner for a two-year term, with the possibility of one-year term extensions.
 - (a) If a group or organization is appointed, one individual within that group or organization will be designated as the Integrity Commissioner.
 - (b) Where no appointment has been made under section 3(a), the Chief Administrative Officer will secure a third party to carry out one or more of the duties set out in this Bylaw.
- 4. The Integrity Commissioner appointed should possess the following qualifications:
 - (a) proven impartiality, neutrality and high ethical standards;
 - (b) senior-level management, municipal, legal, judicial or quasi-judicial experience;
 - (c) knowledge of municipal or other administrative law;
 - (d) knowledge of municipal governance;
 - (e) ability to interpret and apply the provisions of various statutes, regulations, policies and other enabling frameworks;
 - (f) knowledge of investigatory procedures and applicable legal principles, particularly as they relate to evidence, legal interpretation and natural justice; and
 - (g) an ability to provide services on an as-needed basis.

5. The Integrity Commissioner appointed must:
- (a) Have no other dealings, in an official capacity, or employment with the Municipality;
 - (b) Have no financial interest in the work of the Municipality;
 - (c) Not be involved in or have a relationship with political campaigns/endorsements, or other related conflict of interest specific to the Municipality; and
 - (d) Have no familial or professional relationship with any present or past Member.

Role

6. The role of the Integrity Commissioner is to receive, review, investigate and adjudicate Formal Complaints, and if a contravention of the Code of Conduct or any other policies, rules or procedures governing the ethical behaviour of Members is established, to provide recommendations to Council regarding the imposition of a sanction.

Duties

7. The Integrity Commissioner will:
- (a) Receive, review, investigate and adjudicate complaints based on the Formal Complaint Procedure outlined in this Bylaw.
 - (b) Determine whether the matter is within the jurisdiction of the Integrity Commissioner to process;
 - (c) Determine whether to proceed to investigate a Formal Complaint or dispose of the Formal Complaint in a summary manner;
 - (d) Ensure that Formal Complaints are fully and fairly investigated;
 - (e) Respect confidentiality of information and documentation received and reviewed when investigating;
 - (f) Provide advice and recommendations to Council regarding amendments to the Code of Conduct and any other policies, rules or procedures governing Members' ethical behaviour;
 - (g) Prepare and deliver an annual report to Council containing a summary of the Integrity Commissioner's activities during the calendar year.

8. The Integrity Commissioner will complete any investigation begun during their term notwithstanding the expiry of their term and this Bylaw will continue to apply with necessary modifications unless other arrangements are made and agreed upon by the Integrity Commissioner.
9. If the Integrity Commissioner has not begun an investigation into a Formal Complaint during their term, the Integrity Commissioner next appointed will begin and complete the investigation.

Formal Complaint Procedure

10. The following Formal Complaint Procedure must be adhered to by the Integrity Commissioner:
 - (a) All Formal Complaints must be made in writing and be dated. Anonymous complaints will not be accepted.
 - (b) All Formal Complaints must be addressed to the Integrity Commissioner.
 - (c) The Formal Complaint must set out reasonable and probable grounds for the allegation that the Member has contravened the Code of Conduct or any other policies, rules or procedures governing the ethical behaviour of Members, including a detailed description of the facts, as they are known, giving rise to the allegation.
 - (d) A Formal Complaint must be received by the Integrity Commissioner no later than 60 days after the date the person became aware of the conduct giving rise to the Formal Complaint. The Integrity Commissioner may use their discretion to grant extensions if:
 - (i) the delay occurred in good faith;
 - (ii) it is in the public interest to conduct an investigation or to give consideration whether to conduct an investigation; and
 - (iii) no substantial prejudice will result to any person because of the delay.
 - (e) Upon receipt of a Formal Complaint the Integrity Commissioner will conduct a preliminary review of the Formal Complaint to determine whether to proceed with investigating or disposing of the Formal Complaint in a summary manner.
 - (i) The Integrity Commissioner may request further information from the Complainant as part of the preliminary review before determining whether to proceed to investigate the Formal Complaint or dispose of the Formal Complaint in a summary manner.

- (ii) If the Formal Complaint is not, on its face, a complaint with respect to the non-compliance of the Code of Conduct or any other policies, rules or procedures governing the ethical behaviour of Members, the Integrity Commissioner will advise the Complainant, in writing, that the matter is not within the jurisdiction of the Integrity Commissioner to process, with any additional reasons and referrals to the appropriate authority as the Integrity Commissioner considers appropriate.
 - (iii) If the Integrity Commissioner believes a Formal Complaint is frivolous or is not made in good faith, or that there are no grounds or insufficient grounds for investigating, the Integrity Commissioner will not investigate, or, where that becomes apparent during investigation, terminate the investigation. In that event, the Complainant is to be notified of the Integrity Commissioner's decision in writing.
 - (iv) Other than in exceptional circumstances, the Integrity Commissioner will not report to Council on any Formal Complaint described in subsections (ii) or (iii) except as part of an annual or other periodic report.
- (f) If the Formal Complaint is within the jurisdiction of the Integrity Commissioner and was not dismissed under section 10(e) above, the Integrity Commissioner must take such steps as the Integrity Commissioner deems appropriate to investigate the Formal Complaint and may attempt to resolve the Formal Complaint.
- (g) If necessary, after a review is done of the materials submitted, the Integrity Commissioner may speak to anyone, access and examine any other documents or electronic material in control and custody of the Municipality and may enter any Municipal facility or workplace relevant to the Formal Complaint.
- (i) If any document or electronic material in the control and custody of the Municipality is requested by the Integrity Commissioner, Administration or the CAO must provide same.
- (h) The Integrity Commissioner will not issue a report to Council finding a violation of the Code of Conduct on the part of any Member unless the Member has had reasonable notice of the basis for the proposed finding and any recommended sanction and an opportunity either in person or in writing to comment on the proposed finding and any recommended sanction.

- (i) The Integrity Commissioner will report to the Complainant and the Member upon completion of the Integrity Commissioner's report no later than 90 days after receiving the Formal Complaint.
 - (i) The 90-day timeline may be extended by the Integrity Commissioner depending on the nature and complexity of the investigation.
 - (ii) Reasonable notice will be provided to the Complainant, the Member and Council as a whole.
- (j) All reports from the Integrity Commissioner to Council, other than annual or periodic reports or updates, are confidential and will be considered by Council in camera.
- (k) Public disclosures of complaint investigation reports or any other records of the Integrity Commissioner will be subject to any exceptions to disclosure outlined in the *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c.F-25, as amended.
- (l) Where the Formal Complaint is substantiated in whole or in part, the Integrity Commissioner will also report their findings, the terms of any settlement, or recommend corrective action to Council.
- (m) Where the Formal Complaint is dismissed, other than in exceptional circumstances, the Integrity Commissioner will not report to Council except as part of an annual or periodic report or update.
- (n) If the Integrity Commissioner determines that there has been no contravention of the Code of Conduct, or any other policies, rules or procedures governing the ethical behaviour of Members, or that a contravention occurred although the Member took reasonable action or measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence of an error of judgement made in good faith, the Integrity Commissioner will so state in the report and will recommend that no sanction be imposed.
- (o) Council will consider and respond to the Integrity Commissioner's report at the next regularly scheduled Council meeting following receipt of the report, unless circumstances warrant the report's consideration be deferred to a subsequent regular or special Council meeting.
- (p) In responding to the Integrity Commissioner's report, Council may vary a recommendation to impose a penalty, subject to the Act.

- (q) The Integrity Commissioner by way of a report to Council on whether a Member has violated the Code of Conduct will only disclose such matters as in the Integrity Commissioner's opinion are necessary for the purposes of the report. Any such disclosure must be provided in accordance with the provisions of the *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c.F-25, as amended.
- (r) Should Member(s) not cooperate fully with, obstruct or in any way attempt to influence the Integrity Commissioner in any investigation or adjudication of a Formal Complaint, such details will be disclosed in the Integrity Commissioner's report to Council.

Amendments and Coming into Force

11. The Code of Conduct Bylaw, Bylaw No. 18/009, is amended by:

- (a) Deleting Section 2.1.e.
- (b) Adding the following definition as Section 2.1.c.1
“Council means the elected council of the Regional Municipality of Wood Buffalo;”
- (c) Replacing Section 17.3. with the following:
“17.3. All complaints made pursuant to this Bylaw regarding councillors or the Mayor shall be directed to the Integrity Commissioner. All other complaints made pursuant to this Bylaw regarding members of council committees or other boards who are not councillors or the Mayor shall be directed to the Chief Administrative Officer to be addressed in accordance with the process outlined in the Whistleblower Directive, or any successor bylaw, policy or directive that Council may authorize.”
- (d) Adding the following as Section 17.4:
“17.4 Members have a duty to cooperate fully with the Integrity Commissioner when requested and must not obstruct or influence the Integrity Commissioner in any investigation or adjudication of a Formal Complaint.”

and renumbering the remaining section as Section 17.5.

12. This Bylaw comes into effect the date it is passed.

Read a first time this 12th day of March 2019.

Read a second time this 26th day of March 2019.

Read a third time and final time this 26th day of March 2019.

Signed and Passed this 26th day of March 2019.