



REPORT TO COUNCIL

To: **Mayor and Councillors**

Subject: Council Code of Conduct Bylaw, 2023, No. 3225

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From: Kelly Kenney
Corporate Officer

Date: March 13, 2023

RECOMMENDATION:

THAT the report of the Corporate Officer dated March 13, 2023 entitled Council Code of Conduct Bylaw, 2023, No. 3225 be received for information.

PURPOSE:

The purpose of the report is to provide information on the purpose of proposed Council Code of Conduct Bylaw, 2023, No. 3225.

POLICY:

The City currently has Council Policy CO-13 Ethical Standards of Conduct for Elected Officials (Attachment 1). Should the Council Code of Conduct Bylaw be adopted, this policy will be brought forward to Council at a future date with a recommendation that it be repealed.

Provincial Bill 26 (*Municipal Affairs Statutes Amendment Act (No. 2, 2021)*) received Royal Assent on Nov 25, 2021, requiring all local governments to publicly consider whether to establish a code of conduct or revise an existing one within six months of a general local election. This new requirement came into force with approval of Order in Council No. 320-22 on June 13, 2022.

COMMENTS/ANALYSIS:

In the Fall of 2016, in a joint initiative by the Union of B.C. Municipalities; the Local Government Management Association; and the Ministry of Community, Sport and Cultural Development (now Ministry of Municipal Affairs), the staff-level Working Group on Responsible Conduct (the Working Group) was created to undertake collaborative research and policy work on the issue of responsible conduct of local government elected officials.

Since that time, the Working Group has created a number of educational publications for local governments in this regard. In 2021, The Working Group put forward a resolution (Attachment 2) to the Union of B.C. Municipalities which was endorsed by the membership at that year's convention. The resolution requested that the provincial government:

- Introduce a legislative requirement that all local governments in British Columbia must consider the adoption or updating of a Code of Conduct at least once early in each new term of office;
- Work collaboratively with UBCM and others to consider the design of a mandatory educational module that would support responsible conduct by local elected officials;
- Update the oath of office prescribed by regulation to embed the foundational principles identified by the Working Group on Responsible Conduct; and
- Provide guidance for local governments that have established an oath of office by bylaw so that these oaths may be updated with the same foundational principles for responsible conduct.

In response, the provincial legislature introduced Bill 26 (*Municipal Affairs Statutes Amendment Act (No. 2, 2021)*) which received Royal Assent on November 25, 2021. The provisions subsequently came into force on June 13, 2022 through Order In Council No. 320-22.

Following are the new requirements for local governments with respect to Codes of Conduct:

“Requirement to consider code of conduct

113.1 (1) Within 6 months after its first regular council meeting following a general local election, a council must decide

(a) whether to establish a code of conduct for council members, or

(b) if a code of conduct for council members has already been established, whether it should be reviewed.

(2) Before making a decision under subsection (1), the council must

(a) consider the prescribed principles for codes of conduct,

(b) consider the other prescribed matters, if any, and

(c) comply with the prescribed requirements, if any, including requirements respecting public notice or consultation.

(3) If the council decides, under subsection (1), not to establish a code of conduct or review an existing code of conduct, it must make available to the public, on request, a statement respecting the reasons for its decision.

Reconsideration of decision respecting code of conduct

113.2 (1) If a council decides, under section 113.1, not to establish a code of conduct or review an existing code of conduct, the council must reconsider that decision before January 1 of the year of the next general local election.

(2) In a reconsideration under subsection (1), the council must

(a) consider the prescribed principles for codes of conduct,

(b) consider the other prescribed matters, if any, and

(c) comply with the prescribed requirements, if any, including requirements respecting public notice or consultation.

(3) If the council confirms the decision that is the subject of the reconsideration, the council must make available to the public, on request, a statement respecting its reasons for confirming the decision.”

Order in Council No. 324-22 establishes, by Regulation, the Principles for Codes of Conduct as follows:

“2 The following principles are prescribed for the purposes of sections 113.1 (2) (a) [requirement to consider code of conduct] and 113.2 (2) (a) [reconsideration of decision respecting code of conduct] of the Act as principles that a council must consider before making a decision under section 113.1 (1) or in a reconsideration under section 113.2 (1):

(a) council members must carry out their duties with integrity;

(b) council members are accountable for the decisions that they make, and the

- actions that they take, in the course of their duties;
- (c) council members must be respectful of others;
- (d) council members must demonstrate leadership and collaboration.”

It should further be noted that Bill 26 also included amendments to embed these foundational principles into the wording of the Oath of Office for local government elected officials, as prescribed by regulation, which were approved by Order in Council No. 326-22 on June 13, 2022 as follows:

“1 The following oath of office is prescribed for the purposes of section 120 (3) of the Community Charter, section 202 (6) of the Local Government Act and section 140 (6) of the Vancouver Charter, with the necessary changes in form as applicable:

‘I,[name of person elected or appointed]....., do [swear] [solemnly affirm] that:

- I am qualified to hold the office of[office]..... for the[jurisdiction]..... to which I have been [elected] [appointed];
- I have complied with the provisions of the[applicable Act]..... in relation to my election to this office; [omit this point for persons who have been appointed]
- I will abide by all rules related to conflicts of interest under the[applicable Act].....;
- I will carry out my duties with integrity;
- I will be accountable for the decisions that I make, and the actions that I take, in the course of my duties;
- I will be respectful of others;
- I will demonstrate leadership and collaboration;
- I will perform the duties of my office in accordance with the law.”

At the March 30, 2022 Closed Council meeting, Council passed the following motions which were subsequently approved for public release at the July 25, 2022 Closed Council meeting:

“THAT staff bring forward a draft Code of Conduct for Council’s consideration setting out the standards expected of Council members in their day-to-day interactions with each other, staff and members of the public as soon as possible.”

“THAT all members of Council be trained on the revised Respectful Workplace Policy (once updated) and the new Code of Conduct (if and once implemented). Training should happen as soon as practicable.”

“THAT all members of Council review the City’s Respectful Workplace Policy and any future Code of Conduct at the beginning of each term or as needed.”

Accordingly, staff have been working on the proposed bylaw with legal counsel over the past few months and we are now in a position to bring forward Council Code of Conduct Bylaw, 2023 No. 3225 for Council's consideration of three readings and subsequent adoption.

The proposed Bylaw reflects the foundational principles outlined in the provincial regulation: integrity, accountability, respect, leadership and collaboration.

The Bylaw includes provisions with respect to the following:

- General Conduct
- Interactions of Council Members with Staff, Volunteers and Advisory Body Members
- Conduct at Council and Advisory Body Meetings
- Improper Use of Influence
- Election Activities
- Conflicts of Interest
- Outside Activities and Business Relations
- Council Members' Use of Municipal Assets and Services
- Employment of Council Family Members
- Gifts
- Collection and Handling of Information
- Interactions with Members of the Public and the Media
- Use of Social Media
- Communication Protocol
- Orientation and Training Attendance
- Process for Complaints
- Informal Complaint Procedure
- Formal Complaint Procedure
- Fairness Procedures Applicable to Council Determination of Measures
- Remedies
- Obstruction
- Legal Fees
- No Reprisal or Retaliation
- Unfounded Complaints
- Vexatious Allegations and Complaints
- Receipt of Complaints During an Election Year

BUDGET IMPLICATIONS:

There will likely be costs incurred by the City when conducting formal investigations as outlined in Part 2 of the Bylaw.

ALTERNATIVES:

None identified as this report is provided for information purposes only prior to Council's consideration of three readings of the bylaw.

Respectfully Submitted,



Kelly Kenney
Corporate Officer

Attachments:

1. Council Policy CO-13 - Ethical Standards of Conduct for Elected Officials
2. UBCM resolution approved at 2021 UBCM Convention entitled "Strengthening Responsible Conduct"

CHIEF ADMINISTRATIVE OFFICER'S COMMENTS:

I support the recommendation.



Francis Cheung, P. Eng.
Chief Administrative Officer