

# NORTH RED DEER RIVER WATER SERVICES COMMISSION

## BYLAW 1

Consolidation to September 13, 2021

### BEING A BY-LAW RESPECTING THE APPOINTMENT OF A BOARD OF DIRECTORS AND CHAIRPERSON, GOVERNING THE FEES TO BE CHARGED BY THE COMMISSION AND THE GOVERNANCE OF ADMINISTRATION OF THE COMMISSION.

**WHEREAS** pursuant to the provisions of the Municipal Government Act, the Board of the Commission must pass Bylaws respecting the appointment of its directors and the designation of its Chair, governing the fees to be charged by the Commission for services and may pass Bylaws respecting the provision of the Commission's services and the governance of the administration of the Commission; and

**NOW THEREFORE** the Board enacts the following:

#### 1. DEFINITIONS

- 1.1 "Act" means the *Municipal Government Act*, R.S.A. 2000, c. M-26;
- 1.2 "Annual Meeting" means the Meeting of the Board and the Members to be held on a date and at a location to be determined by the Board in accordance with this Bylaw;
- 1.3 "Auditor" means the auditor of the Commission appointed by the Board pursuant to Section 5.5 hereof;
- 1.4 "Board" means the Board of Directors of the Commission;
- 1.5 "Budget" means the capital budget and the operating budget required by the Act;
- 1.6 "Chair" means the chairperson of the Board;
- 1.7 "Commission" means the North Red Deer River Water Services Commission;
- 1.8 "Director" means the representative of a Member on the Board appointed in accordance with this Bylaw;
- 1.9 "Financial Plan" means the financial plan for the Commission for the forthcoming three (3) financial years, as it exists from year to year;

- 1.10 "Manager" means the person appointed by the Board as Manager in accordance with this Bylaw;
- 1.11 Member(s) means any or all of:  
a) Town of Blackfalds;  
b) City of Lacombe;  
c) Town of Ponoka;  
d) Lacombe County;  
e) Ponoka County.  
(b.1.1, 09/13/2021)
- 1.12 "Organizational Meeting" means the first meeting of the Board held after November 1 in each year; (b.1.1, 09/13/2021)
- 1.13 "Regular Meeting" means the meetings of the Board to be held each year on dates and at locations to be determined by resolution of the Board pursuant to Section 4.5 hereof;
- 1.14 "System" means the pipelines, pump stations and control systems operated by the Commission for the purpose of providing water to the members and customers of the Commission.
- 1.15 "Special Meeting" means a meeting of the Board called in accordance with Section 4.6 of this Bylaw;
- 1.16 "Water Services" means all water services provided by the Commission; and
- 1.17 All other words in this Bylaw are as defined or used in the Act. (b.1.1, 09/13/2021)

## **2. OBJECTS**

- 2.1 The objects of the Commission are:
- (a) to provide wholesale water services to its Members;
- (b) to provide water services to other customers on such terms and conditions as the Commission may determine.

## **3. MANAGEMENT**

- 3.1 The management of this Commission shall be vested in the Board.

## **4. BOARD OF DIRECTORS**

- 4.1 The proceedings of the Board shall be conducted in accordance with the Act and this Bylaw.
- 4.2 The Board shall consist of five (5) Directors that shall be appointed as follows:
- (a) one (1) Director from the Town of Blackfalds;
  - (b) one (1) Director from the City of Lacombe; (b.1.1, 09/13/2021)
  - (c) one (1) Director from the Town of Ponoka;
  - (d) one (1) Director from Lacombe County;
  - (e) one (1) Director from Ponoka County;

Each Director must be an elected official of the Member appointing such Director.

- 4.3 A Member may revoke the appointment of its appointed Director and may appoint a replacement Director.
- 4.3.1 A Member may designate an alternate Director who shall be entitled to act in the place of the appointed Director for whom they are appointed as alternate when the appointed Director is absent or not able to attend a meeting of the Board. (b.1.1, 09/13/2021)
- 4.4 The Directors shall elect, from amongst their number, the Chair, and the Vice-Chair at the Organizational Meeting. (b.1.1, 09/13/2021)
- 4.5 The Board, by resolution, may establish the date and number of Regular Meetings held during a year, however, there shall be not less than two (2) Regular Meetings per year.
- 4.6 The Chair:
- (a) may call a Special Meeting at the discretion of the Chair; and
  - (b) shall call a Special Meeting upon receipt of written request by at least three (3) Directors.
- 4.7 Notice of the time and place of every Board meeting shall be given to each Director personally, by telephone or by electronic mail not less than forty-eight (48) hours before the time fixed for the holding of such Board

meeting, provided that any Board meeting may be held at any time and place without such notice if: (b.1.1, 09/13/2021)

- (a) all the Directors are present thereat and signify their waiver of such notice at such meeting; or
- (b) all the Directors present thereat signify their waiver of such notice and all the Directors that are absent have signified their consent to the meeting being held in their absence.

4.8 A Board meeting or committee meeting may be conducted by means of electronic or other communication facilities. Notice shall be given to the public of the meeting, including the way in which it is to be conducted.

The communication facilities shall enable the public to watch or listen to the meeting and shall enable all the meeting's participants to watch or hear each other.

Directors participating in a meeting held by means of a communication facility are deemed to be present at the meeting.

(b.1.1, 09/13/2021)

4.9 Except as provided in Clauses 5.6, 13.1 and 15.1, any matter properly placed before a meeting of the Board shall be decided by a majority of the votes cast by the Directors at the relevant Board Meeting. If there is an equal number of votes for and against a Board resolution, the resolution is defeated. (b.1.1, 09/13/2021)

4.10 A Director attending a Board meeting shall vote on all matters before the Board unless a Director is required or permitted to abstain from voting under any bylaw of the Commission or provision of the Act. (b.1.1, 09/13/2021)

4.11 A quorum of the Board shall be a majority of the Directors. (b.1.1, 09/13/2021)

4.12 The Board shall be responsible for the management and conduct of the affairs of the Commission, which responsibility shall include, but not be limited to, the following:

- (a) to approve the Financial Plan for the forthcoming three (3) years and the Operating and Capital Budgets for the forthcoming year; (b.1.1, 09/13/2021)
- (b) to maintain the operations of the Commission in a manner which benefits its Members; and

- (c) to cause the minute books and financial records of the Commission to be maintained and to make the same available to the Members.

4.13 The Directors shall receive for attending any Board meeting or for carrying out any Director's responsibilities, meeting fees and expenses including travel expenses as permitted by the rates and fees set out in the Financial Plan and Operating Budget. (b.1.1, 09/13/2021)

## **5. MEETINGS**

5.1 The Board shall call an Annual Meeting which shall be held no later than April 30<sup>th</sup> of each year.

5.2 Written notice of the Annual Meeting shall be provided to each Member by mail postmarked not less than thirty (30) days prior to the date of the Annual Meeting.

5.3 At the Annual Meeting, the Auditor shall present the audited financial statements of the Commission and the Chair shall report on the activities of the past year of the Board and the future plans of the Commission.

5.4 At the first meeting of the Board following the Annual Meeting, the Board shall appoint the Auditor for the ensuing year whom shall report to the Board on the annual financial statement of the Commission and on the financial procedures and activities of the Commission.

5.5 The Chair shall establish the agenda for any meeting of the Board. Directors shall be entitled to add items to the proposed agenda by submitting a written request to the Manager at least twenty-four (24) hours before the meeting.

5.6 The Board shall adopt the agenda at the beginning of the meeting and may, upon agreement of two thirds of those Directors present at the meeting add or delete items from the agenda.

## **6. ADMINISTRATION**

6.1 There shall be a Chair, a Vice-Chair and a Manager and such other Officers as determined by the Board in its discretion from time to time.

6.2 The term of office of the Chair is one year.

6.3 The Chair shall preside over each Regular Meeting, Special Meeting, and the Annual Meeting and of any meetings of any committee of the Commission.

- 6.4 The Chair shall appoint all officials and committees as directed by the Board.
- 6.5 The Chair shall be an ex-officio member of all committees.
- 6.6 The Chair shall vote on all matters before the Board.
- 6.7 The Chair shall perform all other and such other duties as are usually performed by the Chair.
- 6.8 The Vice-Chair shall act and perform the duties of the Chair in his absence in the conduct of his office.
- 6.9 The term of office for the Vice-Chair is one year.
- 6.10 In the absence of the Chair at any meeting, the Vice-Chair shall preside over the meeting for that meeting only.
- 6.11 During the absence or inability of the Chair and Vice-Chair, a Director appointed by the Board for that purpose shall exercise the duties and powers of the Chair.
- 6.12 The Manager shall act as the administrative head of the Commission and without limiting the foregoing, the Manager shall:
  - (a) ensure that the policies and programs of the Commission are implemented;
  - (b) advise and inform the Board on the operations and affairs of the Commission;
  - (c) maintain custody of the seal of the Commission and when required on any instrument requiring the seal of the Commission, affix the same together with one of the Chair or the Vice-Chair;
  - (d) perform the duties and exercise the powers assigned to the Manager in this Bylaw
  - (e) perform the duties and exercise the powers required of the Manager in the Act or any other applicable legislation;
  - (f) cause the funds of the Commission to be received and disbursed in accordance with the directions of the Board, subject to this Bylaw;

- (g) cause to be kept detailed accounts of all income and expenditures including proper vouchers for all disbursements of the Commission;
- (h) cause to be rendered to the Board at Regular Meetings or whenever required by the Board an account of all transactions of the Commission and the financial position of the Commission;
- (i) cause all facts and minutes of all proceedings to be kept on all meetings of the Commission;
- (j) cause all notices to be given to Members and to Directors required by this Bylaw;
- (k) cause to be kept all books, papers, records, correspondence, contracts, and other documents belonging to the Commission and shall cause the same to be delivered up when required by the *Act* or when authorized by the Board to such person as may be named by the Board; and
- (l) shall carry out any lawful direction of the Board from time to time.

6.13 The Board may select as Manager:

- (a) an individual that is an employee of the Commission;
- (b) an individual or firm engaged on a contractual basis; or
- (c) one of the Members of the Commission

on such terms and conditions as may be acceptable to the Board.

6.14 In addition to the duties set forth herein, the Officers shall have such duties as the Board may from time to time determine.

6.15 Any one of the Chair or Vice-Chair, together with the Manager are authorized to execute and deliver any cheques, promissory notes, bills of exchange and other instruments, whether negotiable or not, on behalf of the Commission.

6.16 The Board may, from time to time, appoint an acting manager who shall be authorized, in the absence the Manager, to perform such duties of the Manager as the Board may prescribe.

6.17 Members shall have the right to inspect and may obtain extracts or copies of all books and records of the Commission.

**7. VOLUME OF WATER SUPPLIED**

7.1 Each member of the Commission shall be entitled to the following minimum annual allocations

Town of Blackfalds	1,903,000 m3
City of Lacombe (b.1.1, 09/13/2021)	4,862,000 m3
Town of Ponoka	2,097,000 m3
Lacombe County	400,000 m3
Ponoka County	400,000 m3
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Total	9,662,000 m3

and the Commission shall undertake to provide capacity within the system to supply the volume of water annually requested by each member up to the allocation identified. The Commission may at its discretion, provide to Members volumes of water exceeding these allocations.

7.2 Members shall provide the Commission in the fall of each year, a request for water for the next ensuing year, based on a reasonable estimate of the volume of water expected to be required to meet the needs of the Member's customers in that next year, together with a forecast of volumes anticipated to be required by the member for the second through fifth ensuing years.

7.3 Where the capacity of the system is insufficient to deliver the water requested by the Members, the Members shall be allocated the available capacity proportionately based on the previous year's volumes, until such time as the Commission is able to fully supply the volume required.

**8. FINANCE (b.1.1, 09/13/2021)**

8.1 The financial year of the Commission shall be the calendar year.

8.2 The estimated annual revenue requirements of the System shall be determined on a Cost of Service basis utilizing the principles set out in the American Water Works Association (AWWA) manuals of practice dealing with water rates and charges, as revised and updated from time to time, and in accordance with the findings and directives of the Alberta Utilities Commission, such approach also being commonly referred to as the "utility rate model" and shall include full recovery of the annual costs of the Commission for those cost components set out in clause 8.4.



- 8.3 The Commission may establish and maintain restricted surpluses for operating and capital purposes, also referred to as operating and capital reserves respectively, in accordance with the policies, procedures and directions of the Board from time to time.
- 8.4 Without limiting the requirements for the Operating and Capital Budgets pursuant to the Act, the Board in the fall of each year shall prepare a Financial Plan for the forthcoming three (3) financial years and Operating and Capital Budgets for the next financial year which will set out the:
- (a) expected consumption requirements of the Members;
  - (b) estimated cash expenditures for the:
    - (i) operations of the Board and Manager;
    - (ii) operations of the System;
    - (iii) purchase of water;
    - (iv) repayment of debt obligations;
  - (b1) estimated non-cash expense for the net amortization of tangible capital assets of the System;
  - (b2) estimated return on the utility rate base of the System;
  - (b3) estimated additional annual contributions required over and above revenue generated from cost of service rate to provide necessary funds for the demonstrated long term capital renewal of the System (capital surcharge);
  - (c) estimated revenue requirements to meet the expenditures, non-cash expense and return on the utility rate base of the Commission and the rates and fees to be charged to Members and customers of the Commission;
  - (d) second- and third-year projections of operating expenditures and expenses, revenue requirements and rate trends;
  - (e) capital projects planned and expected to be completed in the forthcoming financial year and the second and third financial years of the Financial Plan;
  - (f) estimated capital costs and sources of funding for each year of the Financial Plan;
  - (g) rates of remuneration and expenses to be provided to the Directors.
- 8.5 Subject The Commission shall set out in the annual Operating Budget, the rates proposed to be charged by the Commission for providing Water Services to the Members.

The rate to Members shall be a common rate, calculated by dividing the revenue required to be raised from rates by the total volume of water requested by the Members under Clause 7.2. The rate set may not exceed the rate that would be calculated on a Cost of Service basis.

The water rate to be charged shall be approved by bylaw.

- 8.6 Notwithstanding Clause 8.5, where the rate in a prior year was higher than the rate that would have been calculated on a Cost of Service basis, the Commission may, in the interests of rate and revenue stability, set rates in the forthcoming years which serve to transition to a Cost of Service rate.
- 8.7 Each Director shall be entitled to vote on the Financial Plan and Operating and Capital Budgets.
- 8.8 Upon receipt of authorization from the Board to distribute the proposed Budget and Financial Plan, the Manager shall distribute to each Member a complete copy of the proposed Budgets and Financial Plan for the relevant financial year.
- 8.9 Any Member may submit comments and questions to the Board in writing in relation to the Budgets and the Financial Plan within thirty (30) days immediately following the date of distribution of the Budgets and the Financial Plan.
- 8.10 After the thirtieth (30th) day immediately following the date of distribution of the Budget and the Financial Plan, the Directors shall finalize and approve the Budgets and the Financial Plan for the relevant financial year.
- 8.11 Subject to the Act, the Manager may, during any financial year, present to the Members amendments to the Operating or Capital Budgets or the Financial Plan for the then current financial year. Any amendments to the Budgets or Financial Plan shall be made in accordance with the procedure for approval set forth in clauses paragraphs 8.8, 8.9 and 8.10 herein.
- 8.12 For those Members purchasing water from the Commission, the Members shall pay to the Commission the product of the actual volume of water purchased by the Member in a year times the rate set out in clause 8.5. Notwithstanding the actual volume of water purchased, the Member shall be responsible for a minimum payment to the Commission of 90% of the volume requested by the Member under clause 7.2 times the rate set out in clause 8.5.
- 8.13 For those Members not purchasing water from the Commission, the Member shall be responsible for a minimum annual payment to the Commission equal to the sum of the following:

- (a)  $1/x$  of the annual cost attributed to the Board of Directors where “x” is the number of members of the Commission, and
- (b) “y” times the cost components set out in sub-clauses 8.4 (b)(i)(ii)(vi) for the system where “y” is the ratio of the members volume allocation to the total volume allocation set out in Clause 7.1.

(b.1.1, 09/13/2021)

## 9. CUSTOMERS AND RESTRICTIONS IN USE OF WATER

- 9.1 The Commission shall not sell Water Services to a Member and a Member shall not resell Water Services to any customer for the purpose of the supply of Water Services to a confined feeding operation or for injection into any geological subsurface structure or formation.
- 9.2 The Commission may terminate the supply of water services to any Member for failure to pay for water services received from the Commission.

## 10. ADDITION OF NEW MEMBERS (b.1.1, 09/13/2021)

- 10.1 The Board may agree to the addition of a municipal authority or an Indian Reserve as a Member of the Commission if sufficient capacity for the supply of water can be made available or if the long term interests of the existing Members are not adversely affected.
- 10.2 A New Member shall be required to pay:
  - (a) A one-time membership fee of \$25,000 as a contribution toward the costs and efforts incurred by the Members in establishing the Commission and bringing the System to operation; and
  - b) An amount equal to  $(X + Y)$  times  $Z$  where:
    - (i)  $X$  is the total of the payments of principal and interest made by the Members from the inception of the System to the date of entry of the New Member,
    - (ii)  $Y$  is the total restricted surplus for capital purposes at the date of entry of the New Member, and
    - (iii)  $Z$  is the ratio of forecasted volume of water required by the new member based on the projected population times the typical rates of water consumption per capita for five years from the date of entry of the New Member, to the total

forecasted volume of water required of the New and Existing members for five years from the date of entry of the New Member.

- 10.3 A New Member may be required to contribute to the Commission all or a portion of the cost incurred by the Commission in extending or enhancing the System that is required to provide water services to a New Member.
- 10.4 Any contribution received by the Commission under Clause 10.2 shall become part of the Commission's restricted surplus for capital purposes.

(b.1.1, 09/13/2021)

**11. WITHDRAWAL OF A MEMBER FROM THE COMMISSION** (b.1.1, 09/13/2021)

- 11.1 A Member may withdraw from the Commission upon two years written notice.
- 11.2 The withdrawing Member may sell the equity contributed by the Member during the Member's term of membership of the Commission to any other Member of the Commission for such compensation and on such terms as the parties may agree subject to the approval of the Board.

However, the Commission or any Member shall not be obligated to:

- (a) purchase the withdrawing Member's proportionate share of the system, or
- (b) compensate the Member for any respective share of surpluses accumulated by the Commission.

The Commission shall not utilize the capacity of the system related to the withdrawing Member's equity or utilize the withdrawing Member's water volume allocation without fair compensation.

- 11.3 The withdrawing Member shall remain responsible for any respective proportion of net current financial obligations of the Commission for which the Member is responsible and shall pay to the Commission such share and any accrued interest.
- 11.4 The withdrawing Member shall remain responsible for any respective proportion of long term debt that has been incurred by the Commission in the construction of the System and for any future long term debt that will be required to complete the System as planned at the date of notice of withdrawal and shall either:

- (a) pay the outstanding principle and any accrued interest of current long term debt and the respective share of future long term debt to the Commission, or
- (b) agree to continue to pay the respective share of the annual payments for the current and future debt such share being determined using the allocated volumes in Clause 7.1.

(b.1.1, 09/13/2021)

**12. DISPOSAL OF ASSETS (b.1.1, 09/13/2021)**

- 12.1 The Board may dispose of any land, buildings, equipment, or other tangible assets of the Commission that are not required presently or in the future to supply water services of the Commission or the disposal of which would not otherwise have any significant adverse effect on the services provided by the Commission.
- 12.2 Any asset proposed for sale with a value exceeding \$25,000 shall be offered for public tender, public proposal, or some other public process. Unless there are exceptional circumstances as determined by the Board, the most favorable tender, proposal, or offer shall be chosen.
- 12.3 Notice of the intent to dispose of any asset or group of assets exceeding \$75,000 shall be given to Members no less than 30 days prior to disposition.
- 12.4 Proceeds from the sale of any asset shall be directed firstly to the repayment of any grant from the Government of Alberta where the applicable grant agreement requires such repayment, with remaining funds becoming part of the Commission's restricted surplus for capital purposes.

(b.1.1, 09/13/2021)

**13. DISESTABLISHMENT OF THE COMMISSION (b.1.1, 09/13/2021)**

- 13.1 The Board may disestablish the Commission upon approval of a three quarters majority of the Directors of the Board.
- 13.2 Written notice of an intent by the Board to consider disestablishment of the Commission shall be provided to each Director and each Member not less than ninety (90) days in advance of the meeting at which the resolution is to be considered.

- 13.3 In the event that the Board approves the disestablishment of the Commission, the Board must, at the time of approval, specify further particulars of the procedure for the disestablishment including:
- (a) a timeline for disestablishment of the Commission, and;
  - (b) the distribution of the assets and liabilities upon disestablishment of the Commission, which shall include:
    - (i) a process for the collection and disposition of any property and assets owned by the Commission,
    - (ii) identification of any contingent liabilities and arrangements to address such liabilities,
    - (iii) the discharge, assignment, or transfer of the Commission's obligations, and

provide for any residual or remaining assets of the Commission to be distributed to the Members in accordance with each Member's proportionate historical payments for services provided by the Commission.

- 13.4 The Commission shall, as of the date of the Board's decision to approve disestablishment of the Commission, cease to provide services or begin the process of ceasing to provide services except to the extent that the Commission is legally required to do so or as required for the beneficial winding-up of the business or affairs of the Commission.

(b.1.1, 09/13/2021)

**14. SEVERANCE** (b.1.1, 09/13/2021)

- 14.1 Should any article, section or part of this Bylaw be found to be improperly enacted or ultra vires, for any reason, then such article, section or part shall be regarded as being severable from the Bylaw and the Bylaw remaining after such severance shall be effective and enforceable.

**15. AMENDMENTS** (b.1.1, 09/13/2021)

- 15.1 An amendment to this Bylaw may be passed by the Board upon a three quarters majority of the Directors of the Board.
- 15.2 Written notice of a proposed amendment to the Bylaw shall be provided to each Director and each Member not less than thirty (30) days in advance of the meeting at which the amendment is to be considered.

(b.1.1, 09/13/2021)

Read a first time this 24<sup>th</sup> day of June, 2004

Read a second time this 24<sup>th</sup> day of June, 2004

Read a third time this 24<sup>th</sup> day of June, 2004

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CHAIR

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MANAGER

APPROVED by the Honourable Minister of Minister Affairs as to section 602.07(1)(a) of the *Municipal Government Act* only this 2<sup>nd</sup> day of November, 2004.

Original Signed

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The Honorable Minister of Municipal Affairs