



THE MUNICIPAL DISTRICT OF OPPORTUNITY NO. 17

BYLAW 2020-20

BEING A BYLAW OF THE MUNICIPAL DISTRICT OF OPPORTUNITY NO. 17 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 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 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 Council;

AND WHEREAS the public is entitled to expect the highest standards of conduct from the members that it elects to Council for the Municipal District of Opportunity No. 17;

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 Municipal District of Opportunity No. 17, in the Province of Alberta, duly assembled, enacts as follows:

1. Short 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:

- (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 of the Municipality, or their delegate;
- (d) “Complainant” means the individual of record who lodges a complaint of a violation of this Bylaw against any Member or Members;

- (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) “Investigator” means Council or the individual or body established by Council to investigate and report on complaints;
- (f) “Member” means a member of Council including a councillor and the Reeve, and non-elected members of council committees or other bodies established by Council who are not councillors;
- (g) “Municipality” means the corporation of the Municipal District of Opportunity No. 17.

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 diligent manner with integrity, accountability and transparency;
- (c) conduct themselves in a dignified manner and make every effort to participate diligently in the meetings of Council, committees of Council and other bodies to which they are appointed by Council; and
- (d) arrange their private affairs and conduct themselves privately in a manner that promotes public confidence in government and that 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 Reeve is Council’s official spokesperson and in his or her absence, the Deputy Reeve shall assume this authority. All inquiries from the media regarding the official Council position on an issue shall be referred to Council’s official spokesperson.

5.3. Every official spokesperson, including any Member to whom the Reeve or Deputy Reeve has further delegated the authority, 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 knowingly make a false statement or a statement with the intent to mislead Council or members of the public.

6. Social Media

- 6.1. All official Municipal District of Opportunity Social Media accounts are solely managed by Administration.
- 6.2. No Councillor shall use Social Media to publish anything that is dishonest, untrue, unsubstantiated, offensive, disrespectful, constitutes harassment, is defamatory or misleading in any way.
- 6.3. Maintain confidentiality, do not post information discussed in closed session. Do not post anything that would not have been presented in a public forum.
- 6.4. Maintain privacy; do not post private or confidential information about fellow Councillors, Municipal District of Opportunity employees or constituents. Do not discuss situations involving named, pictured or otherwise identifiable individuals without their permission.
- 6.5. Elected Officials have an obligation to ensure their posts are accurate and not misleading, and that they do not reveal confidential information.
- 6.6. Refer customer service questions to the Municipal District of Opportunity's official channels.
- 6.7. When re-posting something written by someone else, first ensure to have the proper permission to do so. Then clearly state the material, letter, response, etc. has been authored by someone else. Do not use the copyrights, trademarks, publicity rights, or other rights of others without the necessary permission of the rightholder(s).
- 6.8. Resist the urge to post everything. Refrain from cutting and posting emails from staff or constituents into posts without clear context and permissions.
- 6.9. Council members may post to Social Media, but should refrain from the following:
 - a. Posting and/or sending electronic communications while a council meeting is in session;
 - b. Posting, sending or reading communications regarding quasi-judicial issues through Social Media;
 - c. Posting or sending communications through Social Media that discuss matters that are attorney-client privileged or that are still confidential matters.

7. Respecting the Decision-Making Process

- 7.1. Decision making authority lies with Council, and not with any individual Member, and Council may only act by bylaw or resolution passed at a Council meeting held in public at which there is a quorum present.
- 7.2. 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 the reasons for decisions and actions.

7.3. Members shall accurately communicate the decisions of Council even if they disagree with the decision, in such a manner that Members' communications foster respect in the represented public for the decision-making processes of Council.

8. Adherence to Policies, Procedures and Bylaws

8.1. Members shall uphold the law established by the Parliament of Canada and the Legislature of Alberta and the bylaws, resolutions, policies and procedures adopted by Council.

8.2. Members shall respect the Municipality as an institution including its bylaws, policies and procedures, and shall encourage the public toward similar respect at all times.

8.3. A Member must not disobey, or encourage, condone or excuse disobedience of any bylaw, policy or procedure of the Municipality.

9. Respectful Interactions

9.1. Members shall act fairly, in a manner that demonstrates respect for individual differences and an intention to work together for the common good and furtherance of the public interest.

9.2. Members shall treat one another, employees of the Municipality and members of the public with courtesy and respect and without abuse, bullying or intimidation.

9.3. No Member shall use discriminatory language or expressions to or about any other individual or group 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.

9.4. Members shall respect the division between council and employees who work for the Municipality who are charged with making recommendations that reflect their professional expertise and a corporate perspective, and more particularly, Members will not:

- (a) involve themselves in matters of Administration, which fall within the jurisdiction of the CAO.
- (b) use or attempt to use their position and influence for the purpose of affecting, commanding, coercing, intimidating, or threatening any employee of the Municipality with the intent of interfering in the employee's duties; and
- (c) maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of employees of the Municipality.

10. Confidential Information

10.1. In the course of their duties, Members may become privy to confidential information received outside of an "in-camera" 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, unless the disclosure is required by law or authorized by Council to do so;
- (b) disclose matters discussed in private at a Council or Council committee meeting until the matter is discussed at a meeting held in public;

- (c) 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;
- (d) disclose or release any confidential information acquired by virtue of their office except when required by law or authorized by Council to do so;
- (e) 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 tribunals; and
- (i) advice that is subject to solicitor-client privilege.

11. Conflicts of Interest and Improper Influence

11.1 In addition to the Members' statutory duty to comply with the pecuniary interest provisions set out in Part 5, Division 6 of the Act, and their corresponding duty to vote unless required or permitted to abstain under the Act or another enactment,:

- (a) Members must keep themselves free from undue external influence and not act or appear to act in order to gain business or personal financial or other benefits for themselves, family, friends or associates.
- (b) Members shall approach decision-making with an open mind that is capable of persuasion.
- (c) Members must, when necessary, seek independent legal advice at the Member's sole expense in any situation that may result in a pecuniary or other conflict of interest.
- (d) 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.

- (e) 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.
- (f) No Member shall, unless authorized by Council, attempt to bind the Municipality with direction to employees or to agents, contractors, consultants or other prospective service provider or vendors.
- (g) Members shall not contact or otherwise attempt to influence members of any adjudicative body considering a matter before it relating to the Municipality.
- (h) Members shall refrain from using 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 Municipality while they hold their elected position and for one year after leaving office.

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 except they may use:

- (a) municipal property, equipment, service, supplies and staff resources that are available to the general public 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, supplied by the Municipality to a Member, provided that the use does not otherwise breach this bylaw.

13. Orientation and Other Training Attendance

13.1. Every Member must attend orientation training offered by the Municipality within 90 days after the Member takes the oath of office.

13.2. 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.

14. Expenses, Gifts and Election Campaigns

14.1. Members as stewards of public resources shall avoid waste, abuse and extravagance in the use of municipal resources.

14.2. Members shall be transparent and accountable with all expenditures and strictly comply with municipal bylaws, policies and procedures regarding claims for remuneration and expenses; and in the absence of an adequate guideline or when in doubt, only claim expenditures honestly and in good faith.

14.3. 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.

14.4. 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, provided that the value of the hospitality, gift or benefit does not exceed \$100.00.

14.5. 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.

14.6. 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.

15. Complaint Process and Enforcement

15.1. Any Member who has identified or witnessed conduct by another Member that the Member believes, reasonably and in good faith, violates this Bylaw must lodge a complaint about the behaviour through either an informal or formal complaint process.

15.2. Complainants are encouraged to pursue the informal complaint process as the first means of remedying conduct that they believe violates this Bylaw; however, nothing in this provision requires the Complainant to first pursue the informal process prior to initiating a formal complaint.

15.3. The informal complaint process can include one or both of the following:

(a) the Complainant advising the Member that the conduct may violate this Bylaw and encouraging the Member to stop, or

(b) The Complainant requesting the Reeve, or in his or her absence the Deputy Reeve, to assist in a recorded discussion with the Member regarding the conduct, in order that the behaviour stops.

15.4. The formal complaint process shall consist of the following in order:

(a) The formal complaint process can only be initiated by a complaint in writing addressed to the Investigator, dated and signed by an identifiable individual which sets out the grounds for an allegation that a Member or Members has violated this Bylaw; and grounds must include a detailed description of the facts as they are known to the Complainant that give rise to the allegation.

(b) When a formal complaint is lodged, the Investigator shall provide a copy of the complaint to those Members named in the complaint and to the Reeve, or in his or her absence, the Deputy Reeve.

(c) Upon receipt of a complaint under this Bylaw, the Investigator shall review the facts as set out in the complaint to determine whether to proceed to investigate the complaint or not.

(d) If on review the Investigator is of the opinion that a complaint is frivolous or vexatious, or made in bad faith, or that the grounds for conducting or continuing an investigation are insufficient, the Investigator may choose to gather more information or alternatively, not investigate, terminate an in-progress investigation, or otherwise dispose of the complaint in a summary manner.

(e) The Investigator shall in all cases notify the Complainant, the Member(s), and Council, if Council is not the Investigator, of the decision whether to investigate or dismiss the complaint.

- (f) If on review the Investigator is of the opinion that a complaint is a valid concern made in good faith, and that the grounds for commencing an investigation are sufficient, the Investigator shall take such steps as he or she may consider appropriate to determine the validity of the allegation, which may include seeking legal advice; and all proceedings of the Investigator regarding the investigation shall be confidential.

15.5. If the Investigator is not Council, the Investigator shall, upon conclusion of an investigation, provide the results of the investigation in writing to Council, the Complainant, and the Member who is the subject of the complaint.

15.6. A Member who is the subject of a complaint and any Member who, in the course of investigation is or may be in violation of this Bylaw, shall be afforded procedural fairness including an opportunity to respond to the allegations before the investigation is concluded and before Council deliberates the matter and makes any decision or imposes any sanction.

15.7. A Member who is the subject of an investigation is entitled to utilize, at the Member's own expense, legal counsel to advise or otherwise act for the Member.

16. Compliance and Enforcement

16.1. No Member may disregard either the letter or the intent of this Bylaw.

16.2. Members are required to co-operate in every way possible with the application and enforcement of this Bylaw, including forthright and full participation in investigations of alleged violations.

16.3. No Member shall:

- (a) act or threaten to act in reprisal against a Complainant or any other person providing information to Council, and Investigator, or any other person regarding compliance with this Bylaw;
- (b) obstruct Council or the Investigator carrying out the objectives or requirements of this Bylaw.

16.4. Sanctions that Council may impose on a Member in the event that an investigation confirms that the Member has violated this Bylaw include:

- (a) a letter of reprimand addressed to the Member;
- (b) a requirement that Member to issue a written apology;
- (c) publication of the reprimand or requirement for an apology at the Member's expense;
- (d) suspension or removal of the appointment of a Member as the chief elected official under section 150(2) of the Act;
- (e) suspension or removal of the appointment of a Member as the deputy chief elected official or acting chief elected official under section 152 of the Act;
- (f) suspension or removal of the Member's chief elected official's presiding duties under section 154 of the Act;
- (g) revocation of appointment or suspension of the Member from some or all Council committees and bodies to which Council has the right to appoint members;

(h) reduction or suspension of the Member's remuneration as defined in section 275.1 of the Act corresponding to the reduction in duties outlined in subsections (d) through (g) above, excluding allowances for attendance at council meetings;

(i) any other sanction Council deems reasonable and appropriate in the circumstances provided only that the sanction does not prevent a Member from fulfilling the legislated duties of a councillor, that the sanction is not contrary to the Act.


17. Review

17.1. 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.

READ a First time this 9th day of December, 2020

READ a Second time this 9th day of December, 2020

READ a Third time and passed this 9th day of December, 2020



Marshall D. Auger
Reeve



Chad Tullis
Chief Administrative Officer