

BYLAW 1472/20
COUNCIL CODE OF CONDUCT BYLAW
STURGEON COUNTY, MORINVILLE, ALBERTA

A BYLAW OF STURGEON COUNTY, IN THE PROVINCE OF ALBERTA, TO ESTABLISH A CODE OF CONDUCT FOR COUNCILLORS

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(e.1) 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 standard of conduct from Councillors;

AND WHEREAS, the establishment of a code of conduct for Councillors is consistent with the principles of transparent and accountable government;

AND WHEREAS, a code of conduct ensures that Councillors share a common understanding of acceptable conduct extending beyond the legislative provisions governing the conduct of Councillors;

NOW THEREFORE the Council of Sturgeon County, in the Province of Alberta, duly assembled, enact as follows:

1. Title

- 1.1. This Bylaw may be referred to as the “Council Code of Conduct Bylaw”.

2. Purpose

- 2.1. The purpose of this Bylaw is to establish standards for the ethical conduct of Councillors relating to their roles and obligations as representatives of the Municipality and a procedure for the investigation and enforcement of those standards.

3. Definitions

- 3.1. In this Bylaw, words have the meanings set out in the Act, except that:
- (a) “Act” means the Municipal Government Act, RSA 2000, c. M-26, any associated regulations, and any amendments or 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 CAO;
 - (c) “CAO” means the chief administrative officer of the Municipality, or their delegate;
 - (d) “Councillor” means an individual elected to Council, including the Mayor;
 - (e) “Conflict of Interest” means a situation in which the Councillor is in a position to derive personal benefit from actions or decisions made in their official capacity;
 - (f) “FOIP” means the Freedom of Information and Protection of Privacy Act, RSA 2000, c. F-25, any associated regulations, and any amendments or successor legislation;

- (g) “Investigator” means the individual or body appointed or retained by the Municipality to investigate and report on complaints made pursuant to this Bylaw;
- (h) “Municipality” means the municipal corporation of Sturgeon County.

4. Representing the Municipality

- 4.1. Councillors 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 conscientious and diligent manner with integrity, accountability and transparency;
 - (c) conduct themselves in a professional manner with dignity 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) conduct themselves in a manner that promotes public confidence.

5. Communicating on Behalf of the Municipality

- 5.1. A Councillor 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 Councillor 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 Councillor personally disagrees with Council’s position.
- 5.4. No Councillor shall make a statement when they know that statement is false.
- 5.5. No Councillor shall make a statement with the intent to mislead Council or members of the public.

6. Use of Social Media

- 6.1. Material or comment, once posted on social media, is available to anyone with an Internet connection. Furthermore, the content can never be effectively removed. As public figures and representatives of the Municipality, Councillors should exercise sound judgment and be prudent in what material they post on social media. Councillors should exercise caution when engaging in debate or making comments on contentious matters, as feelings and emotions can become enflamed very quickly.
- 6.2. Councillors shall not attempt to disguise or mislead as to their identity or status as an elected representative of the Municipality when using social media.
- 6.3. Councillors shall not use social media to publish anything that is dishonest, untrue, unsubstantiated, offensive, disrespectful, constitutes harassment or is misleading in any way.

7. Respecting the Decision-Making Process

- 7.1. Decision-making authority lies with Council, and not with any individual Councillor. Council may only act by bylaw or resolution passed at a Council meeting held in public at which there is quorum present. No Councillor 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, and must not, with or without Council authorization, exercise a power or function or perform a duty that has been delegated to the CAO.
- 7.2. Councillors 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 a closed 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.
- 7.3. Councillors 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.

8. Adherence to Policies, Procedures and Bylaws

- 8.1. Councillors shall uphold the law established by the Parliament of Canada and the Legislature of Alberta and the bylaws, policies and procedures adopted by Council.
- 8.2. Councillors 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.
- 8.3. A Councillor must not encourage disobedience of any kind of 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.

9. Respectful Interactions with Councillors, Staff, the Public and Others

- 9.1. Without limiting the ability of a Councillor to hold a position on an issue and respectfully express their opinion, Councillors shall act in a manner that demonstrates fairness, respect for individual differences and opinions, and an intention to work together for the common good and in furtherance of the public interest.
- 9.2. Councillors shall treat one another, employees of the Municipality, and members of the public with courtesy, dignity and respect and without abuse, harassment, bullying or intimidation. Councillors have a duty to ensure that their work environment is free from discrimination and harassment. Councillors are governed by the *Alberta Human Rights Act* and the *Occupational Health and Safety Act*.
- 9.3. No Councillor shall use indecent, abusive or insulting words or expressions toward another Councillor, any employee of the Municipality or any member of the public.
- 9.4. No Councillor shall speak or act in a manner that is discriminatory to any individual based on the person's race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation.

- 9.5. Councillors shall respect the fact that employees in Administration work for the Municipality as a corporate body and are charged with making recommendations that reflect their professional expertise and a corporate perspective and that employees are required to do so without undue influence from any Councillor or group of Councillors.
- 9.6. Councillors must not:
 - (a) involve themselves in matters of Administration, which fall within the jurisdiction of the CAO;
 - (b) use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any employee of the Municipality with the intent of interfering in the employee's duties; or
 - (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. Councillors 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.
- 10.2. In the course of their duties, Councillors may also become privy to confidential information received outside of a closed session meeting. Councillors 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;
 - (b) 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 Councillor'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; or
 - (c) use confidential information for personal benefit or for the benefit of any other individual or organization.
- 10.3. 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.
- 10.4. To respect the confidentiality of closed session meetings, if Councillors make notes during a closed session meeting, they shall provide the notes to Administration for secure destruction and shall return all confidential documents to Administration at the conclusion of the closed session meeting.
- 10.5. Incidents where a Councillor may have collected, used, or disclosed personal information in contravention of Part 2 of the FOIP Act will be proactively reported to the Office of the Information and Privacy Commissioner of Alberta for investigation.

11. Conflicts of Interest

- 11.1. Councillors 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.
- 11.2. Councillors 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.
- 11.3. Councillors shall approach decision making with an open mind that is capable of persuasion.
- 11.4. It is the individual responsibility of each Councillor to seek independent legal advice, at the Councillor's sole expense, with respect to any situation that may result in a pecuniary or other Conflict of Interest. Section 170 of the Act sets out when a Councillor has a pecuniary interest in a manner, how a person is monetarily affected by a matter, and lists examples of specific interests where a Councillor would not have a pecuniary interest.

12. Improper Use of Influence

- 12.1. No Councillor shall use the influence of the Councillor's office for any purpose other than for the exercise of the Councillor's official duties.
- 12.2. No Councillor 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. Councillors shall not contact or otherwise attempt to influence members of any adjudicative body regarding any matter before it relating to the Municipality.
- 12.4. Councillors shall refrain from using their positions to obtain employment with the Municipality for themselves, family members or close associates. Councillors 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.

13. Use of Municipal Assets and Services

- 13.1. Councillors shall use municipal property, equipment, services, supplies and staff resources only for the performance of their duties as a Councillor, subject to the following limited exceptions:
- (a) municipal property, equipment, service, supplies and staff resources that are available to the general public may be used by a Councillor 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; and
 - (b) electronic communication devices, including but not limited to desktop computers, laptops, tablets, and smartphones, which are supplied by the Municipality to a Councillor, may be used by the Councillor for personal use, provided that the use is not for personal gain, offensive or inappropriate.

14. Orientation and Other Training Attendance

- 14.1. Every Councillor must attend the orientation training offered by the Municipality within 90 days after the Councillor takes the oath of office.
- 14.2. Attendance at additional training sessions throughout the Council term is discretionary, unless otherwise directed by Council.

15. Remuneration and Expenses

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

- 16.1. Councillors shall not accept gifts, hospitality or other benefits that would be, or reasonably appear to be, to influence directly or indirectly Councillors' performance of their duties as Councillors, or otherwise to go beyond the necessary and appropriate public functions involved.
- 16.2. Councillors 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 \$300, unless otherwise authorized by Council.
- 16.3. Gifts received by a Councillor 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 Councillor ceases to hold office.

17. Election Campaigns

- 17.1. No Councillor shall use facilities, equipment, supplies, services, municipal logo or other resources of the Municipality for any election campaign or campaign-related activity. The Local Authorities Election Act and Sturgeon County's Election Campaigns Policy (PLY_GOV_Election_Campaigns_2017), and any amendments thereto, clearly define parameters for the use of County facilities and County resources during election campaigns.

18. Complaint System

- 18.1. Any person, including any Councillor, who has identified or witnessed conduct by a Councillor that the person reasonably believes, in good faith, is in contravention of this Bylaw, may make a complaint. It is recognized that complaints may vary in severity, complexity, and whether they are admitted or denied. As a result, Complainants are given the option of an informal or formal complaint process.

19. Informal Complaint Process

- 19.1. An informal complaint is appropriate for quick problem solving where the parties can seek agreement and shared understanding of how to avoid problems in the future.
- 19.2. Any person, including another Councillor, who reasonably believes, in good faith, that a Councillor is in contravention of this Bylaw, may address the prohibited conduct by:
 - (a) advising the Councillor that the conduct violates this Bylaw and encouraging the Councillor to stop; and/or
 - (b) requesting the Mayor to assist in informal discussion of the alleged complaint with the Councillor in an attempt to resolve the issue. In the event that the Mayor is the subject of, or is implicated in a complaint, the person may request the assistance of the Deputy Mayor.
- 19.3. Persons are encouraged to pursue this informal complaint procedure as the first means of remedying conduct that they believe violates this Bylaw. However, a person is not required to complete this informal complaint procedure prior to pursuing the formal complaint procedure outlined below.

20. Formal Complaint Process

- 20.1. Any person, including another Councillor, who reasonably believes, in good faith that a Councillor is in contravention of this Bylaw, may file a formal complaint.
 - (a) Formal complaints shall be made in writing and shall be dated and signed by an identifiable individual;
 - (b) The complaint must set out reasonable and probable grounds for the allegation that the Councillor has contravened this Bylaw, including a detailed description of the facts, as they are known, giving rise to the allegation.
- 20.2. All complaints shall be filed with the Legislative Services Department.
- 20.3. The CAO is authorized to appoint or retain an Investigator to investigate and report on complaints received under this Bylaw.

21. Review of Formal Complaint

- 21.1. As soon as practicable, and without delay, the Legislative Services Department will advise the CAO that a complaint has been received and provide a copy of the written complaint to the Investigator.
- 21.2. A complaint must be received by the Legislative Services Department not later than 60 days after the date the person became aware of the conduct giving rise to the complaint. The Investigator, upon advising the CAO, may use his/her discretion to grant an extension if:
 - (a) The delay occurred in good faith;
 - (b) It is in the public interest to conduct an investigation or to give consideration whether to conduct an investigation; and
 - (c) No substantial prejudice will result to any person because of the delay.
- 21.3. Complaints received or under investigation within 90 days prior to a municipal election will be suspended until after election day.
- 21.4. A complaint shall not be made available to the public except as may be required and authorized under FOIP, the provisions of this Bylaw, or any other applicable law.
- 21.5. The Investigator shall conduct a preliminary review of the complaint as follows to determine whether to proceed to investigation or dispose of the complaint:
 - (a) The Investigator may request further information from the complainant as part of the preliminary review;
 - (b) If the complaint is not, on its face, a complaint relative to the Code of Conduct or is covered by other legislation or a complaint procedure under another Council policy, the Investigator shall advise the complainant, in writing, that the matter is not within the jurisdiction of the Investigator. The advice will provide reasons and referrals to the appropriate authority as the Investigator considers appropriate;
 - (c) 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 shall be notified of the Investigator's decision.
- 21.6. Upon deciding to investigate a complaint and completing any preliminary investigative steps, the Investigator shall notify the Councillor(s) to whom the complaint is directed of the fact and nature of the complaint.

22. Inquiry into a Complaint Regarding a Councillor

- 22.1. If the complaint was not dismissed, the Investigator shall take such steps as is considered appropriate, to investigate and may attempt to settle the complaint. All proceedings of the Investigator regarding the investigation shall be confidential.

- 22.2. Once all relevant information has been provided to the respondent Councillor by the Investigator, the respondent Councillor will have 10 days to respond to the complaint in writing and may provide any further information in support of their response. This deadline may be extended at the discretion of the Investigator, who shall advise the CAO if such an extension is granted.
- 22.3. The Investigator shall, upon conclusion of the investigation, provide Council and the Councillor who is the subject of the complaint, the results of the Investigator's investigation.
- 22.4. The Councillor 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.
- 22.5. A Councillor who is the subject of an investigation is entitled to be represented by legal counsel, at the Councillor's sole expense.

23. Compliance and Enforcement

- 23.1. Councillors shall uphold the letter and the spirit and intent of this Bylaw.
- 23.2. Councillors are expected to co-operate in every way possible in securing compliance with the application and enforcement of this Bylaw.
- 23.3. Each Councillor, newly appointed, will be provided with a copy of the Council Code of Conduct and will be requested to sign the Statement of Commitment, attached as Schedule "A", acknowledging that he or she has read the Council Code of Conduct and supports it.
- 23.4. No Councillor shall:
 - (a) retaliate against anyone, including other Councillors, who participate or provide information, in good faith, in a Council Code of Conduct investigation; or
 - (b) obstruct Council, or any other person, in carrying out the objectives or requirements of this Bylaw.
- 23.5. Sanctions that may be imposed on a Councillor, by Council, upon a finding that the Councillor has breached this Bylaw may include:
 - (a) a letter of reprimand addressed to the Councillor;
 - (b) requesting the Councillor to issue a letter of apology;
 - (c) requiring the Councillor to attend specified training;
 - (d) publication of a letter of reprimand or request for apology and the Councillor's response;
 - (e) suspension or removal of the appointment of a Councillor as the deputy chief elected official or acting chief elected official under section 152 of the Act;
 - (f) suspension or removal of the chief elected official's presiding duties under section 154 of 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 section 275.1 of the Act corresponding to a reduction in duties, excluding allowances for attendance at council meetings;
- (i) any other sanction Council deems reasonable and appropriate in the circumstances provided that the sanction does not prevent a Councillor from fulfilling the legislated duties of a Councillor and the sanction is not contrary to the Act.

23.6. Nothing in this Bylaw requires Council to impose a sanction for any substantiated complaint or contravention.

24. Review

24.1. This Bylaw shall be brought forward for review within 180 days from 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 Councillors.

25. Severability and Effective Date

25.1. Should any provision of this Bylaw be invalid, then the invalid provision shall be severed, and the remainder of this Bylaw shall remain in effect.

25.2. This Bylaw shall come into force and take effect upon being passed.

25.3. This Bylaw repeals Bylaw 1404/18.

Read a first time this 11th day of February, 2020.

Read a second time this 10th day of March, 2020.

Read a third time this 10th day of March, 2020.

“Original Signed”
Alanna Hnatiw
MAYOR

“Original Signed”
Reegan McCullough
COUNTY COMMISSIONER (CAO)

March 10, 2020
DATE SIGNED

If any portion of this bylaw is declared invalid by a court of competent jurisdiction, then the invalid portion must be severed and the remainder of the bylaw is deemed valid.

SCHEDULE "A"

STATEMENT OF COMMITMENT TO THE COUNCIL CODE OF CONDUCT

I, _____
(Councillor's Full Name)

declare that as an elected Councillor of Sturgeon County, I acknowledge and support the Council Code of Conduct Bylaw 1472/20.

Signature of Councillor: _____

Declared this ____ day of _____, 20____.

Signature of Witness: _____

Printed Name of Witness: _____ Position: _____