

BYLAW 1474/20
BOARD AND COMMITTEE MEMBER CODE OF CONDUCT BYLAW
STURGEON COUNTY, MORINVILLE, ALBERTA

A BYLAW OF STURGEON COUNTY, ALBERTA FOR THE PURPOSE OF ESTABLISHING A CODE OF CONDUCT FOR MEMBERS OF STURGEON COUNTY’S BOARDS AND COMMITTEES WHO ARE NOT COUNCILLORS

AND WHEREAS, section 146.1(3) of the *Municipal Government Act* states that a council may, by bylaw, establish a code of conduct governing the conduct of members of council committees and other bodies established by the council who are not councillors;

AND WHEREAS, the public is entitled to expect the highest standard of conduct from members of Sturgeon County’s boards and committees;

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

AND WHEREAS, a code of conduct ensures that board and committee members share a common understanding of acceptable and ethical conduct;

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 “Board and Committee Member Code of Conduct Bylaw”.

2. Purpose

- 2.1. The purpose of this Bylaw is to establish standards for the ethical conduct of Board and Committee members who are not 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:
 - (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) "Committee" means a Board or Committee to which Council is entitled to appoint Members.
- (e) "Conflict of Interest" means a situation in which a Member 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) "Member" means a member of a Committee appointed by Council, but does not include a member of Council.
- (i) "Municipality" means the municipal corporation of Sturgeon County.

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 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 meetings; and
- (d) conduct themselves in a manner that promotes public confidence.

5. Communicating on Behalf of the Municipality

- 5.1. A Member must not claim to speak on behalf of the Municipality unless authorized to do so.
- 5.2. Communications of a political nature are to be directed through the Mayor. Communications of an administrative or operational nature are to be directed through the CAO.
- 5.3. No Member shall make a statement when they know that statement is false.
- 5.4. No Member shall make a statement with the intent to mislead the Committee or members of the public.

6. Use of Social Media

- 6.1. Members are encouraged to keep their personal social media use separate from their professional use.
- 6.2. When responding to comments on social media, Members should consider whether a comment is a service request, a compliment, or a complaint and should address the comment as follows:

- (a) For service requests, Members should direct the person to the appropriate Administrative department to address the matter.
- (b) For compliments, Members should thank the person and forward the compliment to the appropriate individuals (for example, Council or an Administrative department).
- (c) For complaints, Members should thank the person for taking the time to write and state that the complaint will be taken under advisement. Engaging in debates on social media is discouraged.

7. Respecting the Decision-Making Process

- 7.1. Decision-making authority lies with the Committee as a whole and not with any individual Member or groups of Members. Committees may act only by resolution passed at an open meeting with a quorum present unless legislation allows otherwise.
- 7.2. Members must accurately communicate the decisions of the Committee, even if they disagree with a decision, to ensure that the decision-making process is respected.
- 7.3. No Member shall 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 exercise a power or function or perform a duty that is in the purview of Council or the CAO.
- 7.4. Members shall conduct and convey Committee 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.

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, policies and procedures of the County.
- 8.2. Members 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. Members 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 other Committee Members, Staff, the Public and Others

- 9.1. Without limiting the ability of a Member to hold a position on an issue and respectfully express their opinion, Members 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. Members 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. Members have a duty to ensure that their work environment is free from discrimination and harassment. Members are governed by the *Alberta Human Rights Act* and the *Occupational Health and Safety Act*.
- 9.3. No Member shall use indecent, abusive or insulting words or expressions toward another Member, any employee of the Municipality or any member of the public.
- 9.4. No Member 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. Members 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 Member or group of Members.
- 9.6. Members 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. Members must keep in confidence matters discussed in private at a Committee meeting until the matter is discussed at a meeting held in public.
- 10.2. In the course of their duties, Members may also become privy to confidential information received outside of a closed session 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 Committee appointment, unless the disclosure is required by law or otherwise authorized;
 - (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 Member's duties and is not otherwise prohibited, and only then if the information is acquired through appropriate channels in accordance with applicable 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 Members 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. The confidentiality provisions of this Bylaw survive a Member's appointment to a Committee.
- 10.6. Incidents where a Member 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. Members 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.
- 11.2. Members shall approach decision making with an open mind that is capable of persuasion.
- 11.3. It is the individual responsibility of each Member to seek independent legal advice, at the Member's sole expense, with respect to any situation that may result in a Conflict of Interest or a pecuniary interest under the Act.

12. Improper Use of Influence

- 12.1. No Member shall use the influence of the Member's appointment to a Committee for any purpose other than for the exercise of the Member's duties.
- 12.2. Members shall refrain from using their positions to obtain employment with the Municipality for themselves, family members or close associates.
- 12.3. An employee seeking to serve on a Committee shall obtain the written consent of the CAO prior to applying to serve on a Committee and shall disclose this during the recruitment process.
- 12.4. Should a Member be elected to Council, they are required to resign their Committee position immediately upon being declared elected by the Returning Officer.

13. Use of Municipal Assets and Services

- 13.1. Members shall use municipal property, equipment, services, supplies and staff resources only for the performance of their duties as a Member only upon the same terms and conditions as members of the general public, including booking and payment of any applicable fees or charges.

14. Orientation and Other Training Attendance

- 14.1. Members must attend any training or orientation that is required by legislation or mandated by Council in order to exercise their official duties.
- 14.2. Members may attend additional training or orientation in accordance with applicable bylaws, policies, and procedures.

15. Remuneration and Expenses

- 15.1. Members are stewards of public resources and shall avoid waste, abuse and extravagance in the use of public resources.
- 15.2. Members shall be transparent and accountable with respect to all expenditures and strictly comply with all bylaws, policies and procedures regarding claims for remuneration and expenses.

16. Gifts and Hospitality

- 16.1. Members shall not accept gifts, hospitality or other benefits that would be, or reasonably appear to be, to influence directly or indirectly a Member's performance of their duties.

17. Complaint System

- 17.1. Any person, including any Member, who has identified or witnessed conduct by a Member 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.

18. Informal Complaint Process

- 18.1. 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.
- 18.2. Any person, including another Member, who reasonably believes, in good faith, that a Member is in contravention of this Bylaw, may address the prohibited conduct by:
 - (a) advising the Member that the conduct violates this Bylaw and encouraging the Member to stop; and/or
 - (b) requesting the Committee Chair to assist in informal discussion of the alleged complaint with the Member in an attempt to resolve the issue. In the event that the Chair is the subject of, or is implicated in a complaint, the person may request the assistance of the Vice Chair.
- 18.3. 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.

19. Formal Complaint Process

- 19.1. Any person, including another Member, who reasonably believes, in good faith that a Member 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 Member has contravened this Bylaw, including a detailed description of the facts, as they are known, giving rise to the allegation.
- 19.2. All complaints shall be filed with the Legislative Services Department.
- 19.3. The CAO is authorized to appoint or retain an Investigator to investigate and report on complaints received under this Bylaw.

20. Review of Formal Complaint

- 20.1. 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.
- 20.2. 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.
- 20.3. 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.
- 20.4. The Investigator shall conduct a preliminary review of the complaint as follows to determine whether to proceed to investigation or dispose of the complaint.
- 20.5. The Investigator may request further information from the complainant as part of the preliminary review.
- 20.6. 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.
- 20.7. 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.
- 20.8. Upon deciding to investigate a complaint and completing any preliminary investigative steps, the Investigator shall notify the Member(s) to whom the complaint is directed of the fact and nature of the complaint.

21. Inquiry into a Complaint Regarding a Member

- 21.1. 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.
- 21.2. Once all relevant information has been provided to the respondent Member by the Investigator, the respondent Member 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.
- 21.3. The Investigator shall, upon conclusion of the investigation, provide Council and the Member who is the subject of the complaint, the results of the Investigator's investigation.
- 21.4. The Member 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.
- 21.5. A Member who is the subject of an investigation is entitled to be represented by legal counsel, at the Member's sole expense.

22. Compliance and Enforcement

- 22.1. Members shall uphold the letter and the spirit and intent of this Bylaw.
- 22.2. Members are expected to co-operate in every way possible in securing compliance with the application and enforcement of this Bylaw.
- 22.3. Each Member, newly appointed, will be provided with a copy of this Bylaw and will be requested to sign the Statement of Commitment, attached as Schedule "A", acknowledging that he or she has read the Code of Conduct and supports it.
- 22.4. No Member shall:
 - (a) retaliate against anyone, including other Members, who participate or provide information, in good faith, in a Code of Conduct investigation; or
 - (b) obstruct Council, or any other person, in carrying out the objectives or requirements of this Bylaw.
- 22.5. Sanctions that may be imposed on a Member, by Council, upon a finding that the Member has breached this Bylaw may include:
 - (a) a letter of reprimand addressed to the Member;
 - (b) requesting the Member to issue a letter of apology;
 - (c) requiring the Member to attend specified training;
 - (d) revoking the Member's appointment; and/or
 - (e) any other sanction Council deems reasonable and appropriate in the circumstances provided.
- 22.6. Nothing in this Bylaw requires Council to impose a sanction for any substantiated complaint or contravention.

23. Severability and Effective Date

- 23.1. 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.

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

Read a first time this 13th day of October 2020.

Read a second time this 12th day of January, 2021.

Read a third time this 12th day of January, 2021.

"Original Signed"

Alanna Hnatiw
MAYOR

"Original Signed"

Reegan McCullough
COUNTY COMMISSIONER (CAO)

January 13, 2021

DATE SIGNED

SCHEDULE "A"

STATEMENT OF COMMITMENT TO THE BOARD AND COMMITTEE MEMBER CODE OF CONDUCT

I, _____
(Member's Full Name)

declare that as a Member of a Sturgeon County Board or Committee, acknowledge and support the Board and Committee Member Code of Conduct Bylaw established in Bylaw 1474/20.

Signature of Member: _____

Declared this ____ day of _____, 20 ____.

Signature of Witness: _____

Printed Name of Witness: _____