

TOWN OF ONOWAY
By-Law 816-24

A BYLAW 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 the 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 the council;

AND WHEREAS the public is entitled to expect the highest standards of conduct from the members that it elects to council for the Town of Onoway;

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 Town of Onoway (the "**Town**"), 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. Purpose

2.1. 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 investigation and enforcement of those standards.

2.2. This Bylaw shall be interpreted and applied by Council in a manner that is consistent with all the laws of the Town and all other applicable laws.

3. Definitions and Interpretation

3.1. 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

Town, 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) **“Complaint”** means a formal complaint made pursuant to section 18 of this Bylaw;
- (e) **“Complainant”** means the individual(s) submitting a Complaint pursuant to section 18 of this Bylaw;
- (f) **“Council”** means, collectively, the Councillors of the Town duly elected in accordance with the Act;
- (g) **“Councillor”** means the Town’s elected Councillor and includes the Mayor;
- (h) **“Investigator”** means the remaining members of Council who are neither the Complainant or the Responding Member; or the individual or body established by Council to investigate and report on complaints;
- (i) **“Member”** means a member of Council and members of council committees or other bodies established by Council who are not Councillors or the Mayor; and
- (j) **“Responding Member”** means a Member or Members that is/are the subject of a Complaint made pursuant to section 18 of this Bylaw.

4. Representing the Town

4.1. Members shall:

- (a) act honestly and in good faith, and serve the welfare and interests of the Town 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, as applicable, in the meetings of Council, committees of Council and other bodies to which they are appointed by Council; and
- (d) at all times, conduct themselves in a manner that promotes public confidence and will be mindful that at all times, their lives both in and out of office may bear close public scrutiny.

5. Communicating on Behalf of the Town

5.1. A Member must not claim to speak on behalf of Council unless expressly 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 the Council's official spokesperson.

- 5.3. A Member 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 Member personally disagrees with Council's position.
- 5.4. No Member shall make a statement when they know that statement is false.
- 5.5. No Member shall make a statement with the intent to mislead Council, Administration, or members of the public.

6. *Respecting the Decision-Making Process*

- 6.1. Members shall express their opinions openly, engage in respectful discussions and endeavor to understand and build on other Members' ideas.
- 6.2. Decision making authority lies with Council, and not with any individual Member. Council may only act by bylaw or resolution passed at a Council meeting held in public at which there is a quorum present. No Member shall, unless authorized by Council, attempt to bind the Town or give direction to employees in Administration, agents, contractors, consultants or other service providers or prospective service providers to the Town.
- 6.3. Members shall conduct and convey Council business and all their duties in an open and transparent manner other than for those matters which are authorized by the Act or any other enactment 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.
- 6.4. Members 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.

7. *Adherence to Policies, Procedures and Bylaws*

- 7.1. Each Member must adhere to and advocate for the principles and responsibilities governing their conduct as Members as follows:
 - (a) Members shall uphold the law established by the Parliament of Canada and the Legislature of Alberta and the bylaws, policies and procedures adopted by Council.
 - (b) Members shall respect the Town as an institution, its bylaws, policies and procedures and shall encourage public respect for the Town, its bylaws, policies and procedures.
 - (c) A Member must not encourage disobedience of any bylaw, policy or procedure of the Town in responding to a member of the public, as this undermines public confidence in the Town and in the rule of law.

- (d) Members shall treat Administration, other Members, and members of the public with courtesy, dignity and respect and without abuse, bullying or intimidation.
- (e) Members shall actively advocate for the Town and its mission in their personal and professional networks.
- (f) Members shall be respectful in their interactions with others and recognize the value of different perspective by seeking to balance their contributions as both an advisor and learner.
- (g) Members shall conduct themselves in a professional manner with dignity and make every effort to participate diligently in the meetings of Council and committees of Council to which they are appointed by Council, and in the event they are unable to attend to any of the foregoing, to notify Council as early as possible.

8. *Respectful Interactions with Council Members, Administration, the Public and Others*

- 8.1. Councillors will establish and model a respectful workplace where they will not speak disrespectfully about the organization, other Councillors, other Members, the CAO or employees and volunteers of the Town.
- 8.2. 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.
- 8.3. Members shall treat one another, employees of the Town and members of the public with courtesy, dignity and respect and without abuse, bullying or intimidation.
- 8.4. No Member shall use indecent, abusive, or insulting words or expressions toward another Member, any member of Administration, or any member of the public.
- 8.5. No Member shall speak in a manner that is discriminatory to any individual 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, sexual orientation or other characteristics in keeping with the *Alberta Human Rights Act*.
- 8.6. Members shall respect the fact that employees in Administration work for the Town 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.
- 8.7. 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 Town 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 Town.

9. Confidential Information

9.1. Members must keep in strict confidence matters discussed in private at a closed Council or Council committee meeting until the matter is discussed at a meeting held in public. The confidential information includes the following:

- (a) Any information with respect to the discussions and deliberations of Council which are not already public information;
- (b) The financial affairs and contractual arrangements of the Town;
- (c) Any claims or disputes matters relating to the Town; and
- (d) All other information of a non-public, privileged or confidential nature to which they have access as a result of carrying out their duties and responsibilities as a Councillor

(collectively, the “**Confidential Information**”).

9.2. No Member shall use Confidential Information for personal benefit or for the benefit of any other individual organization.

9.3. 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 office, unless the disclosure is required by law or authorized by Council to do so;
- (b) access or attempt to gain access to Confidential Information in the custody or control of the Town 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;

9.4. Confidential Information is the property of the Town. Members must not disclose, or allow to be disclosed, in any form or by any means any Confidential Information of which the Member becomes aware of during their term in office.

9.5. Members will not leave Confidential Information in written form or displayed on computer terminals or other devices in locations where others may see it. Members must be mindful of their surroundings when discussing actual or potentially Confidential Information and must ensure that the confidentiality of such information is at all times maintained.

- 9.6. Members must not disclose Confidential Information, even after their term of office has concluded, with respect to matters discussed in a closed Council or committee meeting, unless such disclosure is expressly authorized by Council or required by law.

10. Conflicts of Interest

- 10.1. A “conflict of interest” arises when the private interests of a Member interferes or seems to interfere with the Member’s ability to impartially, objectively and independently act and make decisions in their official capacity for the Town. For clarity:
- (a) “private interests” include any advantage, financial, business, professional, reputational or otherwise for the Member, their family member of their direct associations;
 - (b) “private interests” does not include a general interest that may be shared by a class of members of the public; and
 - (c) “direct associations” include but are not limited to friends, business associates, and businesses.
- 10.2. Members shall conduct themselves in a manner to avoid a real or perceived conflict of interests. Without limiting the generality of the foregoing, Members:
- (a) shall refrain from exercising or appear to be exercising their official duties for the sole purpose of benefiting or advancing the private interest of either the Members, their family members, and or direct associations;
 - (b) shall not use property owned by the Town for the personal use or benefit of the Members, their family members or direct associations;
 - (c) shall not use Confidential Information for the personal use or benefit of the Members, their family members or direct associations; and
 - (d) shall not engage in self-dealing or conduct any private business or personal services with the Town, unless such interest has been disclosed and approved by Council, pursuant to the Act, this Bylaw and any Council approved policy, if applicable.
- 10.3. Nothing in this Bylaw shall serve to limit or reduce Councillors’ 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 or abstain from voting as required by the Act.
- 10.4. Further, nothing in this Bylaw shall serve to diminish or restrict a Councillor’s statutory obligation to vote pursuant to the Act.
- 10.5. Members must disclose actual or potential conflict of interest to Council, as soon as the Member would have reasonably known of such conflict. Upon disclosure, such interest shall be entered into the meeting minutes of Council.
- 10.6. In all situations, Members shall approach decision-making with an open mind

that is capable of persuasion; keep the Town's best interest in mind; and fairly consider the viewpoints of each affected parties before making a decision.

- 10.7. 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.

11. Improper Use of Influence

- 11.1. 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.
- 11.2. 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.
- 11.3. Members shall not contact or otherwise attempt to influence members of any adjudicative body regarding any matter before it relating to the Town.
- 11.4. Members shall refrain from using their positions to obtain employment with the Town for themselves, family members or close associates.

12. Use of Municipal Assets and Services

- 12.1. Members shall use Town property, equipment, services, supplies and staff resources only for the performance of their duties as a Member, 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 Member 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 Town to a Member, may be used by the Member for personal use, provided that the use is not for personal gain, offensive or inappropriate.

13. Internet Use, Off-Duty Conduct and Social Media

- 13.1. Members must adhere to the following guidelines when accessing and using the Town's network systems, the Town computers, and any other Town electronics:
 - (a) Transmission of data pertaining to the Town affairs and/or business to non-authorized entities or people is strictly prohibited;
 - (b) Members shall secure emails in the same manner as paper documents;

- (c) Members must exercise care to ensure that only authorized persons have access to emails and any documents attached therein;
 - (d) Members must make every reasonable effort to maintain access to passwords for the Town network and their Town email account and not disclose their passwords to any person except for purposes of technical user support and, in such case, the Member shall take steps to ensure the proper authority of the person who is requesting his password; and
 - (e) Unless expressly authorized, Members must not store Confidential Information on or via the Internet.
- 13.2. Members shall not use the Town's computers or any other Town electronic devices for the following purposes:
- (a) Visiting websites that contain obscene, pornographic, hateful or other objectionable materials;
 - (b) Sending or receiving any material that is obscene or defamatory or which is intended to harass or intimidate another person;
 - (c) Using or permitting the use of the internet for any illegal purpose;
 - (d) Unauthorized use of continuous access technology such as online radio broadcasts;
 - (e) Intentionally or unintentionally representing personal opinions as those of the Town;
 - (f) Intentionally or unintentionally causing reputational harm to Council or the Town through the use of the internet;
 - (g) Interfering with the normal operation of the network, including the propagation of computer viruses and sustained high network traffic; or
 - (h) Soliciting business for personal gain or profit.
- 13.3. Members must not post or place any information on the internet, including social media sites, which could negatively impact the reputation of the Council or Town or that could in any way call into question the integrity of their position as an Councillor.

14. Orientation and Other Training Attendance

- 14.1. Every Member must attend the orientation training offered by the Municipality within 90 days after the Member takes the oath of office.
- 14.2. 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.

- 14.3. Members are stewards of public resources and shall avoid waste, abuse and extravagance in the use of public resources.
- 14.4. Members 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.

15. Gifts and Hospitality

- 15.1. Members shall not accept gifts, hospitality or other benefits that would, to a reasonable member of the public, appear to be made in an effort to influence or induce influence, or otherwise to go beyond the necessary and appropriate public functions involved.
- 15.2. 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 five hundred dollars (\$500.00).

16. Election Campaigns

- 16.1. 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.

17. Informal Complaint Process

- 17.1. Any person or any Member who has identified or witnessed conduct by a Member that the person or Member reasonably believes, in good faith, 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,
 - (b) requesting the Mayor to assist in informal discussion of the alleged complaint with the Member 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.
- 17.2. Individuals are encouraged to pursue this informal complaint procedure as the first means of remedying conduct that they believe violates this Bylaw. However, an individual is not required to complete this informal complaint procedure prior to pursuing the formal complaint procedure outlined below.

18. Formal Complaint and Investigation Process

- 18.1. Any person or any Member who has identified or witnessed conduct by a Member that the person or Member reasonably believes, in good faith, is in contravention of this Bylaw may file a Complaint in accordance with the following procedure:

- (a) A Complaint shall be made in writing and shall be dated and signed by one or more identifiable individuals.
 - (b) The Complaint must include the contact information for the Complainant, the provisions of this Bylaw that is alleged to have been contravened, description of the facts giving rise to the allegations, and the name(s) of the alleged offending Member(s), i.e. "Responding Member".
 - (c) The Complaint must be addressed to Council and be submitted by either personally delivering, faxing, or couriering the complaint to the Town's municipal office.
- 18.2. Upon receipt of the Complaint, Council shall appoint an Investigator to investigate and adjudicate the Complaint.
- 18.3. The Investigator shall provide the Responding Member a copy of the Complaint as soon as reasonably possible .
- 18.4. If the complaint concerns one or more of the Councillors or the Complainant is a Councillor, said Councillors shall not take on the role of the Investigator and shall not conduct the investigation.
- 18.5. Upon receipt of a Complaint, the Investigator shall review the Complaint and decide whether to proceed to investigate the Complaint. If the Investigator is of the opinion that a Complaint is frivolous, vexatious, is not made in good faith, alleges criminal activity, is not about a current Member, 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, if Council is not the Investigator, shall be notified of the Investigator's decision in writing.
- 18.6. If the Investigator decides to investigate the Complaint, the Investigator shall take such steps as it may consider appropriate to conduct the investigation, but at minimum must include the following:
- (a) gathering and verifying all relevant information, including speaking to individuals with relevant information to the Complaint;
 - (b) provide the Complaint and all supporting information to the Responding Member and thereafter, provide said Member with 10 days to submit a written response to the Complaint, along with any supporting documentation. This deadline may be extended at the Investigator's discretion;
 - (c) determine which section(s), if any, of this Bylaw is contravened; and
 - (d) conduct the investigation in a confidential, objective and timely manner, and as much as reasonably possible, protect the names of the parties involved.
- 18.7. An Investigator may obtain independent legal counsel or other professional

advice, if the Investigator deems it necessary for the investigation.

- 18.8. The Investigator may solicit access to the Town's records, documents, and information related to the complaint, as necessary to complete an investigation. Additional information from any individual involved in an investigation may be requested at any time during the investigation, as necessary to complete an investigation.
- 18.9. The Investigator will have 90 days after the Complaint is accepted to complete the investigation and or make determinations on the Complaint as necessary. This deadline may be reasonably extended by the Investigator, if the Investigator is of the opinion that further time is required to complete the investigation.
- 18.10. In the 90 days prior to the date of a municipal election, the Investigator shall suspend any investigation underway or decline to commence an investigation, unless otherwise directed by Council.
- 18.11. If the Investigator determines that the Complaint is not substantiated, the Investigator shall dismiss the Complaint and in writing, notify Council (if Council is not the Investigator), the Complainant and the Responding Member of the dismissal and the Investigator's reasons for dismissing the Complaint.
- 18.12. If the Investigator determines the Complaint is substantiated, then the following shall occur:
 - (a) If the Investigator is Council, Council shall, in an open meeting, pass a resolution confirming that the Responding Member has contravened this Bylaw and may impose sanctions on the Responding Member in accordance with this Bylaw.
 - (b) If the Investigator is not Council, the Investigator shall prepare a written report outlining the Investigator's findings and recommendations on sanctions. The Investigator's written report shall be delivered to Council not more than 48 hours and not less than 24 hours before the start of Council's next meeting, whereupon Council may discuss the report in the closed portion of the meeting. Council shall, in an open meeting, pass a resolution confirming that the Responding Member has contravened this Bylaw and may impose sanctions on the Responding Member in accordance with this Bylaw.
- 18.13. An Investigator's determination on the Complaint is final and may not be amended or reconsidered by Council.
- 18.14. The principles of procedural fairness and natural justice shall be respected throughout the formal complaint process.

19. Compliance, Enforcement and Sanctions

- 19.1. Members shall uphold the letter and the spirit and intent of this Bylaw.
- 19.2. Members are expected to cooperate in every way possible in securing compliance with the application and enforcement of this Bylaw.
- 19.3. No Member shall:

- (a) undertake any act of reprisal or threaten reprisal against a complainant or any other person for providing relevant information to Council or to any other person;
 - (b) obstruct Council, or any other person, in carrying out the objectives or requirements of this Bylaw.
- 19.4. 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) publication of a letter of reprimand or request for apology and the Member's response;
 - (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 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; and
- 19.5. When sanctions are being imposed, Council will consider the following:
- (a) the nature, extent and gravity of the contravention;
 - (b) the effect and impact of the contravention;
 - (c) whether the Member has previously contravened this Bylaw;
 - (d) the principles and intent of this Bylaw;
 - (e) the presence of any profound mitigating circumstances;
 - (f) the need to deter future contraventions; and
 - (g) the public interest, including the need to promote the public's confidence in the integrity of Council.

After considering these factors, Council may determine that although there was a breach of this Bylaw, no sanction is warranted.

20. Review

- 20.1. 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.

21. Repeal

- 22.1 Bylaw 791-21, Code of Conduct Bylaw, is hereby repealed.

READ a First time this 8th day of August, 2024.

READ a Second time this 8th day of August, 2024.

READ a Third time this 28th day of November, 2024.

SIGNED AND PASSED this 28th day of November, 2024.

SIGNED BY LENARD KWASNY, MAYOR

SIGNED BY JENNIFER THOMPSON
CHIEF ADMINISTRATIVE OFFICER