

## BYLAW 14-23

### A BYLAW OF THE TOWN OF OKOTOKS IN THE PROVINCE OF ALBERTA TO ESTABLISH A CODE OF CONDUCT FOR MEMBERS OF COUNCIL AND COUNCIL COMMITTEES

**WHEREAS** pursuant to the provisions of the *Municipal Government Act (Act)* Revised Statutes of Alberta 2000, Chapter M-26 and amendments thereto, Council must pass a bylaw to establish a code of conduct governing the conduct of Councillors and may, in its discretion, 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** establishing a code of conduct for Members of Council and Members of Council Committees and other bodies established by Council who are not Councillors is consistent with the principles of transparent and accountable government; and

**WHEREAS** a code of conduct ensures that Members share a common understanding of acceptable conduct extending beyond the legislative provisions governing the conduct of Members.

**NOW THEREFORE** the Council of the Town of Okotoks in the Province of Alberta, duly assembled enacts as follows:

#### 1. SHORT TITLE

1.1. This Bylaw may be referred to as the "Code of Conduct Bylaw".

#### 2. DEFINITIONS

2.1. In this Bylaw, words have the meanings set out in the *Act*, except that:

2.1.1 **Administration** means the administrative and operational arm of the Town, comprised of the various departments and business centres and including all employees who operate under the leadership and supervision of the Chief Administrative Officer;

2.1.2 **Chief Administrative Officer (CAO)** means the person appointed to the position of Chief Administrative Officer for the Town of Okotoks within the meaning of the *Act*, or their delegate;

2.1.3 **Complainant** includes any Member, the CAO, Town staff or employees, or members of the public submitting a complaint;

- 2.1.4 **Council** means the Mayor and Councillors of the Town of Okotoks duly elected pursuant to the provisions of the *Local Authorities Election Act*, R.S.A. 2000, L-21, and associated regulations, as amended;
- 2.1.5 **Council Committee** means a committee, board, commission, authority or any other public body established by Council pursuant to the Town of Okotoks Committees Bylaw;
- 2.1.6 **FOIP** means the *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F- 25, and associated regulations, as amended;
- 2.1.7 **Investigator** means the individual or body retained or otherwise designated by Council to investigate, report, and make recommendations on complaints and shall, unless Council specifically directs otherwise, be a third-party designated by Council;
- 2.1.8 **Member** means a member of Council duly elected and continuing to hold office or a member of a Council Committee duly appointed by Council; and
- 2.1.9 **Town** means the corporation of the Town of Okotoks.

### 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 Town and a procedure for the investigation of complaints and enforcement of those standards.
- 3.2. Prior to participating as a Member of Council or a Council Committee, each Member shall sign the Statement of Acknowledgement as provided in Schedule 'A' affirming they have read and fully understand this Code of Conduct and agree to follow and abide by the Code of Conduct in good faith.

### 4. REPRESENTING THE TOWN

- 4.1. Members shall:
  - 4.1.1 act honestly and, in good faith, serve the welfare and interests of the Town as a whole;

- 4.1.2 perform their functions and duties in a conscientious and diligent manner with integrity, accountability, and transparency;
- 4.1.3 conduct themselves in a professional manner with dignity and make every effort to participate diligently in the meetings of Council, Council Committees, and other bodies to which they are appointed; and
- 4.1.4 arrange their private affairs and conduct themselves in a manner that promotes public confidence and will bear close public scrutiny.

## **5. COMMUNICATING ON BEHALF OF THE TOWN**

- 5.1. All inquiries from the media regarding the official position related to decisions and resolutions of Council are to be referred to the Mayor, or in absence of the Mayor, the Deputy Mayor.
- 5.2. Matters relating to the operations of the Town are to be referred to the CAO, or the CAO delegate.
- 5.3. Members of Council have the right to express their personal opinions; however, in doing so, the Members must ensure that it is not perceived as representing Council's opinion or position on a matter.
- 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, employees of the Town, or members of the public.

## **6. USE OF SOCIAL MEDIA**

- 6.1. As with any other activity, Members must ensure their use of social media complies with the law, the requirements of this Bylaw, and any related bylaws or policies. This Bylaw applies to all communications a Member makes, regardless of the social media.
- 6.2. For the purposes of section 6.1 of this Bylaw, "communications" means any information or data submitted by a Member to a social media network or platform that is capable of being displayed using software or approved hardware such as text, images, videos, or links to other content and includes a Member "liking", "retweeting", commenting on or sharing content created by other users of the social network or platform.

## **7. RESPECTING THE DECISION-MAKING PROCESS**

- 7.1. Decision-making authority lies with Council or the Council Committee and not with any individual Member. Council may only act by bylaw, policy, or resolution passed at a Council meeting held in public at which there is a quorum present. No Member shall, unless authorized by Council or the Council Committee, attempt to bind the Town or give direction to employees in Administration, agents, contractors, consultants, or other service providers or prospective vendors to the Town.
- 7.2. Members shall conduct and convey Council or Council 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 are, in so doing, allowing the public to view the process used to reach decisions.
- 7.3. Members shall accurately communicate the decision of Council or the Council Committee, even if they disagree with the decision, such that respect for the decision-making processes of Council and the Council Committee is fostered.

## **8. ADHERENCE TO POLICIES AND BYLAWS**

- 8.1. Members shall uphold the law established by the Parliament of Canada and the Legislature of Alberta, and the bylaws and policies adopted by Council.
- 8.2. Members shall respect the Town as an institution, its bylaws and policies, and shall encourage public respect for the Town, its bylaws and policies.
- 8.3. A Member must not encourage disobedience of any bylaw or policy 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.

## **9. RESPECTFUL INTERACTIONS WITH COUNCIL MEMBERS, EMPLOYEES, THE PUBLIC, AND OTHERS**

- 9.1. 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 or Town's interest.
- 9.2. 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.

- 9.3. No Member shall use indecent, abusive, or insulting words or expressions toward another Member, any employee of the Town, or any member of the public.
- 9.4. 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, or sexual orientation.
- 9.5. 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.
- 9.6. Members and employees of the Town may be present at social and community events, and in such situations, both parties must refrain from discussing workplace matters, including the direction of municipal programs and services; however, this does not prevent Members and employees from generally communicating.
- 9.7. Members must not:
  - 9.7.1 involve themselves in matters of Administration, which fall within the jurisdiction of the CAO;
  - 9.7.2 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
  - 9.7.3 maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of employees of the Town.

## **10. CONFIDENTIAL INFORMATION**

- 10.1. Members 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, Members may also become privy to confidential information received outside of a "closed session" meeting. Members must not:
  - 10.2.1 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 or the Council Committee;
- 10.2.2 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 or the Council Committee, and only then if the information is acquired through appropriate channels in accordance with applicable Council bylaws and policies; or
  - 10.2.3 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 Town that the Town 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 Town, and is generally considered to be of a confidential nature, including but not limited to information concerning:
- 10.3.1 the security of the property of the Town;
  - 10.3.2 a proposed or pending acquisition or disposition of land or other property;
  - 10.3.3 a tender that has or will be issued but has not been awarded;
  - 10.3.4 contract negotiations;
  - 10.3.5 employment and labour relations;
  - 10.3.6 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;
  - 10.3.7 law enforcement matters;
  - 10.3.8 litigation or potential litigation, including matters before administrative tribunals; and
  - 10.3.9 advice that is subject to solicitor-client privilege.

## **11. CONFLICTS OF INTEREST**

- 11.1. Members 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. 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, associates, business, or otherwise.
- 11.3. Members shall approach decision-making on matters where the requirements of procedural fairness imposes such an obligation, with an open mind that is capable of persuasion.
- 11.4. 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 pecuniary or other conflict of interest.

## **12. IMPROPER USE OF INFLUENCE**

- 12.1. 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.
- 12.2. No Member shall act as a paid agent to advocate on behalf of any individual, organization or corporate entity before Council, or a Council Committee, or any other body established by Council.
- 12.3. Members shall not contact or otherwise attempt to influence members of any adjudicative body regarding any matter before it relating to the Town.
- 12.4. Members shall refrain from using their positions to obtain employment with the Town for themselves, family members, or close associates.
- 12.5. Members are ineligible to apply or be considered for any position of employment with the Town while they hold their position and for one year after leaving office.

## **13. USE OF MUNICIPAL ASSETS AND SERVICES**

- 13.1 Members may use Town property, equipment, services, supplies, and staff time only for the performance of their duties as a Member, subject to the following limited exceptions:
  - 13.1.1 Town property, equipment, services, supplies, and staff time that is 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

- 13.1.2 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, subject to the terms and conditions described below.
- 13.2 Electronic communication devices provided by the Town are the property of the Town, and must, at all times, be treated as the Town's property. Members are on notice that they are to have no expectation of privacy in the use of these devices and further that:
- 13.2.1 all emails or messages sent or received on Town devices are subject to the *FOIP*;
  - 13.2.2 all files stored on Town devices, all use of internal email and all use of the Internet through the Town's firewall may be inspected, traced or logged by the Town; and
  - 13.2.3 in the event of a complaint pursuant to this Bylaw, Council may require that any or all of the electronic communication devices provided by the Town to Members may be confiscated and inspected as part of the investigation, including downloading information which is considered relevant to the investigation. All email messages or Internet connections may be retrieved.
- 13.3 Members must refrain from using any Town property, equipment, services, or supplies, including email, Internet services, or any other electronic communication device, if the use could be offensive or inappropriate.
- 13.4 Upon a Member ceasing to hold office or upon the expiry or revocation of a Member's appointment to a Council Committee, as applicable, a Member must immediately deliver to the Town any money, book, paper, thing, or other property of the Town that is in the Member's possession or under the Member's control including, without restriction, any record created or obtained by virtue of the Member's office other than a personal record or constituency record as those terms are used in the *FOIP*.



#### **14. ORIENTATION AND OTHER TRAINING ATTENDANCE**

- 14.1 Every Member of Council must attend the orientation training offered by the Town within 90 days after the Member of Council takes the oath of office.
- 14.2 Should a Council Committee offer orientation training, the appointed Member's attendance is required.
- 14.3 Attendance at additional training sessions through the Council or Council Committee term is discretionary.

#### **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 municipal bylaws and policies regarding claims for remuneration and expenses.

#### **16. GIFTS AND HOSPITALITY**

- 16.1. Members shall not accept or give 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.
- 16.2. Members are not precluded from accepting:
  - 16.2.1 rewards, gifts, or benefits not connected with the performance or duties of office;
  - 16.2.2 political contributions that are accepted in accordance with applicable law;
  - 16.2.3 reasonable quantities of food and beverages at banquets, receptions, ceremonies, or similar events;
  - 16.2.4 services provided without compensation by persons volunteering their time;
  - 16.2.5 food, lodging, transportation, and entertainment provided by other levels of governments or by other local government, boards, or commissions;

- 16.2.6 a reimbursement of expenses incurred in the performance of duties or office;
- 16.2.7 token gifts such as souvenirs, mementos, and commemorative gifts that are given in recognition of service or for attending an event; or
- 16.2.8 gifts that are received as an incident of protocol or social obligation that normally and reasonably accompany the responsibility of office.

## **17. ELECTION CAMPAIGNS**

- 17.1. No Member shall use any facilities, equipment, supplies, services, municipal logo, or other resources of the Town for any election campaign or campaign-related activity.

## **18. INFORMAL COMPLAINT PROCESS**

- 18.1. Any Member who has been advised by a person or has identified or witnessed conduct by a Member (the “Other Member”) that the Member reasonably believes in good faith is a contravention of this Bylaw, may address the prohibited conduct by either one or both of the following:
  - 18.1.1 advising the Other Member that the conduct violates this Bylaw and encouraging the Other Member to stop;
  - 18.1.2 requesting the Mayor to assist in informal discussion of the alleged contravention with the Other Member in an attempt to resolve the issue. In the event that the Mayor is the subject of, or is implicated in an alleged contravention of this Bylaw, the Member may request the assistance of the Deputy Mayor.
- 18.2. Members are encouraged to pursue this informal complaint procedure as the first means of remedying conduct that they believe violates this Bylaw. However, a Member 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 who has identified or witnessed conduct by a Member that the person reasonably believes in good faith is a contravention of this Bylaw may address the prohibited conduct by submitting a formal complaint. Formal complaints under this Code of Conduct must be made:

- 19.1.1 by a Member;
  - 19.1.2 by the CAO;
  - 19.1.3 by a Town employee; or
  - 19.1.4 by a member of the public.
- 19.2. Formal complaints shall be considered in accordance with the following procedure:
- 19.2.1 All complaints shall be made in writing and shall be dated and signed by an identifiable individual. Anonymous complaints will not be accepted. Written complaints must include the following:
    - 19.2.1.1 the name of the Member alleged to have contravened this Bylaw;
    - 19.2.1.2 reasonable and probable grounds for the allegation that a Member has contravened this Bylaw, including a detailed description of the facts, as they are known, giving rise to the complaint, including the names of any witnesses; and
    - 19.2.1.3 the Complainant's name and contact information;
  - 19.2.2 All complaints shall be forwarded to the Mayor, or the Deputy Mayor if the complaint is regarding the Mayor, who will forward the complaint on to Council;
  - 19.2.3 All complaints shall be submitted within 60 days of the occurrence of the event(s) giving rise to the complaint, unless, in the opinion of Council, it is in the best interests of the public and/or the Town to proceed with an investigation outside of this time period;
  - 19.2.4 If the complaint is submitted properly under this Bylaw and the facts, as reported, include the name of one or more Members who are alleged to be responsible for the breach of this Bylaw, the Member or Members concerned shall receive a copy of the complaint, redacted if reasonable to do so. Names of Complainants and witnesses may be provided to the Member(s) concerned if an investigation proceeds and:

- 19.2.4.1 the investigation cannot be completed without releasing the Complainant's name; or
  - 19.2.4.2 the Member(s) concerned require the names(s) in order to properly respond to the allegations;
- 19.2.5 On receipt of a complaint, the Mayor or Deputy Mayor will complete an initial assessment. Complaints that:
- 19.2.5.1 are not about a current Member;
  - 19.2.5.2 allege criminal activity;
  - 19.2.5.3 allege a violation of the *Act* or *FOIP*; or
  - 19.2.5.4 are more properly covered by other applicable legislative appeal, complaint, or court processes;
- will be immediately refused and the Complainant will be advised in writing, with reasons, and provided information regarding other processes, if applicable;
- 19.2.6 If Council 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 investigating, Council may choose not to have the complaint investigated or, if already commenced, may terminate any investigation, or may dispose of the complaint in a summary manner. The Complainant and Member(s) shall be advised in writing of any such decision;
- 19.2.7 If Council decides to investigate the complaint, an Investigator will be appointed and all proceedings regarding the investigation shall be confidential;
- 19.2.8 Upon completing an investigation of a complaint, the Investigator shall provide a report to Council and the Member, summarizing the Investigator's conclusions with respect to the substance of the complaint, which may include recommendations as to sanctions, if any, to be imposed by Council after consideration of the Investigator's report;
- 19.2.9 A Member who is the subject of an investigation shall be afforded procedural fairness, including an opportunity to provide input to the Investigator and to respond to the Investigator's report before Council deliberates and makes any decision or any sanction is imposed;

- 19.2.10 The Investigator shall take reasonable steps to conclude any investigation within 60 days of the date upon which a complaint is submitted to the Investigator.

## **20. COMPLIANCE AND ENFORCEMENT**

- 20.1. Members shall uphold the letter and the spirit and intent of this Bylaw.
- 20.2. Members are expected to cooperate in every way possible in securing compliance with the application and enforcement of this Bylaw.
- 20.3. No Member shall:
- 20.3.1 undertake any act of reprisal or threaten reprisal against a Complainant or any other person for providing relevant information to the Investigator, Council, or to any other person;
  - 20.3.2 obstruct the Investigator or Council, or any other person, in carrying out the objectives or requirements of this Bylaw.
- 20.4. Upon receiving the Investigator's report, all of Council except the Member or Members of Council about whom the complaint was made and, where the complaint was brought by a Member of Council, that Member of Council, shall deliberate on the Investigator's conclusions with respect to the substance of the complaint and recommendations as to sanctions, if any, and make a recommendation to Council.
- 20.5. Sanctions that may be imposed on a Member, by Council, upon a finding that the Member has breached this Bylaw may include:
- 20.5.1 a letter of reprimand addressed to the Member;
  - 20.5.2 requesting the Member to issue a letter of apology;
  - 20.5.3 publication of a letter of reprimand or request for apology and the Member's response;
  - 20.5.4 a requirement to attend training;
  - 20.5.5 suspension or removal of the appointment of a Member as the Deputy Mayor or acting Mayor under section 152 of the *Act*;
  - 20.5.6 suspension or removal of the Mayor's presiding duties under section 154 of the *Act*;

- 20.5.7 suspension or removal from some or all Council Committees and bodies to which Council has the right to appoint Members; and
  - 20.5.8 any other sanction Council deems reasonable and appropriate in the circumstances provided that the sanction does not prevent a Member from fulfilling the legislated duties of a Councillor and the sanction is not contrary to the *Act*.
- 20.6. Once Council has received and considered the Investigator's report, it will be reviewed in accordance with *FOIP* and may be posted, to the extent possible, on the Town's website.

## 21. REVIEW

- 21.1. 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.

## 22. EFFECTIVE DATE

- 22.1. This Bylaw will come into force and effect upon the date of final readings and signing thereof.

## 23. REPEAL

- 23.1. This Bylaw repeals Bylaw 40-17 and any amendments thereto.

READ A FIRST TIME this 8<sup>th</sup> day of May 2023.

READ A SECOND TIME this 8<sup>th</sup> day of May 2023.

READ A THIRD TIME AND PASSED this 8<sup>th</sup> day of May 2023.

---Original Signed---

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Mayor

---Original Signed---

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Chief Administrative Officer

SCHEDULE 'A'

**CODE OF CONDUCT**

Statement of  
Acknowledgement

I, \_\_\_\_\_, acknowledge that I understand and support the standards of conduct outlined in the Town of Okotoks Code of Conduct Bylaw.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

\_\_\_\_\_  
Member's Signature

\_\_\_\_\_  
Witness' Name (please print)

\_\_\_\_\_  
Witness' Signature