



**Saskatchewan
Ministry of
Municipal
Affairs**

Municipal Council Member's Handbook



**Advisory Services Unit
Strategy and Sector Relations
September 2009**

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Introduction

This handbook has been prepared to assist local government elected officials in carrying out their role in public office. It presents an overview of the duties and responsibilities of municipal council members intended to be used for reference purpose only and not to replace provincial legislation.

Basis for Municipal Government

Canada's system of government has three levels - federal, provincial, and municipal. The federal and provincial governments have their powers set out in *The Constitution Act, 1982*. Municipalities are a creation of and are given authority from the province.

The first legislation specifying the powers of rural municipalities, towns, villages, and cities in Saskatchewan was passed in 1909. Over the years the legislation has evolved and has been amended to give municipalities greater autonomy.

Saskatchewan's **cities** are legislated under *The Cities Act*. **Towns, villages, resort villages, rural municipalities and municipal districts** fall under *The Municipalities Act*. Northern municipalities are legislated under *The Northern Municipalities Act*.

While the key powers and duties of a municipality are provided for in above listed Acts, many other statutes affect local governments. Some of the more frequently used ones include:

- *The Planning and Development Act, 1983;*
- *The Tax Enforcement Act;*
- *The Local Government Election Act;*
- *The Local Improvement Act, 1993;*
- *The Stray Animals Act,*
- *The Line Fence Act; and*
- *The Noxious Weeds Act.*

Elected officials of a municipality may wish to become familiar with these and other statutes however this manual will be limited to the legislation contained in *The Municipalities Act*.

The Municipalities Act (MA)

Principles and Purposes

The Municipalities Act or the “MA” is considered “permissive” legislation and provides municipalities with “natural person powers”. Municipalities are considered corporations and have the powers, rights and privileges of a “natural person” for the purpose of carrying out or administering its activities unless those powers are limited by legislation.

The legislation states in broad or general terms the jurisdiction of council and provides the legal structure and framework for municipal councils to provide governance and make decisions at a local level with flexibility for the needs of their community. The MA provides regulatory powers and limitations for actions not associated with natural person powers, things such as the power to pass bylaws or the ability to levy taxes.

The MA clearly states that the purpose of a municipality is to:

- provide good government;
- provide services, facilities and other things that in the opinion of council are necessary and desirable for all or part of the municipality;
- develop and maintain a safe and viable community;
- foster economic, social and environmental well-being;
- provide wise stewardship of public assets.

(Section 4)

The MA reinforces the concept that municipalities are accountable to their electorate and have a responsibility and duty to encourage and enable public participation in the governance process.

Structures of Municipal Councils

The Municipalities Act uses the term “municipality” to describe a town, village, resort village, rural municipality or a restructured municipality (such as a municipal district). Most of the provisions in legislation apply to all municipalities, however, if a particular section is specific to a certain type of municipality the Act will reflect this.

Councils for rural municipalities consist of a reeve (elected at large) and one councillor for each division of the rural municipality. Elections for Reeves and councillors for odd-numbered divisions are held in even-numbered years. For even-numbered divisions the elections are held in odd-numbered years. Terms of office are 2 years commencing at the first meeting of council held after the election.

In all other municipalities, the council consists of a mayor (elected at large) and at least 2 councillors. Municipal councils may increase or decrease (not less than 2) the number of members on council by passing a bylaw. Any bylaw passed to increase or decrease the number of council members takes effect at the next general election providing it is passed not less than 180 days before the election. Terms of office for other municipalities are 3 years commencing with the first meeting of council after a general election.

The elected council is the governing body of the municipality. Any action by a municipality is done through the council. Council makes decisions or exercises its power through the passage of bylaws and resolutions.

Municipal councillors have the role of policy maker and must work with other council members to set the overall direction of the municipality. Council works as a whole to develop policies or guidelines for administration and the employees to use in the day to day operations or the organization.

Powers and Duties of Council

Certain powers of a council are discretionary, which means council can decide whether or not to carry out that particular function. An example would be that council has the ability to declare any day or part of a day as a civic holiday. Other duties are mandatory which means that council must perform the action required, such as “council shall establish the position of administrator”.

General Duties of Councillors

The MA sets out the general duties for councillors including:

- to represent the public and to consider the well-being and interests of the municipality;
- to participate in developing and evaluating the policies, services and programs of the municipality;
- to participate in council meetings and council committee meetings and meetings of other bodies to which they are appointed by council;
- to ensure that administrative practices and procedures are in place to implement the decisions of council;
- to keep in confidence matters discussed in private at a council or committee meeting until the matter is discussed at a meeting held in public;
- maintain the financial integrity of the municipality;
- to perform any other duty or function imposed on councillors by this or any other Act or by the council.

(Section 92)

General Duties of the Mayor or Reeve

In addition to performing the duties of a councillor, mayors and reeves have the following duties:

- to preside, when in attendance, at council meetings unless this Act or another Act or a bylaw of council provides that another councillor is to preside;
- to perform any other duty imposed on a mayor or reeve by this or any other Act or by bylaw or resolution.

The mayor or reeve is a member of all council committees and all bodies established by council pursuant to this Act unless council provides otherwise.

(Section 93)

Other Legislated Duties of Mayors or Reeves

At times various other actions may be required by the heads of council:

- along with the Administrator sign all bylaws of the municipality;
(Section 115)
- request the Administrator to call a special meeting;
(Section 123)
- call a public meeting when authorized to do so by council or after having received a valid petition requesting one;
(Section 129)
- sign the securities along with the Administrator unless another person has been designated to do so; and
(Section 174)
- if needed appoint a person as an acting member of the board of revision.
(Section 220)

Deputy Mayor/Deputy Reeve

Rural municipal councils are required at the first meeting following an annual general election (or as soon as possible) to appoint a councillor to act as deputy reeve for that year or any shorter period that council may fix. Councils of other municipalities may appoint a councillor as deputy mayor if they choose to.

A councillor appointed as a deputy mayor or deputy reeve acts as the mayor or reeve if:

- the mayor or reeve is unable to perform his or her duties; or
 - the office of mayor or reeve is vacant.
- (Section 91)

Acting Mayor/Acting Reeve

If the mayor or reeve and the deputy mayor or reeve are unable to perform the duties of the mayor or reeve or if the office of mayor or reeve and the office of deputy mayor or deputy reeve are vacant, council may appoint another council member as acting mayor or acting reeve.

(Section 97)

Council Remuneration and Benefits

Remuneration and allowance for expenses for council members is fixed by council. One third of the total remuneration paid to a member of council is deemed to be general expenses incurred in the discharge of a council member's duties and is considered not taxable for income tax purposes. Councils may also include any or all members of council in an existing plan of superannuation or a benefit fund it may have for its employees. Note: Council members are ineligible for superannuation under the Municipal Employee's Pension Plan (MEPP).

It is also important to note the municipality must give public notice when council is considering setting or changing the rate of remuneration of council members.

(Section 82)

Council Committees and Other Bodies

Municipal councils can establish any council committees (appointees are council members) or other bodies (boards, associations, commissions, etc.) that are needed or desired for the municipality and define the functions. What is the committee to do or what is the purpose of the committee? How often will the committee meet? Council may also set out the procedure and conduct of council, council committees and any other body established by council.

(Section 81)

Council and Council Committee Meetings

The MA requires councils and council committees to hold meetings in public. Anyone may be present at council and council committee meetings and cannot be expelled from them except for improper conduct.

However, there are provisions in the legislation for councils or council committees to close all or part of a meeting to the public but only if the matter to be discussed is within one of the exemptions of Part III of *The Local Authority Freedom of Information and Protection of Privacy Act* or if it concerns long range or strategic planning. Any committee or other body established by council for the purpose of hearing appeals may deliberate and make its decisions in meetings closed to the public.

Actions of councils are not effective unless authorized or adopted by bylaw or resolution at a duly constituted public meeting of council. Along with this any action of a council committee is not effective unless it is authorized or adopted by a resolution at a properly constituted meeting of council or council committee. No meeting can be held and no act of council is valid unless it has been adopted at a meeting of council where a quorum is present. A quorum is the majority of members of council.

(Sections 119 & 120)

First Meeting

The first meeting of council following an annual election (rural municipalities) or an annual election (all other municipalities) is to be held within 31 days of the general or annual election. The Administrator shall determine the date, time and place this first meeting of Council will be held and provide the written notice to all members of council.

(Sections 121)

Regular Meetings

Councils may decide to hold regularly scheduled council or committee meetings on specified dates, times and places thus removing the need for notice to be given. If the date time or place of a regularly scheduled council meeting is changed no less than 24 hours notice of the meeting change must be given to any council member not present at the meeting in which the change was made and to the public.

If a council or council committee does not hold regularly scheduled meetings the council shall give notice of each meeting to the members of council or committee members and to the public at least 24 hours before the meeting.

Regular meetings may be held with less than 24 hours notice to council or committee members or to the public if all members of council or the committee sign a waiver of notice before the commencement of the meeting.

Council meetings held solely for the purpose of long-range or strategic planning may be held without giving notice to the public.

(Section 122)

Special Meetings

If requested by the mayor, reeve or by a majority of council members the administrator shall call a special meeting. At least 24 hours notice must be given to the council members and to the public stating the purpose of the meeting and the date, time and place at which the meeting is to be held.

A special council meeting can be held with less than 24 hours notice to council members and without notice to the public, if all members of council sign a waiver of notice before the commencement of the meeting whether or not that council member will be present for the meeting.

No business other than that stated in the notice is to be transacted at a special meeting unless all members of council are present and vote unanimously in favor of conducting other business at that meeting

Notice of Meetings

Notice of council and council committee meetings is to be provided by one of the following methods:

- personal delivery;
- left at the members usual place of business or residence of the member; or
- if requested by the council member it may be provided by:
 - regular mail;
 - telephone;
 - voice mail;
 - fax; or
 - email

Notice to the public of a council meeting or council committee meeting is sufficient if the notice is posted at the municipality office or in any other manner specified in the public notice policy of council.

(Section 124)

Meetings by Electronic Means

Council and committee meetings can be conducted by electronic means, such as telephone, electronic or other communication technologies if:

- the public has been provided notice of the meeting and how the meeting will be conducted;
- the facilities enable the public to at least listen to the meeting at a place specified in the notice;
- the Administrator is present at the place specified in the notice; and
- the facilities permit all participants to communicate adequately with each other during the meeting.

A member of a council or committee who participates in a meeting using electronic means is deemed to be present at the meeting.

(Section 125)

Oath of Office

All members of council must take an official oath of office in a prescribed form (Form A) before carrying out any power, duty or function as a member of council.

(Section 94)

Public Disclosure Statement

Councils may by bylaw require all members to file with the administrator a public disclosure statement within 30 days after being elected. A public disclosure statement must contain:

- 1) the name of:
 - a. the employer of the member of council;
 - b. each corporation in which the member or someone in the member's family has controlling interest or if the member or family member is a director or senior officer and
 - c. each partnership or firm of which the member of council is a member.
- 2) the civic address or legal description of any property located in the municipality or an adjoining municipality that:
 - a. the member of council or his/her spouse owns or
 - b. is owned by a corporation incorporated pursuant to The Business Corporations Act or Canada Business Corporations Act of which the member or his/her spouse is a director or senior officer or has a controlling interest.

(Section 142)

Voting

Each member of council has one vote each time a vote is held during a council meeting where he or she is present. All questions are decided by a majority of votes however council may put procedures in place requiring a greater percentage for all or certain situations or resolutions. Each Council member votes on all matters put before council unless legislation permits or requires the member to abstain from voting.

Should a council member abstain from voting on a matter before council even if he or she is not required to abstain, it is deemed the member has voted in the negative. The administrator shall ensure that each abstention and the reasons for the abstention are recorded in the minutes of the meeting.

If there are an equal number of votes for and against a resolution or bylaw that bylaw or resolution is defeated.

(Sections 99, 100 & 102)

Recorded Votes

From time to time council members may wish to have a recorded vote where the minutes will show the names of the members of council present and whether each member voted for or against the proposal or abstained. The request can be made by any council member however it must be made before the vote is taken.

(Section 101)

Rules of Parliamentary Procedure

Following parliamentary procedure rules during council meetings will help in the decision making process of councils. The main objectives of parliamentary procedure rules are to guard against hasty, ill-considered actions, to give each member an equal right to be heard, to determine the will of the majority and to protect the rights of the minority. For further information about parliamentary procedure municipalities may wish to obtain one of the following publications:

- *Robert's Rules of Order*
- *Beauchesne's Parliamentary Rules and Forms*
- *Bourinot's Rules of Order*
- *Auer's Essentials of Parliamentary Procedures*
- *Kerr and Kings Procedures for Meetings and Organizations*

Bylaws

Areas of Jurisdiction

The MA establishes the areas of jurisdiction that enable the council to pass bylaws relating to various matters. The areas of jurisdiction set out the ability for council to pass bylaws for:

- the peace, order and good government of the municipality;
- the safety, health and welfare of people and the protection of people and property;
- people, activities and things in, on or near a public place or a place that is open to the public;
- nuisances, including property, activities or things that affect the amenity of a neighborhood;
- transport and transportation systems including carriers of persons or goods;
- subject to *The Highway Traffic Act*, the use of vehicles and the regulation of pedestrians;
- streets and roads, including temporary and permanent openings and closings;
- businesses and business activities and persons engaged in business;
- services provided by or on behalf of the municipality, including establishing fees for providing those services;
- public utilities;
- wild and domestic animals and activities in relation to them; and
- the abandonment, discontinuance, dismantling, removal or decommissioning of any use, building or other structure, including former railway lines, and the reclamation of the land on which the use, building or other structure is located.

(Section 8)

Bylaw Procedures

In specific situations, such as within the areas of jurisdiction, the legislation states that council is to exercise the authority through the passage of bylaws. Other situations may not indicate how the action is to be taken. In those cases council has the option of using a bylaw or a resolution in taking the action.

The MA sets out the procedure for passing municipal bylaws. Every proposed bylaw must have 3 distinct and separate readings. It must not have more than 2 readings at one meeting unless the members of council present unanimously agree to consider 3 readings at that meeting.

Members of council present at the meeting in which the first reading is to take place must be given or have had the opportunity to review the full text of the proposed bylaw before the bylaw receives 1st reading. As well each member of council present at the meeting in which 3rd reading is to take place must be given or have had the opportunity to review the full text of the proposed bylaw and any amendments that were passed after the first reading.

A proposed bylaw is defeated if it does not receive 3rd reading within two years after first reading. A bylaw is passed when it has received 3rd reading. A bylaw comes into force at the specific time it is passed or at a date in the future, however if legislation requires a bylaw to have approval by an approving authority, the bylaw does not come into force until such approval has been received.

With the power to pass a bylaw council may also amend or repeal a bylaw. An amendment or repeal must be made in the same way as the original bylaw. There are some restrictions relative to amending bylaws which were enacted as the result of a referendum.

(Sections 103-107, 140)

Pecuniary Interest

Pecuniary interest occurs when a council member or someone in the member's family has a controlling interest or is a director or senior officer of a corporation that could make a financial profit or be adversely affected financially by a decision of council. A council member also has a pecuniary interest if he/she or a closely connected person could make a financial profit or be adversely affected by a decision of council. Members do not have pecuniary interest in any situation or matter that the council member (or a closely connected person) may have as a voter, taxpayer or utility customer of the municipality. Section 143 of the MA specifies the situations in which council members are not considered to have pecuniary interest.

(Section 141 & 143)

Disclosure of Pecuniary Interest

When a member of council has a pecuniary interest in a matter before council, a council committee or a controlled corporation, of which the member is a director, it is the onus of the council member to:

- a) declare the interest before any discussion in the matter;
- b) abstain from voting on any question relating to the matter;
- c) abstain from discussion of the matter and
- d) leave the meeting while the matter is being discussed and voted on.

The member shall not attempt, either before, during or after the meeting influence the voting in any way.

It is the duty of the individual member of council to determine whether or not he or she has a pecuniary interest with respect to the issue at hand. It is not the responsibility of the administrator or another council member to point out a possible situation of pecuniary interest.

If the matter before council is for the payment of an account in which the funds have previously been committed, it is not necessary for the member to leave the room. An example of this would be if council decided to purchase a new piece of equipment for the municipality from a business owned by a member of council. The matter was discussed and voted on in a previous meeting where the council member declared his interest and did not partake in the discussion and left the meeting. At the next meeting the invoice for the equipment was presented for payment. Because there was a previous decision to spend the funds the member is required to declare his or her interest, however he or she may remain at the meeting.

When the matter before council affects a member as a voter, taxpayer or owner, the member has a right to be heard by the council. In this case the member shall leave his place at the council table but is not required to leave the room. He or she may exercise their right to be heard just as any other person coming before council would. Following presentation of his or her information, the member is advised to leave the room notwithstanding his or her right as a ratepayer or citizen to observe council proceedings.

When a member discloses pecuniary interest the Administrator shall record in the minutes any abstention or disclosure made by the member of council. The member is not to be counted for the purpose of determining whether a quorum of council is present when the matter or question is put to a vote. If the number of members declaring pecuniary interest in a matter results in a loss of quorum, the remaining members are deemed to be a quorum unless the number is less than 2. If all but one of the members declares pecuniary interest in a matter, the council may by resolution apply to a judge of the court for consideration of the matter.

These procedures apply to all regular and special meetings of council and council committees, this includes first meeting of council after the general election.

If a member of council contravenes the pecuniary interest sections of the MA it does not mean the actions of council are invalidated. However, the council or other body may within 3 years after the day on which a bylaw or resolution was passed or the decision made declare the bylaw or resolution to be void.

A judge after hearing an application of pecuniary interest may declare that the council member may be disqualified from holding office and therefore his or her position is vacant. The judge may also determine that the member may remain on council or that the application is dismissed.

(Section 144-146)

Disqualification of Members of Council

Reasons for Disqualification

A member of council may be disqualified from council if any of the following situations occur:

- when nominated the member was not eligible for nomination or election to council;
- he or she ceases to be eligible for nomination or election to council;
- he or she is absent from all regular council meetings held during a period of 3 months in which at least 2 meetings of council have been held;
- he or she is convicted while in office of an offence punishable by imprisonment for 5 years or more or an offence under Sections 123, 124 or 125 of the Criminal Code;
- he or she contravenes a bylaw passed by council for disclosure of campaign contributions or expenses;
- in the case of a members of council for a town or village, ceases to reside in the town or village;
- in the case of a rural municipality, ceases to reside in Saskatchewan and for 3 consecutive months does not reside in Saskatchewan; or
- in the case of a rural municipality, is convicted of making a false statement in the acceptance of his or her nomination as a candidate.

Members who are disqualified are not eligible to be nominated or elected for a period of 3 years after the disqualification. *(Section 147)*

A member who is disqualified must resign immediately. If a council member fails to resign, the council or a voter may apply to the court to have the member removed from office.

(Section 148)

Municipal Administration

One of the most important aspects of good municipal government is an effective working relationship between council and the administration. Understanding how the administration of your municipality works assists municipal council members to carry out their role.

The administration or the employees, look after the day to day operations of the municipality. The key role of council is to provide leadership and set policy. The administrator is a policy advisor and ensures councils policies are carried out. It is important for staff to keep council informed and up to date on current and impending issues. The experience and knowledge of municipal administration and staff may enable council members to do their job more efficiently.

Administrator

Municipal councils are required by legislation to establish the position of Administrator for the municipality. In rural municipalities administrators must be qualified as required by *The Rural Municipal Administrators Act*. In all other municipalities the administrator must be qualified under *The Urban Municipal Administrators Act*. Administrators are required to perform any legislated responsibilities under the MA and other provincial or federal statutes as well as to fulfil any duty assigned by council.

With the approval of council, an administrator may delegate some or all of his or her powers, duties or functions to any employee of the municipality. An example would be the delegation of signing authority to the Assistant Administrator in the absence of the Administrator.

Acting Administrator

If the administrator is unable to perform his or her duties, council may appoint an acting administrator for a period of not more than 3 months or for a longer period if given approval by the board of examiners.

(Section 110)

Other Staff

Council may appoint any other staff or employees they feel are necessary or desirable for the municipality or if they choose they may delegate the responsibility to hire staff to the administrator, another employee or to a council committee. It is only by a majority vote of council that the position of administrator or a full time solicitor for a municipality can be appointed, suspended or revoked.

(Section 114)

Bonding

Each year council must obtain a fidelity bond for the administrator and any other employee whose duties include the handling of money. The amount of the bond must be for at least \$10,000 but can be for a greater if council chooses. At the first meeting of council in January, the Administrator must provide all fidelity bonds to council for review.

(Section 113)

Council Members

It is important to note that members of municipal council are not eligible to be appointed as an employee of the municipality, of any committee, of a business improvement district, or of a controlled corporation, of the municipality in which he or she serves as a member of council.

(Section 112)

Finance

One of the purposes of a municipality is to provide wise stewardship of public assets. Much of the time spent as a municipal councillor involves making financial decisions that affect the community. The greatest challenge of a municipal council is to make the best use of public money and ensure the residents are getting the “most” for their tax dollar.

A municipality may only make an expenditure if it is:

- included in its budget or otherwise authorized by council;
- for an emergency; or
- legally required to be paid.

Operating and Capital Budgets

Each year municipal councils are required to adopt an operating and a capital budget for the municipality prior to authorizing the tax levy. Municipalities may only make expenditures that are included in the annual budget, authorized by council, emergency expenditures or legally required to be paid. For this reason it is important that council take careful consideration in the budget process.

The operating budget must include the estimated amount of expenditures for the operations of the municipality and any amounts needed to meet all debt obligations, including deficits from the previous year. The budget will also include the estimated amount of revenues from taxes, providing services, and any grants the municipality receives.

(Section 155-156)

Capital Works Plan

Municipal councils may also prepare and adopt a capital works plan for a period of not less than 5 years including the current year. A capital works plan shows the estimated costs of capital projects and proposed sources of funding those projects.

(Section 157)

Investments

The legislation sets out the limitations where municipalities may invest any surplus monies. These include:

- securities of the federal or provincial governments;
- securities where payment is guaranteed;
- a municipality's own securities or that of another municipality or a school division in Saskatchewan;
- in a bank, trust corporation or credit union;
- shares in a commercial corporation engaged inside or outside the municipality;
- or any securities authorized by the Saskatchewan Municipal Board.

(Section 160)

Debt Limits and Borrowing

The debt limit of a municipality is the total amount of a municipality's own source revenues for the preceding year consisting of municipal taxes levied and fees for services provided by the municipality.

Saskatchewan Municipal Board approval is needed and council must pass a borrowing bylaw if the borrowing:

- will cause the municipality to exceed its debt limit;
- is not repayable within 3 years after the borrowing is made; or
- is to be secured by the issue of debentures of the municipality.

If council is borrowing money to finance operating expenditures, it may do so by resolution or by bylaw. Municipalities may also issue debentures for the creation of long-term debt.

(Section 169-179)

Loans and Guarantees

A municipality may only lend money or guarantee the repayment of a loan if it is:

- a loan to a non-profit organization;
- a loan made to one of its controlled corporations or to a business improvement district the it has established; or
- a guarantee made with respect to a loan between a lender and one of its controlled corporations or business improvement district established by the municipality.

To loan money or to guarantee the repayment of a loan in the above situations council must first pass a bylaw setting out the details of the loan or guarantee.
(Sections 181-183)

Annual Financial Statement and Auditor's Report

Each year the municipality must prepare annual financial statements of the municipality using the general accepted accounting principles for municipal governments. The annual financial statement must include the debt limit of the municipality and the amount of debt the municipality has. The financial statements are to be submitted to the minister by July 1.

Council must appoint a qualified auditor for the municipality and for each of its controlled corporations. Not later than August 1 in each year auditor shall report to the council on the annual financial statements of the municipality.

(Sections 185 - 191)

Policies and Policy Manuals

As members of Council are the policymakers of a municipality, their role is to establish policies for the operation of the municipality. Some situations come before councils time and time again, such as a request for copies of the minutes after approved. To simplify these matters, many councils have found it beneficial to have in place a policy manual to address the day to day issues that arise eliminating the need for those issues to come before council. Policy manuals can be a simple or as complicated as council chooses. Some issues that could be addressed in a policy manual are fees for photocopies of minutes, for gopher poison or other chemicals the municipality may offer for sale. The manual could also include policy for tax incentive on new development or even human resource issues for education and training or vacation weeks for employees with respect to long term service.

Further Information

For further information contact:

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