

SAMPLE GOVERNANCE DOCUMENTS #1

Many respondents to CAMA's 2014 survey on the current state of performance management in Canada submitted sample forms and templates used for performance evaluation purposes. The following are exemplary examples of best practices used throughout municipalities in Canada.

1. MUNICIPAL POLICY: MONITORING CAO PERFORMANCE
2. MUNICIPAL MANAGER BYLAW
3. MUNICIPAL MANAGER DELEGATIONS BYLAW

1. MUNICIPAL POLICY: MONITORING CAO PERFORMANCE

POLICY

Systematic and rigorous monitoring of Chief Administrative Officer (CAO) job performance will be measured against the expected results to be achieved by the CAO. This will include the corporate accomplishment of Council policies on Outcomes and corporate operation within the boundaries established within Council policies on CAO Limitations.

It is also vital that the Municipal Manager's salary be examined and adjusted as part of the monitoring and assessment process in order to provide fair and reasonable compensation for the quality of the job being performed by the CAO.

STANDARDS

- 1 The purpose of monitoring is to determine the degree to which Council policies are being met.
- 2 Council will acquire monitoring data by Council review, in which a designated member or members of Council assess compliance with the appropriate policy criteria.
- 3 In every case, the standard for assessing CAO compliance with Council policies shall be reasonable interpretation of the Council policies by the CAO.
- 4 Performance of the CAO will be monitored at a frequency as outlined in the *MGA* and by a method determined by Council

PROCEDURES

- 1 City Council may use a facilitator to assist with the Chief Administrative Officer's (CAO's) work performance evaluation process. A majority of City Council may decide to engage a process facilitator or to conduct the process without a facilitator. A majority of Council may decide to engage the services of the Director of Human Resources or contract an external facilitator.
- 2 The process shall commence at a time of the choosing of Council but generally annually beginning in December/January and triggered by the Director of Human Resources. The process should be completed by March 31 annually.
- 3 In December the Director of Human Resources shall consult with City Council with respect to the preferred process.
- 4 City Council shall review the previous year's assessment criteria, process and instrument for the current year. The instrument may be adjusted to include assessment of special projects or assigned issues that may arise from time to time.

- 5 City Council shall determine whether and how to include the use of 360-degree input into the process. Council shall determine the sources of input into the 360-degree instrument. All of the input shall be kept completely confidential and may be provided anonymously with the permission of the participant. The facilitator shall prepare a 360-degree assessment instrument to complement the main assessment instrument. Council will determine to what degree the entire 360 feedback is used.
- 6 The information shall be consolidated and composite results shall be shared with City Council in March. At this point the CAO shall not receive any of the input.
- 7 An in-camera meeting shall be scheduled with City Council to arrive at a consensus that will become the official evaluation.
- 8 The document shall be signed by all members of Council and presented to the CAO by the end of March.
- 9 City Council and the CAO shall subsequently discuss the feedback at an in-camera meeting to enable complete feedback.
- 10 To complete the process:
 - a) The CAO shall respond in writing to Council with respect to the feedback.
 - b) CAO's Comments:
 - c) The CAO shall be requested to sign the evaluation and the original kept on file by the Director of Human Resources with copies to Council and the CAO.
 - d) City Council shall subsequently determine any CAO's remuneration adjustments based on economic conditions, benchmark data, performance and any other factors.

Source: City of St. Albert Policy C-CAO-14

2. MUNICIPAL MANAGER BYLAW

BEING A BYLAW TO ESTABLISH AND DEFINE THE POWERS AND DUTIES OF THE MUNICIPAL MANAGER

WHEREAS Section X of the [Name of] Act requires that Council establish a position of chief administrative officer by bylaw; AND WHEREAS Council wishes to delegate certain powers to the chief administrative officer.

The Council of the [name of municipality], duly assembled, hereby ENACTS AS FOLLOWS:

Title

1. This Bylaw may be referred to as the “Municipal Manager Bylaw.”
Definitions

2. In this Bylaw:

- a) “Act” means the [Name of] Act;
- b) “Administration” means the general operation of the municipality, including personnel, financial and other related matters as permitted by the Act;
- c) “Municipality” means the municipal corporation of [name];
- d) “Municipal Assessor” means the designated officer position created under The Municipal Assessor Bylaw and the individual appointed to that position;
- e) “Municipal Manager” means the chief administrative officer of the [name of municipality];
- f) “Council” means the municipal council of the [name of municipality];
- g) “Senior Leadership Team” means the group of senior managers employed by the municipality so designated by the Municipal Manager.

Office

3. The position of Chief Administrative Officer is hereby created and the person appointed to that position shall have the title “Municipal Manager”.

Appointment

4. (1) Council will, by resolution, appoint an individual to the position of Municipal Manager.
(2) Council will establish the terms and conditions of the appointment of the Municipal Manager including:
 - a) the term of the appointment; and
 - b) the salary and benefits to be paid or provided to the Municipal Manager, which may be varied from time to time by Council.

Accountability

5. (1) The Municipal Manager shall be accountable to Council for the exercise of all the powers, duties and functions delegated to the Municipal Manager by the Act, this Bylaw, any other enactment, any other bylaw, and any resolutions, policies or procedures adopted by Council from time to time whether such powers, duties and functions are exercised by the Municipal Manager personally, or by someone to whom the Municipal Manager has delegated that power, duty or function.
(2) The Municipal Manager shall carry out his or her powers, duties and functions in compliance with:
 - a) the Act;
 - b) this Bylaw;
 - c) any other enactment;
 - d) any other bylaw, resolution, policy or procedure passed or adopted by Council; or
 - e) any contract binding on the Municipality.

General Powers and Duties

6. (1) The Municipal Manager has:
 - a) all of the powers, duties, and functions that are given to a Chief Administrative Officer under the Act or any other enactment;
 - b) all of the powers, duties and functions that are given to a designated officer under the Act, or any other enactment, except for the designated officer powers, duties and functions expressly given to the Municipal Assessor; and
 - c) all the powers, duties and functions delegated to the Municipal Manager by Council in this or any other bylaw, resolution, policy or procedure.
 (2) The Municipal Manager shall:
 - a) be the contact between the Administration of the Municipality and Council and communication from the Administration to Council shall flow through the Municipal Manager;
 - b) be responsible for advising on and communicating with Council with respect to:
 - (i) the operations of the Municipality,
 - (ii) the financial state of the Municipality,
 - (iii) Council policies and procedures, and
 - (iv) Administrative policies and procedures;
 - c) prepare and submit to Council such reports, including recommendations where appropriate, and answer such inquiries, as required by Council; and
 - d) attend all Council meetings and the meetings of such other boards, authorities or other bodies as might be required by Council.
 (3) The Municipal Manager must either personally carry out all of the powers, duties and functions that are given to the Municipal Manager or delegate such powers, duties and functions to a designated officer of the Municipality or to a Municipal employee.
 (4) The Municipal Manager has the authority to delegate any of the powers, duties and functions given to the Municipal Manager and can authorize the recipients of such delegations to further delegate their powers, duties and functions to other Municipal employees.

FOIP Head

7. The Municipal Manager is the Head of the Municipality for the purposes of the Freedom of Information and Protection of Privacy Act, R. S. A. 2000 c. F-25.
 Royal Canadian Mounted Police
8. The Municipal Manager shall provide a liaison between the Municipality and the Commanding Officer of the R.C.M.P. Detachment for [name of Municipality].
 Administration
9. (1) The Municipal Manager shall be responsible for directing the Administration.

(2) The Municipal Manager has the authority to:

- a) establish Administrative policies and procedures and in particular employment policies and procedures including policies and procedures to govern the actions of employees;
- b) hire, appoint, suspend, remove or terminate any employee from any position in the Municipality;
- c) direct, supervise and review the performance of the Administration; and

- d) establish the structure of the Administration including creating, eliminating, merging or dividing departments provided that any such reorganization does not result in a decreased level of services to the community.
- (3) The Municipal Manager shall report to Council on any changes to the structure of the Administration.
- (4) The Municipal Manager shall, subject to the directions and approval of Council, negotiate all collective agreements with Municipal employees.
- (5) The Municipal Manager shall be responsible for ensuring that members of the Senior Leadership Team are familiar with the duties and responsibilities of the Municipal Manager, Council processes and procedures, issues being addressed by Council and issues of concern to the Municipality.

Financial Powers and Functions

- 10. (1) The Municipal Manager shall:
 - a) annually, or as required or directed by Council, prepare and submit budgets to Council for operating and capital programs in accordance with the Act; and
 - b) monitor and report to Council as required or directed by Council, on the operating and capital budgets approved by Council and in particular report on variances between budgeted and actual expenditures.
- (2) The Municipal Manager may authorize over-expenditures within the operating or capital budgets.
- (3) Notwithstanding Section 10(2), at no time may the Municipal Manager authorize cumulative operating and capital expenditures in excess of the approved total operating and capital budgets.
- (4) The Municipal Manager shall designate the financial institution(s) to be used by the Municipality and shall open and close accounts that hold the Municipality's money.
- (5) The Municipal Manager is authorized to invest funds on behalf of the Municipality in accordance with the provisions of the Act.
- (6) The Municipal Manager may pay any amounts the Municipality is legally required to pay pursuant to an Order or Judgement of a Court, board or other tribunal having jurisdiction over an action, claim or demand against or by the Municipality, provided that all rights to appeal the Order or Judgement have expired.

Miscellaneous Powers

- 11. The Municipal Manager is authorized to:
 - a) retain and instruct legal counsel on matters involving any actual or potential legal and administrative proceedings involving the Municipality including, without limiting the foregoing:
 - (i) providing legal services to Council and the Administration, and
 - (ii) appearing in all legal and administrative proceedings including commencing, defending, and intervening in such proceedings to define, enforce and defend the Municipality's (and such other boards, authorities agencies and other entities as may be required by Council) legal and equitable rights;
 - (b) compromise all actions, claims or demands against or by the Municipality and complete all related documentation;
 - (c) accept service of all notices and other documents on behalf of the Municipality;
 - (d) provide any and all certificates or statutory declarations on behalf of the Municipality;
 - (e) temporarily close, in whole or in part, any road at any time where construction or maintenance activity adjacent to the road may cause a hazard;
 - (f) prepare and issue distress warrants and seize and sell goods pursuant to distress warrants on behalf of the Municipality for the recovery of tax arrears;

- (g) carry out inspections, remedies, enforcement or other actions pursuant to the Act, any other enactment, or any bylaw where the Act or any other enactment or bylaw authorizes or requires anything to be inspected, remedied, enforced or done by the Municipality;
- (h) make determinations and issue orders pursuant to the Act or any other statute, enactment or bylaw which the Municipality is authorized to enforce including without limitation, matters related to dangerous or unsightly property;
- (i) provide administrative support to the Subdivision and Development Appeal Board and Municipal Planning Commission of the Municipality;
- (j) extend the time for endorsement of subdivision plans and for the registration of the subdivision plans in accordance with the Act;
- (k) sign:
 - (i) along with the person presiding at the meeting, all minutes of Council meetings,
 - (ii) along with the Mayor, all bylaws, and
 - (iii) along with the Mayor or any other person authorized by Council, agreements and cheques and other negotiable instruments;
- (l) revise bylaws in accordance with the Act;
- (m) consolidate bylaws, including the preparation of administrative consolidations; and
- (n) ensure the sufficiency of any petitions that may be submitted to the Municipality in accordance with the requirements of the Act.

Indemnification

12. The Municipality shall indemnify the Municipal Manager provided that the Municipal Manager was acting in good faith to carry out the powers, duties and functions given to the Municipal Manager by this Bylaw, the Act, any other enactment, any other bylaw, resolution, policy or procedure.

Interpretation

13. Any reference in this Bylaw to the Act, any other enactment, any other bylaw, resolution, policy or procedure shall include all amendments thereto, all regulations and orders thereunder and any successor thereto.

Conflict

14. In the event that the provisions of this Bylaw conflict with the provisions of any other bylaw, this Bylaw shall prevail.

Source: City of St. Albert Bylaw 13/2002

3. MUNICIPAL MANAGER DELEGATIONS BYLAW

Purpose

To delegate specific authorities and matters to the Municipal Manager, and to establish limits on those delegations where necessary. This Policy provides additional delegations to the Municipal Manager to supplement the Municipal Manager Bylaw.

Policy

As authorized by provincial legislation, Council may delegate certain responsibilities and authorities to the Municipal Manager, in the spirit of maintaining Council's ability to govern the municipality and maximizing the Municipal Manager's ability to administer the municipality effectively and efficiently.

Therefore, in addition to the responsibilities and authorities provided to the Municipal Manager within the [name of Municipality] Municipal Manager Bylaw, or other policies or bylaws duly authorized by Council, the Municipal Manager shall be delegated certain authorities.

Standards

1. Organizational Responsibility

- a) The Municipal Manager shall promptly address any practice, activity, decision, or organizational circumstance that is discovered to be either unlawful, imprudent, or in violation of commonly accepted business and professional ethics.

2. Resident, Client, Customer and Supplier Relations

- a) With respect to interactions with residents, clients, customers and suppliers, the Municipal Manager shall address any known conditions, procedures, or decisions that are unsafe, undignified, unnecessarily intrusive, or that fail to provide appropriate confidentiality or privacy.
- b) The Municipal Manager shall:
 - i. Use methods of collecting, reviewing, transmitting, or storing information that protect against improper access to or disclosure of the material elicited.
 - ii. Provide a reasonable level of privacy for residents, clients, customers, suppliers, and employees.
 - iii. Make available information on the bylaws, policies and processes regarding the delivery of municipal services, including the grievance procedures.
 - iv. Provide advice which is beneficial to the community and the Corporation.
 - v. Respond to inquiries and requests for information on behalf of the Municipality, including stating the Municipality's position, subject to any Council policy, procedure, standard or guideline, or as otherwise directed by Council.
 - vi. Address matters of public interest upon being made aware of such by a member of the public, Administration, or Council.

3. Human Resources

- a) With respect to the treatment of paid and volunteer staff, the Municipal Manager shall ensure that organizational conditions support a rewarding, enriching and learning work environment for employees, and that conditions are as safe, fair and dignified as possible.
- b) The Municipal Manager shall:
 - i. ensure that written personnel policies exist in areas that include but are not limited to:
 - employment hiring and separation;
 - harassment;
 - nepotism;
 - preferential treatment in the workplace;
 - safety;
 - training and development;
 - expression of ethical dissent (i.e., where employees refuse to carry out an action due to personal ethics or beliefs);
 - conflict resolution;
 - celebration of success and recognition of performance.
 - ii. inform staff about their rights under this policy.

4. Financial Planning and Budgeting

- a) Financial planning for any fiscal year or the remaining part of any fiscal year shall be materially consistent with Council's policies, priorities and strategic plan, minimize fiscal jeopardy, and be consistent with multi-year business/financial plans.
- b) The Municipal Manager shall ensure recommended budgeting:
 - i. contains sufficient information to enable:
 - credible projection of revenues and expenses;
 - separation of operational, capital and utility items;
 - adequate cash flow projections;
 - disclosure of key planning assumptions or to carry out critical impact analysis.
 - ii. does not negatively impact future budget years without informing Council prior to budget approval;
 - iii. does not provide for the incurrence of debt that places the corporation beyond provincial and/or corporation debt guidelines without Council approval.

5. Financial Conditions and Activities

- a) The Municipal Manager shall protect the Municipality from fiscal jeopardy and shall make certain that actual expenditures do not deviate materially from Council's priorities established in the Municipality's Business Plan and the budget.

b) The Municipal Manager shall:

- i. settle and properly account for payroll and debts in a timely manner;
- ii. pursue receivables responsibly;
- iii. provide quarterly financial reports to Council;
- iv. file all tax payments or other government-ordered payments or filings accurately and in a timely manner.

c. The Municipal Manager may:

i. Approve and enter into revenue contracts provided that the anticipated annual revenue to the Municipality does not exceed \$100,000.

ii. Approve and enter into contracts for the supply of goods or services provided that the total value of the contract does not exceed \$100,000 in value. If the total value of the contract exceeds \$100,000 the contract may only be approved by the Municipal Manager if:

- funds for the deliverable goods or services are in an approved budget for the first fiscal year during which the contract is in effect;
- the contract has been subject to a competitive bid process;
- the contract is to be awarded to the lowest qualifying bid or best evaluated bid;
- the contract approval is in accordance with legislation and trade agreements, and approved policies, procedures, standards or guidelines.

iii. Approve and enter into contracts for professional services provided that the total value of the contract does not exceed \$100,000. If the total value of the contract for the professional services exceeds \$100,000 , but is less than \$1,000,000, the contract may only be approved by the Municipal Manager if:

- the professional services are required as part of a larger capital project approved by Council;
- the contract has been subject to a competitive bid process;
- the contract is to be awarded to the lowest qualifying bid or highest evaluated bid;
- funds for the deliverable professional services are in an approved budget for the first fiscal year during which the professional services contract is in effect;
- the contract approval is in accordance with legislation and trade agreements, and approved policies, procedures, standards or guidelines.

iv. Approve and execute sole-source contracts, not related to the acquisition or disposition of land or an estate or interest in land, provided that the expenditure or fixed revenue of each sole source contract does not exceed \$100,000.

v. Prepare and award all tenders where the expenditure is included in and does not exceed an approved budget, and approve and execute contracts required for the completion of such tenders in accordance with legislation and trade agreements and approved policies, procedures, standards or guidelines.

vi. Approve change orders related to budgeted projects, within the original project scope, provided that the adjusted cost of the project remains within the approved budget amount.

vii. At times, throughout the budget period, opportunities arise to change the original scope of a project due to:

- i. lower tender results from budget;
- ii. additional funding from unexpected revenues such as grants or contributions from agencies;
- iii. unexpected circumstances impacting completion of a project.

If the original scope or budget of an approved project changes, and the change is greater than \$20,000 and 10% of the original budget, then formal approval from Council is required. The project department will be responsible to obtain Council approval.

viii. Approve and enter into licenses, easements or encroachment agreements for use of Municipality-owned land or facilities, or for Municipal use of non-owned land or facilities, provided the term of any such agreement does not exceed five (5) years.

ix. Approve and enter into leases of Municipality-owned land and buildings if:

- selection of the tenant was based on a competitive process, or the result of a renewal of a longstanding lease with a community partner;
- the rent to be charged is at fair market value, or a rate that can be justified as being of fair value considering the intended use of the space or the offering of additional subsidies;
- the term of the lease does not exceed ten (10) years (including renewals); and
- the rent to be paid to the Municipality, excluding any amounts paid to the Municipality as a sharing of revenue earned by the lessee, does not exceed \$100,000 per year.

x. Approve and enter into leases of land and buildings for Municipal use if:

- the term of the lease does not exceed ten (10) years (including renewals); and
- funds for the payment of rent are in an approved budget for the first fiscal year during which the lease is in effect.

xi. Approve and enter into agreements required as a result of, or proposed in conjunction with, the development or subdivision of land within the Municipality including development/servicing agreements and developer contribution agreements, provided that the standard forms for such agreements, approved by Council, are utilized.

xii. Approve and enter into an agreement on behalf of the Municipality to sell real property provided that:

- the amount to be paid for the property is the highest amount offered up to the time of approval;
- the amount to be paid is equivalent to or greater than the market value of the property, which market value shall be determined on an annual basis and expressed as the range that is +/-5% of a Municipality-commissioned appraised value, which appraised value shall be reviewed as conditions warrant, consistent with [name of land transactions policy];
- the proposed use of the property is consistent with the Municipality's applicable land use bylaws and policies; and
- the amount offered does not exceed \$499,999.

xiii. Approve and execute agreements to acquire land at or below fair market value, provided that the value of the acquisition does not exceed \$499,999.

xiv. Approve emergency expenditures and advise Council as to the appropriate next steps when possible.

6. Emergency Succession

a. To protect Council from sudden loss of Municipal Manager services, the Municipal Manager shall ensure that at least two members of the Senior Leadership Team are familiar with Council and Municipal Manager issues and processes.

b. The Municipal Manager may appoint an Acting Municipal Manager to act on his or her behalf, during temporary absences.

7. Asset Protection

a The Municipal Manager shall not knowingly allow the Municipality's assets to be unprotected, inadequately maintained, or subject to unnecessary risk.

b) The Municipal Manager shall:

i. Operate with written financial policies that include but are not limited to:

- purchasing policy;
- investment policy;
- reserves policy;
- debt policy.

ii. Adequately insure against theft and casualty losses.

iii. Adequately insure against liability of Council members, staff, and the corporation itself in an amount comparable to similar municipalities.

iv. Establish policies about the handling of cash, including bonding of personnel where appropriate.

v. Limit exposure of the corporation, its Council, or staff to claims of liability.

vi. Develop policies to protect the Municipality's interest in its intellectual property.

vii. Protect information and files from loss or significant damage.

viii. Receive, process, or disburse funds under controls that are sufficient to meet the generally accepted auditing standards.

ix. Engage in activities that maintain or enhance the corporation's public image or credibility.

c) The Municipal Manager may enter into agreements necessary to provide insurance coverage and performance bonds for the Municipality.

8. Compensation and Benefits

a) With respect to employment, compensation, and benefits to employees, consultants, contract workers, and volunteers, the Municipal Manager shall maintain the Municipality's fiscal integrity, reputation, and/or public image.

- b) The Municipal Manager shall not:
 - i. change his or her own compensation and benefits;
 - ii. promise or imply permanent or guaranteed employment;
 - iii. establish current compensation and benefits that deviate materially from the geographic or professional market for skills employed.
- c) The Municipal Manager may set hours of work and other working conditions for Municipal employees, within approved budgets and Council policy / service level parameters where applicable.

9. Communication and Support to Council

- a) The Municipal Manager shall provide information required to enable Council to fulfill its obligations.
- b) The Municipal Manager shall:
 - i. Submit information required by Council in a timely, accurate, and understandable fashion, directly addressing Council policies being monitored.
 - ii. Inform Council of trends, anticipated adverse media coverage, and material external and internal changes, particularly changes in the assumptions upon which any Council policy has previously been established.
 - iii. Advise Council, if in the Municipal Manager's opinion, Council is not in compliance with its own policies, particularly in the case of Council behaviour that is detrimental to the working relationship between Council and the Municipal Manager.
 - iv. Assemble such staff and external points of view, issues, and options as may reasonably be considered necessary for fully informed Council choices.
 - v. Provide a mechanism for official Council and/or committee communications.
 - vi. Deal with Council as a whole except when:
 - fulfilling individual requests for information; or
 - responding to committees duly charged by Council.
 - vii. Report in a timely manner on actual or anticipated non-compliance with any policy of Council.
 - viii. Inform Council of an immediate need to expend funds in unforeseen and unbudgeted circumstances.

10. Global Council / Municipal Manager Relationship

- a) Council's primary role is to set policy whereas the Municipal Manager ensures the implementation of and adherence to Council policy.
- b) Council's sole official connection to the operation of the corporation will be through the Municipal Manager, unless the Municipal Manager provides written authorization for certain communications to flow directly to or from other persons reporting directly or indirectly to the Municipal Manager.

11. Unity of Control

- a) Only decisions of Council are binding on the Municipal Manager, subject to the following:

i. If authorized by Council, decisions or instructions of individual Council members or committees are binding on the Municipal Manager.

ii. In the case of Council members or committees requesting information or assistance with Council authorization, the Municipal Manager shall comply with such requests.

12. Accountability of the Municipal Manager

a) The Municipal Manager is accountable to Council for the conduct and performance of all staff.

13. Policy Review

a) Council shall review this policy, at minimum, every four years from the date of its last revision.

Legal References: Municipal Government Act; Freedom of Information and Protection of Privacy Act ; Charter of Rights and Freedoms; Employment Standards Code; Labour Relations Code; Municipal Manager Bylaw 13/2002

Source: City of St. Albert Bylaw C486-2001 0