

MUNICIPAL DISTRICT OF PINCHER CREEK No. 9

BYLAW NO. 1281-17

A BYLAW TO ESTABLISH A CODE OF CONDUCT FOR MEMBERS OF COUNCIL AND COUNCIL APPOINTED COMMITTEES.

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 Municipality of Pincher Creek No. 9 and the individuals Council appoints to various Council Committees who are not councillors;

AND WHEREAS the establishment of a code of conduct for members of Council and appointees to Council Committees is consistent with the principles of transparent and accountable government;

AND WHEREAS a code of conduct ensures that members of Council and appointees to Council Committees share a common understanding of acceptable conduct extending beyond the legislative provisions governing the conduct of councillors;

NOW THEREFORE the Council of the Municipality of Pincher Creek No. 9 in the Province of Alberta, duly assembled, enacts as follows.

1. Short Title

- 1.1. This Bylaw may be referred to as the “Council and Council Committees Code of Conduct Bylaw”.

2. Definitions

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 Municipality, comprised of the various departments and business units and including all employees who operate under the leadership and supervision of the Chief Administrative Officer (CAO);
- c) “CAO” means the Chief Administrative Officer of the Municipality, or their delegate;
- d) “Council” means the council of the Municipality;
- e) “Council Committee” means the committees, boards and other bodies established by Council;
- f) “Deputy Reeve” means the member of Council appointed by Council to act as the Reeve when the Reeve is unable to perform the duties of Reeve, or if the office of Reeve is vacant;
- g) “FOIP” means the Freedom of Information and Protection of Privacy Act, R.S.A. 2000, c. F-25, any associated regulations, and any amendments or successor legislation;
- h) “Member” means a member of Council and, unless the context provides otherwise, includes a member of a Council Committee who is not a councillor ;
- i) “Municipality” means the municipal corporation of the Municipality of Pincher Creek No. 9;
- j) “Reeve” means the chief elected official of the Municipality.

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 Municipality and a procedure for the investigation and enforcement of those standards.

4. Representing the Municipality

- 4.1. Members shall:

- a) act honestly and, in good faith, serve the welfare and interests of the Municipality as a whole;
- b) perform their functions and duties in a conscientious and diligent manner with integrity, accountability and transparency;
- c) conduct themselves in a professional manner with dignity and make every effort to participate diligently in the meetings of Council, Council Committees and other bodies to which they are appointed by Council; and
- d) 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 Municipality

- 5.1. A Member must not claim to speak on behalf of the Municipality, Council or a Council Committee, unless authorized to do so.
- 5.2. Unless Council directs otherwise, the Reeve is Council's official spokesperson and in the absence of the Reeve it is the Deputy Reeve. All inquiries from the media regarding the official Council position on an issue shall be referred to Council's official spokesperson.
- 5.3. A Member who is authorized to act as an official spokesperson must ensure that their comments accurately reflect the official position and will of Council or the Council Committee, as applicable, even if the Member personally disagrees with the official 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, a Council Committee or members of the public.

6. Respecting the Decision-Making Process

- 6.1. 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 Municipality or give direction to employees in Administration, agents, contractors, consultants or other service providers or prospective vendors to the Municipality.
- 6.2. Council Committee Members must not act beyond their mandate and the terms of reference for the Council Committee approved by Council or required by law.
- 6.3. Members shall conduct and convey Council and 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 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. 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.

- 7.2. Members shall respect the Municipality as an institution, its bylaws, policies and procedures and shall encourage public respect for the Municipality, its bylaws, policies and procedures.
- 7.3. A Member must not encourage disobedience of any bylaw, policy or procedure of the Municipality in responding to a member of the public, as this undermines public confidence in the Municipality and in the rule of law.

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

- 8.1. 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 interest.
- 8.2. Members shall treat one another, employees of the Municipality and members of the public with courtesy, dignity and respect and without abuse, bullying or intimidation.
- 8.3. No Member shall use indecent, abusive, or insulting words or expressions toward another Member, any employee of the Municipality or any member of the public.
- 8.4. 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.
- 8.5. Members shall respect the fact that employees in Administration work for the Municipality as a corporate body and are charged with making recommendations that reflect their professional expertise and a corporate perspective and that employees are required to do so without undue influence from any Member or group of Members.
- 8.6. Members must not:
 - a) involve themselves in matters of Administration, which fall within the jurisdiction of the CAO;
 - b) use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any employee of the Municipality with the intent of interfering in the employee's duties; or
 - c) maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of employees of the Municipality.

9. Confidential Information

- 9.1. 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.
- 9.2. Members shall refrain from disclosing or releasing any confidential information acquired by virtue of their office except when required by law or authorized by Council to do so.
- 9.3. No Member shall use confidential information for personal benefit or for the benefit of any other individual organization.

10. Conflicts of Interest

- 10.1. 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.
- 10.2. 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 or associates, business or otherwise.
- 10.3. Members shall approach decision-making with an open mind that is capable of persuasion.
- 10.4. 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.

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.

12. Use of Municipal Assets and Services

12.1. Members shall use municipal 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;
- b) electronic communication devices, including but not limited to desktop computers, laptops, tablets and smartphones, which are supplied by the Municipality 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. Orientation and Other Training Attendance

13.1. Every Member of Council must attend the orientation training offered by the Municipality within 90 days after the Member of Council takes the oath of office. Attendance at additional training sessions throughout the Council term is discretionary.

14. Remuneration and Expenses

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

14.2. 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 in gratitude for influence, to induce influence, or otherwise to go beyond the necessary and appropriate public functions involved.

15.2. Gifts received by a Member on behalf of the Municipality as a matter of official protocol which have significance or historical value for the Municipality shall be left with the Municipality.

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 who has identified or witnessed conduct by a Member that the person 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 Reeve to assist in informal discussion of the alleged complaint with the Member in an attempt to resolve the issue. In the event that the Reeve is the subject of, or is implicated in a complaint, the person may request the assistance of the Deputy Reeve.

- 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 Process

- 18.1. Any person who has identified or witnessed conduct by a Member that the person reasonably believes, in good faith, is in contravention of this Bylaw may file a formal complaint in accordance with the following procedure:
- a) all complaints shall be made in writing and shall be dated and signed by an identifiable individual;
 - b) all complaints shall be addressed to Council, attention of the Reeve, or, if the Reeve is the subject of, or is implicated in a complaint, to the attention of the Deputy Reeve;
 - c) the complaint must set out reasonable and probable grounds for the allegation that the Member has contravened this Bylaw, including a detailed description of the facts, as they are known, giving rise to the allegation;
 - d) if 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 submitted to Council;
 - e) upon receipt of a complaint under this Bylaw, Council shall meet, in closed session, excluding the Member concerned, and decide whether to proceed to investigate the complaint or not. 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 conducting an investigation, Council 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 shall be notified of Council's decision;
 - f) if Council decides to investigate the complaint, Council shall take such steps as it may consider appropriate, which may include hiring a third party investigator and seeking legal advice. All proceedings of Council regarding the investigation shall be confidential;
 - g) a Member who is the subject of an investigation shall be afforded procedural fairness, including an opportunity to respond to the allegations before Council deliberates and makes any decision or any sanction is imposed;
 - h) a Member who is the subject of an investigation is entitled to be represented by legal counsel, at the Member's sole expense.

19. Compliance and Enforcement

- 19.1. Members shall uphold the letter and the spirit and intent of this Bylaw.
- 19.2. Members are expected to co-operate 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;
- 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;
- i) 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. 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.

READ a first time this 28th day of August, 2018.

READ a second time this 28th day of August, 2018.

READ a third and finally passed this 28th day of August, 2018.



REEVE



CHIEF ADMINISTRATIVE OFFICER
(CAO) Sheldon Steinke, CLGM