

THE COUNTY OF VERMILION RIVER IN THE PROVINCE OF ALBERTA

BYLAW 19-01

Being a Bylaw to establish a Code of Conduct for Councillors of the County of Vermilion River

WHEREAS pursuant to Section 146.1 (1) of the Municipal Government Act, R.S.A., 2000, Chapter M-26, as amended from time to time, a Council must, by Bylaw, establish a code of conduct governing the conduct of Councillors;

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

AND WHEREAS a code of conduct ensures that a common basis of understanding for acceptable conduct is established for Councillors beyond the statutory provisions governing the conduct of councillors.

NOW THEREFORE the Council of the County of Vermilion River, in the Province of Alberta, duly assembled, enacts as follows:

1. BYLAW TITLE

1.1 This Bylaw is known as the "Council Code of Conduct Bylaw".

2. DEFINITIONS

2.1 In this Bylaw, unless the context otherwise requires or as defined by the Act:

- i. "Act" means the *Municipal Government Act*, R.S.A. 2000, c.M-26, and its associated regulations, as amended from time to time;
- ii. "Administration" means the administrative and operational staff of the County of Vermilion River;
- iii. "Chief Administrative Officer" hereinafter referred to as the CAO, means the person appointed by Bylaw, or their

designee, for the County of Vermilion River pursuant to section 205 of the Act;

- iv. "Closed Session" means a portion of a meeting closed to the Public in accordance with the Act and Freedom of Information and Protection of Privacy Act;
- v. "Committee" means a Council committee, board, commission, or other body established by Council under the Act;
- vi. "County" means the County of Vermilion River;
- vii. "Council" means all members of the County of Vermilion River Council duly elected and currently holding office;
- viii. "Councillor" means any duly elected member of Council for the County of Vermilion River including the Reeve and Deputy Reeve;
- ix. "County Property" means the County's financial and non-financial assets including but not limited to land, vehicles, equipment, electronic devices, and documents;
- x. "Confidential" means any aspect of closed session deliberations, information identified as confidential under the provisions of the Freedom of Information and Protection of Privacy Act (FOIP), and information subject to solicitor-client privilege;
- xi. "Deputy Reeve" means the Councillor elected and appointed as Deputy Chief Elected Official by Council pursuant to section 152 of the Act;
- xii. "Director" means an employee of the County of Vermilion River that reports directly to the Chief Administrative Officer and may carry some delegated or designated duties of the Chief Administrative Officer;
- xiii. "Ethics Commissioner" means the individual or body appointed by Council to receive, assess, investigate and report on complaints;

- xiv. "Executive Assistant" means an employee of the County of Vermilion River who holds the job title of Executive Assistant, reports directly to the Chief Administrative Officer, and may carry some delegated or designated duties of the Chief Administrative Officer;
- xv. "Facilitator" means a neutral third party that facilitates the complaint with the complainant and the Councillor that is the subject of the complaint.
- xvi. "FOIP" means the Freedom of Information and Protection of Privacy Act, R.S.A. 2000, c. F-25, any associated regulations, and any amendments made from time to time or successor legislation;
- xvii. "Public" means a customer, ratepayer, resident, or visitor of the County;
- xviii. "Reeve" means the Councillor elected as Chief Elected Official pursuant to section 150 of the Act; and
- xix. "Staff" is any and all employees of the County of Vermilion River.

3. GENERAL PURPOSE

3.1 The purpose of the code of conduct is to provide conduct standards for Councillors whilst performing their functions and obligations on Council and to outline a procedure for the investigation and enforcement of those conduct standards.

3.2 The code of conduct aligns with the County of Vermilion River's values of fairness, integrity, accountability, service, respect, and transparency. These values govern how Councillors conduct themselves when making decisions, and how Councillors interact with each other and the Public.

3.3 The code of conduct must:

- i. Set out clear expectations for the behavior of Councillors;

- ii. Provide information to the Public regarding the behaviour they can expect from County Councillors
- iii. Provide guidance to Councillors regarding the standard of conduct they are expected to exercise in their duties as elected officials; and
- iv. Provide a mechanism for responding to alleged breaches of this Code of Conduct.

3.4 This code of conduct is intended to supplement any other legal duties imposed on a Councillor by an enactment, Bylaw, or Council-approved policy, including:

- i. Alberta Human Rights Act; RSA 2000, c A-25.5;
- ii. Freedom of Information and Protection of Privacy Act;
- iii. Local Authorities Election Act, RSA 2000, c L-21;
- iv. Municipal Government Act; and
- v. Occupational Health and Safety Act, SA 2017, c 0-2.1.

4. Representing the County

4.1 When representing the County, all Councillors must:

- i. Conduct themselves in a professional manner and make every effort to participate diligently in the meetings of Council, committees of Council and other bodies to which they are appointed by Council;
- ii. Work for the common good of the Public while promoting the Public interest and advancing the mandate and long-term interests of the County as a whole;
- iii. Conduct Council business in an open and transparent manner that promotes Public confidence and trust, recognizing that an individual Councillor cannot exercise individual authority over County business;
- iv. Exercise their duties with care, diligence and the skill that a reasonably prudent person would exercise in comparable circumstances;
- v. Exercise their duties by placing the interests of the County ahead of their personal interests; and
- vi. Exercise their duties in an impartial manner while making objective decisions rather than subjective decisions based on bias or prejudice.

5. Communicating on behalf of the County

5.1 When communicating on behalf of the County, all Councillors must:

- i. A Councillor must not claim to speak on behalf of the Council unless authorized to do so.
- ii. Unless authorized to do so, understand and agree that the Reeve, or in their absence the Deputy Reeve, is the official spokesperson for the Council. All inquires from the media regarding an official Council position on an issue must be referred to Council's official spokesperson;
- iii. Understand and agree that in communicating with the Public, will not present their opinions and positions on issues as those of the County Council;
- iv. Understand and agree that official information related to the decisions of Council will be communicated to the community and the media on behalf of the Council as a whole.
- v. Councillors must not make a statement when they know that the statement is false and;
- vi. Councillors must not make a statement with the intent to mislead Council or members of the public.

6. Respecting the decision-making process

6.1 Decision making authority lies with Council, and not with any individual Councillor. Council may only act by Bylaw or resolution passed at a Council meeting held in public at which there is a quorum present. A Councillor must not, unless authorized by Council, attempt to bind the County or give direction to employees in Administration, agents, contractors, consultants or other service providers or prospective vendors to the Municipality.

6.2 Councillors must conduct and convey Council 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 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.

- 6.3 Councillors must 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 A Councillors will respect the County as an institution, its Bylaws, policies and procedures and must encourage public respect for the Municipality, its Bylaws, policies and procedures.
- 7.2 Not encourage disobedience of any Bylaw, policy or procedure of the County in responding to a member of the public, as this undermines public confidence in the County and in the rule of law.
- 7.3 Councillors must 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.

8. Respectful interaction with Councillors, Staff, the Public and Others

- 8.1 Councillors must treat fellow Councillors, Staff and the Public with respect and courtesy without abuse, bullying or intimidation. Councillors must not use indecent, abusive, discriminatory, or insulting words, expressions or gestures toward another Councillor, any employee of the County or any member of the public;
- 8.2 Councillors must demonstrate a high standard of personal integrity and honesty;
- 8.3 Councillors must communicate and work with fellow Councillors in an open and honest manner while promoting a spirit of cooperation through listening to and respecting those opinions that may differ;
- 8.4 Councillors must conduct themselves in a manner that reflects the separation of roles and responsibilities between Council and Administration as required under the Act;
- 8.5 Councillors must refrain from giving direction to any municipal employee or contracted resource, except through the CAO;
- 8.6 Councillors must convey all concerns or requests for action or information directly to the CAO or as permitted by this Bylaw, communicate with the Executive Assistant or a Director without

committing the County to any specific course of action, expenditure, or use of municipal resources outside of the County's established policies, procedures, or budget. The CAO reserves the right to approve a list of municipal employees that Council has permission to directly communicate with;

- 8.7 Councillors must avoid any situation in which a friendship, social relationship or social interaction with a member of staff may be seen to create undue influence, access to information, conflict of interest, or to undermine the authority of the CAO;
- 8.8 Councillors must not involve themselves in matters of Administration, which fall within the jurisdiction of the CAO as described above;
- 8.9 Councillors must not use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any employee of the County with the intent of interfering in the employee's duties;
- 8.10 Councillors must not maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of employees or other Councillors of the Municipality
- 8.11 Councillors must not express opinions on the performance of any municipal employee except for the formal CAO performance evaluation, as specifically required by the Act; and
- 8.12 Councillors must not advocate for the promotion, sanction, or termination of any municipal employee.

9. Confidential information

9.1 Confidential information includes information in the possession of, or received in confidence by, the County that the County 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 Municipality, and is generally considered to be of a confidential nature, including but not limited to information concerning:

- i. The security of the property of the Municipality;

- ii. A proposed or pending acquisition or disposition of land or other property;
- iii. A tender that has or will be issued but has not been awarded;
- iv. Contract negotiations;
- v. Employment and labour relations;
- vi. 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;
- vii. Litigation or potential litigation, including matters before administrative tribunals;
- viii. Law enforcement matters; and
- ix. Advice that is subject to solicitor-client privilege.

9.2 Councillors must Hold in strict confidence all information concerning matters deemed confidential and must not, either directly or indirectly, release, make public or in any way divulge any information which is deemed to be confidential unless expressly authorized by Council or required by law to do so; and

9.3 Swear an Oath of Confidentiality, attached hereto as Appendix "A".

10. Conflict of interest, pecuniary interest, gifts and hospitality

10.1 No Councillor shall engage in any activity which is incompatible or inconsistent with the ethical conduct of their official duties. These activities include but are not limited to:

- i. The use of any influence from their position for any purpose other than official duties;
- ii. The use of any information gained in the execution of the office that is not available to the Public for any purpose other than for official duties;
- iii. The placing of themselves in a position of obligation to any person or organization that might reasonably benefit from special consideration or may seek preferential treatment;

- iv. The influencing of any Council decision or decision-making process affecting a Councillor's family or organization in which a Councillor has a financial interest;
 - v. Councillors may accept hospitality, gifts or benefits that normally accompany the responsibilities of office and are received as the result of protocol or social obligation; and
 - vi. Gifts received by a Councillor on behalf of the County as a matter of official protocol which have significance or historical value for the County must be left with the County.
- 10.2 When exercising official duties, a Councillor must not give preferential treatment to any person or organization with the intent of advancing the Councillor's private interests or for their personal benefit.
- 10.3 It is the individual responsibility of each Councillor to seek independent legal advice, at the Councillor'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 Councillor is permitted to use the influence of their office for any purpose other than for the exercise of their official duties;
- 11.2 No Councillor is permitted to act as a paid agent to advocate on behalf of any individual, organization or corporate entity before Council or a Committee of Council or any other body established by Council;
- 11.3 Councillors must not contact or otherwise attempt to influence members of any adjudicative body regarding any matter before it relating to the County;
- 11.4 Councillors must refrain from using their positions to obtain employment with the County for themselves, family members or close associates. Councillors are ineligible to apply or be considered for any position with the County while they hold their elected position and for one year after leaving office; and
- 11.5 No Councillor is permitted to use any facilities, equipment, supplies, services, municipal logos or other resources of the County for any election campaign or campaign-related activity.

12. Use of municipal assets and services

- 12.1 Councillors must use municipal property, equipment, services, supplies and staff resources only for the performance of their duties as a Councillor, subject to the following limited exceptions:
- i. Municipal property, equipment, service, supplies and staff resources that are available to the general Public may be used by a Councillor 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;
 - ii. Electronic communication devices, including but not limited to desktop computers, laptops, tablets and smartphones, which are supplied by the County to a Councillor may be used by the Councillor for personal use, provided that the use is not for personal gain, offensive or inappropriate.

13. Orientation and other training attendance

- 13.1 Councillors must attend the mandatory orientation sessions and training opportunities for elected officials as provided post-election and during their term of office.

14. Informal complaint process

- 14.1 Any person, in good faith, who has identified or witnessed conduct by a Councillor that the person reasonably believes is in contravention of this Bylaw may address the prohibited conduct by doing the following:
- i. Advising the Councillor that their conduct violates this Bylaw and encourage the Councillor to stop; and/or
 - ii. Requesting the Reeve to assist in the informal discussion of the alleged complaint with the Councillor in attempt to resolve the issue or;
 - iii. 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.
- 14.2 Individuals are encouraged to pursue this informal complaint process as the first means of correcting conduct that they believe violates this Bylaw. However, an individual is not required to complete this

informal complaint process prior to pursuing the formal complaint process.

15. Ethics Commissioner and List of Facilitators

- 15.1 The Ethics Commissioner is appointed initially at a regular Council Meeting and once established the Ethics Commissioner will be appointed annually at the Council's Organizational Meeting.
- 15.2 The List of Facilitators is approved annually at the Council's Organizational Meeting.

16. Formal process

- 16.1 Any Councillor who allegedly has identified or witnessed conduct by a Councillor that they reasonably believe, in good faith, is in contravention of this Bylaw may file a formal complaint in accordance with the following procedure:
 - i. All complaints must be made in writing and must be dated and signed by an identifiable Councillor;
 - ii. Name the Councillor alleged to have contravened this Bylaw;
 - iii. Include the provisions of the Council Code of Conduct Bylaw allegedly contravened and the facts surrounding the allegation, including any witnesses;
 - iv. The complaint must set out reasonable and probable grounds for the allegation that the Councillor has contravened this Bylaw, including a detailed description of the facts, as they are known, giving rise to the allegation;
 - v. All complaints must be addressed to the Ethics Commissioner; and
 - vi. If the facts, as reported, include the name of one or more Councillors who are alleged to be responsible for the breach of this Bylaw, the Councillor or Councillors concerned must receive a copy of the complaint submitted to the Ethics Commissioner.
- 16.2 A complaint must be received by the Ethics Commissioner, not later than 60 days after the date the person became aware of the

conduct giving rise to the complaint. The Ethics Commissioner may use their discretion to grant extensions if:

- i. The delay occurred in good faith;
- ii. It is in the public interest to conduct an investigation or to give consideration;
- iii. Whether to conduct an investigation; and
- iv. No substantial prejudice will result to any person because of the delay.

16.3 The Ethics Commissioner upon receiving a complaint will notify Council and the CAO, via a confidential email, that a complaint has been received.

17. Assessment

17.1 On receipt of a complaint, an initial assessment will be completed. Complaints that:

- i. Are not about a current Councillor;
- ii. Allege criminal activity;
- iii. Allege a violation of the Municipal Government Act;
- iv. Allege a violation of the Freedom of Information and Protection of Privacy Act; or
- v. Are covered by other applicable legislative appeal, complaint, or court processes.

Will be immediately refused and the complainant will be advised of in writing, with reasons and provided with information regarding other options, if applicable.

17.2 If a complaint is not dismissed by the Ethics Commissioner under section 17.1, it must be referred to a Facilitator for resolution, unless the Ethics Commissioner determines that facilitation would not be appropriate and a formal investigation of the complaint is required.

17.3 Complaints accepted by the Ethics Commissioner will be investigated, however:

- i. Complaints received or under investigation within 90 days prior to a municipal election may be suspended until after election day; and

- ii. If the Ethics Commissioner determines that a complaint is frivolous, vexatious, or made in bad faith, the Ethics Commissioner will immediately dismiss the complaint.

Reporting for delayed, suspended or refused complaint

- 17.4 The Ethics Commissioner will provide a report for information to Council on any submission that is delayed, suspended or refused.
 - i. The report must summarize the submission and provide the reasons for the delaying, suspending or refusing the code of conduct complaint.
 - ii. The commissioner may also provide recommendations to council on how to address the submission.

18. Facilitation

- 18.1 The Ethics Commissioner will select the Facilitator from a pre-approved list of facilitators.
- 18.2 The Ethics Commissioner may also facilitate the complaint, if both parties consent.
- 18.3 The facilitation must be completed within 30 days upon being contacted by the Ethics Commissioner unless the parties and the Ethics Commissioner mutually agree to extend the deadline.
- 18.4 The facilitation must be conducted in a fair, timely, and confidential manner.
 - i. The Facilitator is a neutral third party that does not have decision making authority; and
 - ii. The parties to the facilitation will participate in good faith and will be responsible for determining the mutually agreed upon resolutions.
- 18.5 If a complaint is not able to be resolved through facilitation, the Ethics Commissioner will conduct a formal investigation. Formal investigations must be conducted in a fair, timely, and confidential manner that respects the principles of procedural fairness and natural justice.

Reporting

- 18.6 If a complaint is resolved, through facilitation, the Facilitator must provide a report to the Ethics Commissioner summarizing the complaint and the resolution agreed to by the parties.
- 18.7 If a complaint was not resolved through a facilitation, the Facilitator must provide a report to the Ethics Commissioner on:
- i. Summary of the complaint;
 - ii. A summary of what issues were resolved and unresolved;
 - iii. A summary of agreement on the resolved issues; and
 - iv. A summary of the positions of the parties on the unresolved issues.
- 18.8 The Ethics Commissioner upon receiving a report that there was no resolution through facilitation on a particular issue by the parties will conduct a formal investigation only on the outstanding issues that were not resolved.
- 18.9 After receiving the Facilitator's report, the Ethics Commissioner will inform Council via confidential email, of the outcome of the facilitation, including whether a formal investigation will be conducted.

19. Formal Investigation

- 19.1 Formal investigations must be conducted in a fair, timely, and confidential manner that respects the principles of procedural fairness and natural justice.
- 19.2 The complainant and respondent Councillor will receive written notice of the investigation, and the respondent Councillor will receive a copy of the complaint. Names of complainants and witnesses may be provided to the respondent Councillor if:
- i. The investigation cannot be completed without releasing the complainant's name; or
 - ii. The respondent Councillor require the name to properly respond to the allegations.
- 19.3 During an investigation, a complainant or witness may be asked to provide additional information.

- 19.4 The respondent Councillor is entitled to disclosure of all relevant information gathered during an investigation.
- 19.5 Once all relevant information has been provided to the respondent Councillor by the Ethics Commissioner, the respondent Councillor will have 15 days to respond to the complaint in writing and may provide any further information in support of their response. This deadline may be extended at the discretion of the Ethics Commissioner.
- 19.6 The Ethics Commissioner will strive to complete investigations within 90 days of the date the complaint is accepted.
- 19.7 Nothing in this Bylaw restricts the Ethics Commissioner from providing interim reports to Council on any matter relevant to a complaint, including reports of any interference, obstruction, or retaliation with an ongoing investigation.

Reporting

- 19.8 Following the investigation, if the Ethics Commissioner believes the complaint is substantiated, they must provide a report to Council. The report must contain:
- i. Summary of the complaint;
 - ii. Summary of the reasons facilitation was inappropriate to resolve the complaint;
 - iii. A summary of information gathered and conclusions made; and
 - iv. A recommended resolution, including any recommended sanctions in accordance with section 20.
- 19.9 Reports to Council from the Ethics Commissioner will be discussed in private if permitted by the Municipal Government Act.

20. Sanctions

- 20.1 Council may accept, vary, replace, or reject the recommendations of the Ethics Commissioner.
- 20.2 Council may not impose any sanction that has the effect of preventing the Councillor from fulfilling their legislated duties.

- 20.3 Council may, in accordance with the Freedom of Information and Protection of Privacy Act, direct that the details of the sanction imposed be released to the Public or remain private.
- 20.4 When imposing a sanction, including deciding whether to release the details of the sanction to the Public, Council must consider the following:
- i. The severity or consequences of the contravention;
 - ii. The consequences of the contravention;
 - iii. The principles and intent of this code of conduct;
 - iv. The Public interest; and
 - v. Whether the Councillor has previously contravened this code of conduct.
- 20.5 Nothing in this Bylaw requires Council to impose a sanction for every substantiated complaint. Contraventions that were inadvertent or made in good faith may result in no sanction being imposed.

19. COUNCIL REQUIREMENTS

- 21.1 Councillors must swear a statement to uphold the Code of Conduct, attached hereto as Appendix "C".

20. LEGISLATIVE REVIEW

- 22.1 The Council Code of Conduct Bylaw must be reviewed every four years, following a general municipal election, 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 Councillors.

ENACTMENT

SHOULD any provision of this Bylaw be determined to be invalid, then such provisions shall be severed and the remaining Bylaw shall be maintained.

THIS Bylaw shall come into force and effect upon receiving third and final reading and having been signed by the Reeve and Chief Administrative Officer.

Read a first time this _____ day of _____, 20____.

Read a second time this _____ day of _____, 20____.

Read a third time and finally passed, this _____ day of _____, 20____.

SIGNED by the Reeve and Chief Administrative Officer this ____ day of _____, 20____.

Reeve

Chief Administrative Officer