



Town of Bowden
Box 338, 2101 20th Ave
Bowden, Alberta, T0M 0K0

**Town of Bowden – Province of Alberta
COUNCILLOR CODE OF CONDUCT BYLAW
07 / 2022**

Whereas, pursuant to section 146.1(1) of the Municipal Government Act, RSA2000, Chapter M-26, a Council must, by bylaw, establish a code of conduct governing the conduct of Councillors,

And whereas, pursuant to section 153 (e.1) of the Municipal Government Act, RSA2000, Chapter M-26, Councillors have a duty to adhere to the code of conduct,

And whereas, section 7 of the Code of Conduct for Elected Officials Regulation 200/2017, requires that a Councillor Code of Conduct bylaw must receive a review and update every 4 years,

Now therefore, the Municipal Council of the Town of Bowden hereby enacts as follows:

1 SHORT TITLE

This bylaw may be known as, and cited as, the "Councillor Code of Conduct Bylaw".

2 PURPOSE

To establish standards for the ethical conduct of Councillors relating to their roles and obligations as representatives of the Municipality and procedures for the investigation and enforcement of those standards.

These standards are necessary to:

- i. build and inspire public trust and confidence in local government by upholding high standards,
 - ii. maintain public confidence in the integrity of municipal government through the provision of clear expectations of Councillors in the performance of their duties and in the communication with the community on behalf of the Council,
 - iii. promote public trust by refraining from using information in a way that would be detrimental to the community interest,
 - iv. ensure that municipal interests take priority over the individual interests of Councillors and to prevent Councillors from seeking to influence decisions for personal reasons,
 - v. protect the individual rights of Councillors as normal citizens,
 - vi. ensure that municipal decisions and policy are made in the proper manner with outcomes that can withstand challenges.
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3 DEFINITIONS

In this bylaw the following definitions apply:

Act

Means the Municipal Government Act, RSA2000, Chapter M-26 and associated regulations,

Administration

Means the operational part of the Municipality including all employees, designated officers, and persons who operate under the leadership and supervision of the CAO.

CAO (Chief Administrative Officer)

Is the person appointed by Council into the position of Chief Administrative Officer for the Town of Bowden in accordance with the MGA and is the administrative head of the Municipality (and includes any person given designated responsibilities by the CAO or by agreement or statute).

Committee

Is either a Council Committee (as designated by the Town of Bowden Council Committee Bylaw 05 / 2022) or another ad-hoc committee, body, or organization to which a Councillor is appointed.

Conflict of Interest

Means a situation in which a Councillor is involved in multiple interests, financial or otherwise, one of which could possibly corrupt the motivation or decision-making of that Councillor.

Alternatively, a situation in which a Councillor is in a position to derive personal benefit from actions or decisions made in their official capacity.

Council

Means the duly elected Municipal Council of the Town of Bowden.

Council as a Whole

Means all the Councillors that comprise the Council.

Councillor(s)

Means a member of the Town Council, elected pursuant to the provisions of the Municipal Government Act and who continue to be eligible to hold office as such under the terms of the Municipal Government Act.

Discrimination

Means differential treatment of an individual or group of individuals based on, including but not limited to, cultural background, religious belief, gender, gender identification, marital status, position, physical characteristics, and age.

Harassment

Means any unwanted physical or verbal conduct that is based on, but not limited to, cultural background, age, religion, gender, marital status, position, mental or physical disability, pardoned conviction, gender identification, or any other conduct that a reasonable person ought to have deemed as being unwelcome.

Mayor

Means the chief elected official.

MGA

Means the Municipal Government Act, RSA2000, Chapter M-26.

Municipality

Means the Town of Bowden.

Pecuniary Interest

Is as specifically defined in Division 6, sections 169 and 170 of the MGA.

Person

Means:

- a) an individual (resident / non-resident or visitor),
- b) a legal entity or business entity, including a company, developer, contractor, association, partnership, society, or corporation,
- c) unless the context otherwise requires, this does not include the Town.

Pursuant to

Means to execute, carry out or investigate an activity in accordance with the requirements of a statute, ruling, policy, order, or request.

Respect

Means consideration for self and of others. This includes consideration for other people's privacy, their physical space, and belongings and respect for different viewpoints, philosophies, physical ability, beliefs, and personality.

Town

Means the Municipal corporation of the Town of Bowden.

Words (interpretation)

- a) "may" is to be construed as permissive and empowering,
- b) "must" is to be construed as imperative,
- c) "shall" is to be construed as imperative (mandatory),
- d) "should" is to be construed as recommended,
- e) "including but not limited to" means when listing a number of items, does not limit the bylaw term to only those words or those items listed.

6 COUNCILLOR CODE OF CONDUCT

In accordance with the requirements of Section 1 of the Code of Conduct for Elected Officials Regulation 200/2017 the following topics, 6.1 to 6.10 inclusive, are included within this bylaw.

6.1 Representing the Municipality

Intent: to build and inspire public trust and confidence in local government by upholding high standards & ideals.

While carrying out their duties, Councillors must:

- i. act honestly, in good faith and in the best interest of the Town as a whole and consider the welfare and interests of the Municipality as a whole,
- ii. perform their functions and duties in a conscientious and diligent manner with integrity, accountability, and transparency,
- iii. conduct themselves in a professional manner and participate diligently in developing and evaluating the policies and programs of the Municipality,
- iv. accurately represent and respect decisions made by Council while preserving the value of fair comment and difference of opinion,

- v. attend and vote in all council meetings and council committee meetings as empowered to do so by the MGA or other enactment, unless prohibited to do so,
- vi. consider all decisions and issues thoughtfully, consistently, impartially, and fairly by considering all relevant facts, opinions, and perspectives,
- vii. exercise their duties in an impartial manner making decisions based on objective criteria rather than on the basis of bias, misinformation, or prejudice,
- viii. act in good faith with any impunity from acts of discrimination, harassment, or disrespect,
- ix. strive to conduct their private affairs in a manner that promotes public confidence

6.2 Communicating on behalf of the Municipality

Intent: To promote public confidence by respecting the process established by Council for communicating with the public on behalf of the Council or the Municipality.

6.2.1

The Mayor (or designated appointee) shall be the official spokesperson for the Municipality. No Councillor shall represent the Town or communicate its affairs to (or answer enquires from) the media or the community without consent from the Mayor (or designated appointee).

6.2.2

The Mayor (or designated appointee) shall not speak on behalf of the Council or the Municipality unless the comments accurately reflect the official position of Council as a Whole.

6.2.3

Communication regarding political matters must be directed through the Mayor and should only be those approved by Council as a whole.

6.2.4

Communication regarding matters of an administrative or operational nature must be directed through the CAO.

6.2.5

Without limiting the ability of a Councillor to hold a position on an issue and respectfully express their opinions Councillors shall:

- i. communicate respectfully with member of the public, Councillors and Town employees,
- ii. ensure their communications accurately reflect the facts of Council's decisions,
- iii. ensure that all communications are accurate, and not issue any communications that the Councillor knows, or ought to have known, to be false, or that mislead Council or the public on any matter,
- iv. present facts and information concerning Council proceedings that are in the public domain, eg: motions of Council, comments made in public meetings, facts, and recommendations in reports to open Council. Personal opinions however must be clearly identified as being those of the individual Councillor concerned when stating or posting any comment

No individual Councillor may engage in negotiations or make representations or commitments on behalf of the Town unless authorized to do so by Council.

6.2.6

With regard to the use of personal social media individual Councillors must maintain a separation between personal use and official use (and opinions).

Social media use by any individual Councillor must not adversely affect the reputation or standing of Council as a Whole.

Councillors must be aware of the consequences of using personal social networks as this may expose the Councillor to unintended and undesirable consequences.

Councillors should not respond in a non-official capacity to comments from residents (or other persons) on social media sites (including the Town of Bowden Facebook and Twitter accounts) whether these are complaints, compliments, unwarranted or false claims or service requests.

6.3 Respecting the Decision-Making Process

Intent: To support effective decision-making through the processes set out in legislation and local bylaws for making decisions.

6.3.1

Decision making authority lies with Council and not any individual member.

Council may only act by bylaw or resolution passed at a Council meeting.

6.3.2

Councillors shall:

- i. foster respect for the democratic decision-making process and work towards effective and consistent implementation of the positions and / or decisions of Council,
- ii. exercise their authority to make decisions in a manner that demonstrates fairness, respect for difference, and an intention to work together for the common good and in the public interest,
- iii. bring issues, correspondence, documents, or information to the attention of all Councillors by placing such matters on the agenda (or other means) in accordance with the Council Procedural Bylaw, any other policy, relevant procedure, or timings,
- iv. prepare for meetings by reviewing materials in advance,
- v. honour and respect any decision made and support the Council as a Whole on that decision,

6.4 Adherence to Policies, Procedures and Bylaws

Intent: To promote service of the public interest and show leadership by upholding legislation, local bylaws, and policies adopted by council.

Councillors:

- i. must abide by and uphold any duty or function, or responsibility imposed on a Councillor by Act, Regulation, Town bylaw or policy adopted by Council,
- ii. should respect and adhere to the established policies, procedures and processes implemented by Town Administration,
- iii. shall encourage public respect for (and must not undermine or subvert) the municipality, its bylaws, policies, and procedures.

Note:

Notwithstanding terms 6.4.i and 6.4.ii of this bylaw this does not in any way limit an individual Councillor's right to have and articulate a different opinion than the majority during any debate.

6.5 Respectful Interactions with Councillors, Staff, the Public and Others

Intent: To promote treatment of council members, municipal employees, and others with dignity, understanding and respect

6.5.1

Councillors must act in a manner that demonstrates fairness, respect for individual difference and opinions and an intention to work together for the common good.

6.5.2

Councillors shall conduct themselves in a professional manner within council meetings, council committee meetings, public hearings, and outside functions by observing the following code of conduct:

- i. offensive language or rude gestures are not permitted,
- ii. shouting or rising out of the chair during debate is not permitted,
- iii. physical or verbal personal attacks on fellow Councillors, Administration Staff, members of the public or the media is not permitted,
- iv. defamation (ie: an act of communication that causes someone to be shamed, ridiculed, held in contempt, or disrespected within the community or media) or discriminatory action is not permitted,
- v. behavior that will limit the right of others to express their opinion is not allowed,
- vi. a dress manner that is non-offensive, neat, clean, and appropriate for the representation of Council should be adopted,
- vii. respect for the role of the meeting Chair particularly with regard to the Chair's right to restore order and limit debate should be observed,
- viii. objections should only be raised through the appropriate process and motions,
- ix. respect for the CAO as the principal employee of the Municipality and the responsibilities of the CAO (as defined in section 207 of the MGA and Town bylaws) should be observed.

6.5.3

Councillors should recognize the different roles and responsibilities of Administration, Council, individual Councillors, and the Mayor.

6.5.4

Councillors must respect the CAO as being the principal employee of the Municipality and should not involve themselves in matters of administration that fall within the jurisdiction of the CAO (including those responsibilities of the CAO as defined within the MGA and Town bylaws).

When a Councillor is acting in the capacity of a Councillor (outside of a Council meeting) they may only make inquiries of Administration through the CAO. Any information provided to a Councillor enquiry should be provided to all of Council.

6.5.5

When a Councillor is acting in the capacity of a resident, they may approach Town Administration staff as appropriate or relevant to that matter.

6.6 Confidential Information

Intent: To promote public trust by refraining from using information in a way that would be detrimental to the public interest.

6.6.1

Councillors must:

- i. hold in strict confidence all information concerning matters deemed confidential and shall 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 as a Whole or required by law to do so,
- ii. not use confidential information for personal benefit or profit of themselves or any other person,
- iii. not communicate confidential information to anyone not entitled to receive it,
- iv. keep in confidence matters discussed in camera at a Council or Council Committee Meeting until discussed at a meeting held in public,
- v. return or destroy all confidential documents at the conclusion of an "in camera" session.
- vi. maintain the confidentiality of information in perpetuity.

Note:

Confidential information in this context means, including but not limited to, information pertaining to:

- the security or property of the Municipality,
- a proposed or pending acquisition or disposition of municipal land or property,
- a tender or contract that has or will be issued but has not been awarded,
- contract negotiations,
- draft documents, policies, reports, and legal instruments that have not been made public in open meeting of Council,
- employment and labour relations,
- law enforcement matters,
- litigation or potential litigation matters including matters before hearings, tribunals, or review bodies,
- advice that is subject to legal privilege.

6.6.2

Councillors must:

- i. exercise care in the handling of confidential information to safeguard its security,
- ii. respect the Town's obligations and rights under the Freedom of Information and Protection of Privacy Act, Revised Statutes of Alberta 2000, Chapter F-25.

In the case of information requests made under the Freedom of Information and Protection of Privacy Act the determination of whether such information should be released can only be made by the person designated as the FOIP Coordinator in the Designated Officer Bylaw.

It is an offence under the Freedom of Information and Protection of Privacy Act to willfully collect, use, or disclose personal information in contravention of Part 2 of the Act.

If a Councillor has reason to believe that confidentiality is breached, the Councillor should immediately report the breach to the Mayor or CAO.

6.7 Conflicts of Interest

Intent: To promote public trust by refraining from exploiting the position of Councillor for private reasons or that would bring discredit to the Municipality.

6.7.1

Councillors must comply with the pecuniary interest provisions pursuant to Part 5, Division 6 of the MGA.

6.7.2

Councillors should not engage in any activity which is incompatible with the ethical conduct of official duties in the public interest. These activities are, including but not limited to:

- i. use of the position of office to secure special privileges, gifts, favours or exemptions for themselves or any other person,
- ii. use any information gained in the execution of the office that is not available to the community for any purpose other than for official duties,
- iii. place themselves in a position of obligation to any person or organization who might reasonably benefit from special consideration or special treatment,
- iv. influence any Council decision involving or affecting any person or organization in which a Councillor or Councillors have a pecuniary or financial interest pursuant to Part 5, Division 6 of the MGA.

6.7.2

It is the individual responsibility of each Councillor to seek independent legal advice, at the Councillors sole expense, with respect to any matter that may result in a pecuniary or other conflict of interest, if necessary.

6.8 Improper Use of Influence

Intent: To promote the priority of municipal interests over the individual interests of Councillors and to refrain from seeking to influence decisions for personal reasons

Councillors shall not use the influence of their office or position for any other purpose other than for the exercise of their official duties.

Councillors must:

- i. not act as a paid agent (or sell their vote) to advocate on behalf of any person before Council, or a committee of Council or any other body established by Council,
- ii. not receive or provide any preferential treatment to another person,
- iii. not influence any judicial or regulatory body whose members are appointed (in full or part) by Council for example, review boards or appeal boards,
- iv. not solicit, demand, or accept the services of any Municipal employee or contracted resource,
- v. avoid any situation in which a friendship or social relationship or social interaction with a member of the Town Administrative staff may be seen to create undue influence, access to information, conflict of interest or that which undermines the authority of the CAO.

6.9 Use of Municipal Assets and Services

Intent: To promote stewardship and public trust by refraining from the use of Municipal assets or resources for personal reasons

6.9.1

Councillors:

- i. shall only use municipal intellectual property, property, equipment, services, supplies, resources for the performance of their duties as a Councillor,
- ii. as individuals, do not have the authority to make any contractual, financial, or legal commitments on behalf of the Municipality,
- iii. will return any property, equipment, services, or supplies prior to the end of their term of office.

6.9.2

Notwithstanding section 6.9.1 municipal intellectual property, property, equipment, services, supplies, and resources that are available to the general public may be used by a Councillor for personal use subject to the same terms and conditions as members of the general public including booking and payment of the applicable fees or charges.

6.10 Orientation and Other Training Attendance

Intent: To promote effective leadership and personal development.

Councillors must:

- i. attend approved education programs & training opportunities that are required by enactment.
- ii. attend any other training organized at the direction of Council as a Whole.

7 COMPLAINTS

Pursuant to the requirements of Section 2 of the Code of Conduct for Elected Officials Regulation 200/2017:

Any person in good faith may report a perceived wrongdoing or make a complaint against a Councillor alleging a breach of the Councillors Code of Conduct Bylaw.

7.1

Informal Complaint Procedure

Any person who has identified or witnessed conduct by a Councillor who they believe is in contravention of this bylaw may:

- i. respectively advise the Councillor to refrain from the activity,
- ii. write a letter of complaint to the Mayor (or Deputy Mayor if appropriate) to request a meeting to resolve the issue.

7.2

Formal Complaint Process

Any person who has identified or witnessed conduct by a Councillor who they believe is in contravention of this bylaw may file a formal complaint in accordance with the following procedure:

- i. the complaint must be made in writing and must contain the complainant's name, contact details, date, and signature. The document must be addressed to the Mayor and marked as "confidential". The complaint may be mailed, or hand delivered to the Town Administration Office or emailed to the Mayor,
- ii. the complaint must set out the grounds for the allegation including a detailed description of the facts, as they are known, giving rise to the allegation.

7.3

On receipt of a complaint the Mayor (or Deputy Mayor) will review the complaint and decide whether to proceed to investigate the complaint or not.

7.4

In certain cases, as deemed necessary Council may appoint someone other than the Mayor or Deputy Mayor, to investigate the complaint for example, an independent body, an intermunicipal council committee or a lawyer.

In deciding who should investigate the complaint the Mayor may wish to consider:

- i. availability of resources / expertise,
- ii. costs,
- iii. seriousness of complaint,
- iv. degree of independence required.

7.5

An independent investigator can only make recommendations. Council reserves the right to accept, vary, replace, or reject the recommendations of any independent body or lawyer.

7.6

If it is decided to investigate the complaint:

- i. the investigator shall take such steps as deemed appropriate including seeking legal opinion and advice,
- ii. the Councillor who is the subject of the investigation will be provided with a copy of the complaint,

- iii. the Councillor who is the subject of the investigation shall be afforded procedural fairness including the opportunity to respond to the allegations,
- iv. the Councillor who is the subject of the investigation is entitled to legal advice or be represented by legal counsel, or other representation, at their own personal expense,
- vi. at the end of the investigative stage the matter must be referred to Council as a Whole for deliberation.
Council as a Whole may:
 - dismiss the complaint as invalid or unsubstantiated,
 - if deemed valid (by the majority of Council) impose sanctions as provided for in section 8 of this bylaw.

7.7

7.7.1 General Notes

- i. anonymous complaints will be considered as invalid,
- ii. all complaints will be included as an “in camera” agenda item at the next regular council meeting immediately following the date of receipt of the complaint, or by a special council meeting. The “in camera” session can only be used to review and assess the facts and thereafter to determine whether a breach of the Code of Conduct has occurred. Any decision of Council must be delivered in public as a resolution of Council.
- iii. all complaints must be kept confidential until the investigation is completed in order to protect a Councillor and the complainant,
- iv. it is not appropriate for complaints to be directed to the CAO or Administration to investigate.

7.7.2 Release of Information

- i. the results of the investigation and Council’s decision may be made public, or remain private subject to the provisions of the Freedom of Information and Protection of Privacy Act,
- ii. when deciding whether to release details to the public Council must consider the following:
 - the severity of the contravention,
 - the consequences of the contravention,
 - whether or not the contravention is a reoccurrence,
 - the principles and intent of this Code of Conduct,
 - the public interest.

8 SANCTIONS

Pursuant to the requirements of Section 5 of the Code of Conduct for Elected Officials Regulation 200/2017 sanctions may be imposed for Councillors breaching the Councillor Code of Conduct Bylaw.

8.1

Sanction imposed on a Councillor will either be in accordance with the standards established in section 5 of the Code of Conduct for Elected Officials Regulation 200/2017, or as deemed appropriate to redress the specific breach of the Code of Conduct.

Sanctions as provided by the Regulation include:

- i. a letter of reprimand addressed to the Councillor,
- ii. a request that the Councillor issues a letter of apology,
- iii. publication of a letter of reprimand or request for apology and the Councillors response,
- iv. a requirement to attend training,
- v. suspension or removal of the chief elected official (Mayor),
- vi. suspension or removal of the appointment of a Councillor as the deputy chief elected official (Deputy Mayor),
- vii. suspension or removal of the chief elected official’s presiding duties,

- viii. suspension or removal from some or all of council committees and bodies to which Council has the right to appoint members,
 - ix. reduction or suspension of remuneration corresponding to a reduction in duties.
Note: this specifically excludes the “per diems” paid as remuneration for Councillor attendance at council meetings (section 9.4.i below applies).
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9 APPLICABILITY

9.1

This Bylaw applies to all:

- i. Councillors equally in accordance with section 146.1(2) of the MGA,
- ii. members of the public appointed by Council to a Council Committee.

9.2

This Bylaw applies when representing the Town of Bowden in all forms, including but not limited to:

- i. while in attendance at meetings of Council / Council Committees / and other meetings,
- ii. while on public duty or representing the Municipality in person
- iii. while representing the Municipality by verbal communication or written correspondence (including emails).

9.3

Nothing in this Bylaw (either by inclusion or omission) exempts a Councillor from the provisions of any statutory enactment, regulation, or Ministerial Order, that places a requirement on a Councillor either individually or collectively as Council as a Whole, including but not limited to:

- i. the Criminal Code of Canada, RSC1985, C46, sections 123(1) to (3), (Municipal Corruption),
- ii. the Municipal Government Act, RSA2000, Chapter M-26, and specifically:
 - a. section 3 (a) to (d) of the MGA, (Municipal Purposes)
 - b. section 153 (a) to (f) inclusive of the MGA. (General Duties of Councillors).
- iii. the Code of Conduct for Elected Officials Regulation 200/2017.
- iv. the Local Authorities Election Act, RSA 2000, Chapter L-21.
- v. the Freedom of Information and Protection of Privacy Act, RSA2000, Chapter F-25,
- vi. the Town of Bowden Elected Officials’ Remuneration, Benefits & Expenses Policy,
- vii. any other applicable or relevant Town of Bowden Bylaw or Policy.

9.4

Notwithstanding the provisions of this Bylaw, or any sanctions imposed, a Councillor:

- i. cannot be disqualified or removed office for a breach of the Code (*section 146.1(4) of the MGA applies*),
- ii. cannot be prevented from fulfilling the legislated duties of a Councillor (*section 6 of the Code of Conduct for Elected Officials Regulation 200/2017 applies*).

9.5

Notwithstanding any of the provisions of this Bylaw:

- i. Part 5, Division 7 of the MGA provides for the Disqualification of Councillors and
- ii. Part 5, Division 8 of the MGA provides for the Enforcement of Disqualification of Councillors.

9.6

All references in this Bylaw to an act, statute, regulation, or other bylaw refer to the current version of that enactment, as amended or replaced from time to time including all successor legislation.

10 SEVERABILITY

Every provision of this Bylaw is independent of all other provisions. If any provision of this bylaw is declared invalid for any reason by a Court of competent jurisdiction, all other provisions of this bylaw shall remain valid and enforceable.

11 REVIEW

11.1

As a minimum and in accordance with section 7 of the Code of Conduct for Elected Officials Regulation 200/2017 this Bylaw must be reviewed at least once every four (4) years.

11.2

This bylaw should be reviewed at any other time that Council considers it appropriate to do so, to ensure that it remains current and accurately reflects the standards of ethical conduct expected of members (of Council).

12 BYLAW PRECEDENCE

This Bylaw supersedes and takes precedence over all previously passed Bylaws that make reference to the conduct of Councillors.

Bylaw **05-2018** and all amendments thereto are hereby repealed.

This bylaw will come into effect on the final day of passing and signature thereof.

Read a first time in open council this 12th day of September 2022,

Read a second time in open council this 11th day of October 2022,

and finally passed by unanimous consent of the Councillor's present.

Read a third time in open council this 11th day of October 2022.



Robb Stuart, Mayor



Rudy Friesen, Chief Administrative Officer