

VILLAGE OF CREMONA

BYLAW NO. 474.17

BEING A BYLAW OF THE VILLAGE OF CREMONA IN THE PROVINCE OF ALBERTA TO REGULATE THE CONDUCT OF COUNCIL.

WHEREAS Section 146.1 of the *Municipal Government Act* provides that a council must, by bylaw, establish a code of conduct governing the conduct of councillors;

WHEREAS the *Code of Conduct for Officials Regulation, AR* provides that a Code of Conduct must contain certain provisions;

WHEREAS the Village of Cremona Council recognizes that the constituents of the Village of Cremona elected Members of Council for the purpose of providing effective leadership for the Village of Cremona and its residents;

WHEREAS each individual Councillor of the Village of Cremona Council hereby commits to upholding this Code of Conduct for the purpose of ensuring that Councillors of the Village of Cremona maintain appropriate conduct when carrying out their roles as Councillors;

WHEREAS this Code of Conduct must be reviewed every four years from date of passing; and

WHEREAS the Chief Administrative Officer Bylaw is incorporated by reference into the Code of Conduct.

SHORT TITLE: This Bylaw shall be called the "Council Code of Conduct".

NOW, THEREFORE, THE COUNCIL OF THE MUNICIPALITY DULY ASSEMBLED, ENACTS AS FOLLOWS:

1.0 GUIDING PRINCIPLES

1.1 Council will review this Code of Conduct annually at the Organizational Meeting, to ensure that the Bylaw is current and remains relevant to the day to day conduct of Council and individual Councillors.

1.2 Councillors are expected to formally and informally review this Code of Conduct, and their adherence thereto on a regular and ongoing basis.

2.0 MUNICIPAL PURPOSES

2.1 The purposes of the Municipality of Cremona are to:

- a) to provide good government;
- b) to foster the well-being of the environment;
- c) to provide services, facilities or other things that, in the opinion of council, are necessary or desirable for all or a part of the municipality, and
- d) to develop and maintain safe and viable communities and
- e) to work collaboratively with neighbouring municipalities to plan, deliver and fund intermunicipal services.

3.0 DEFINITIONS

3.1 “Chief Administrative Officer” has the meaning prescribed under the Municipal Government Act, and may be referred to as the **CAO**.

3.2 “Conflict of Interest” means an occurrence where a Councillor’s personal or private interests are, or may be perceived as, influencing the Councillor on a matter of public interest before Village Council, including occurrences which may result in common law bias, including direct or indirect pecuniary interest, prejudgment, close mindedness or undue influence.

A Conflict of Interest occurrence also includes using the Councillor’s position, confidential information or Village of Cremona employees, materials, or facilities for personal or private gain or advancement or the expectation of personal or private gain or advancement. A Conflict of Interest may include advancing the interests of the Councillor’s family, friends or business associates.

3.3 “Complained of Councillor” means the councillor against whom a complaint has been made under this code of conduct. This person may be referred to as the **CC**.

3.4 “Councillor(s)” has the meaning described under the *Municipal Government Act*, including an individual elected member of the Village of Cremona Council and the chief elected official (Mayor).

3.5 “Council” means the Village of Cremona Council.

3.6 “In Camera” means "in private" meeting. It involves a confidential meeting, or a portion of a meeting, taking place with only Council members, the CAO, or any other person invited by Council, present.

3.7 “MGA” means the *Municipal Government Act*.

3.8 “Pecuniary Interest” means those occurrences as prescribed in the *Municipal Government Act*, R.S.A. 2000 Chapter M-26.

3.9 The “**Village**” means the municipality of Cremona.

4.0 CODE OF CONDUCT FOR COUNCILLORS

The Council has adopted the following principles to ensure that all Councillors act honestly, in good faith and in the best interests of the Village. The purpose of this Bylaw is to establish effective governance through proper conduct.

The Village of Cremona Councillors each agree and commit to the following rules of conduct:

4.1 To act honestly and in good faith at all times,

4.2 To engage in respectful, fulsome and healthy debate on matters in Council meetings, and subsequently, to support the decision of Council,

4.3 To respect all opinions of other Councillors,

- 4.4** To publicly express personal opinions in such a manner that maintains respect for Council, other Councillors and any decisions made by Council or a Council committee,
- 4.5** To ensure that any public statements are clearly stated to reflect the personal opinion of the Councillor, not the opinion or position of Council as a whole, unless given express written authorization by Council to represent Council's position on an issue,
- 4.6** To strictly follow the Pecuniary Interest requirements provisions of the *MGA* R.S.A. 2000 Chapter M-26,
- 4.7** To avoid occurrences which may result in a Conflict of Interest,
- 4.8** To avoid occurrences where it may be perceived that the Councillor is using their position on Council to gain a personal or pecuniary benefit,
- 4.9** To refrain from seeking the award of written service or supply contracts; to refrain applying for positions of employment with the Village, while holding the position of Councillor in order to avoid any public perception that the Councillor is using their position on Council to gain a personal or pecuniary benefit. It is acknowledged and agreed that the Village will not award any written service or supply contracts nor make offers of employment to any person who holds the position of Councillor,
- 4.10** To incur expenses in a responsible and reasonable manner,
- 4.11** To act with professionalism, and respect when interacting with other members of Council, administration, members of the public and other government officials,
- 4.12** To consider the welfare and interests of the Village as a whole, and to bring to Council's attention anything that would promote the welfare or interests of the Village,
- 4.13** To actively participate in all Council and Council committee meetings and meetings of other bodies to which they are appointed by the council in good faith,
- 4.14** To obtain information about the operation or administration of the Village from the CAO,
- 4.15** To participate generally in developing and evaluating the policies and programs of the Village,
- 4.16** To keep in confidence all matters discussed in private at a Council committee meeting until that matter is discussed at a public meeting,
- 4.17** To demonstrate fairness, accountability and open mindedness on all matters,
- 4.18** To refrain from improper use of their position as a Councillor to:
- 4.18.1** gain, or attempt to gain or advance, directly or indirectly, a personal or private interest for him/herself or another person,

4.18.2 cause, or attempt to cause, detriment to the Village, the Village Council or any individual Councillor, cause, or attempt to cause, detriment to any member of the Village administration or staff, or

4.18.3 seek personal benefit or gain from any information obtained through their position as a Councillor.

4.19 A council or a councillor must not exercise a power or function or perform a duty that is by this, or other enactment or bylaw, specifically assigned to the CAO or a designated officer. (*MGA Section 201 (2)*),

4.20 To perform any other duty or function imposed on councillors by this or any other enactment or by the council,

4.21 To promote an integrated and strategic approach to intermunicipal land use planning and service delivery with neighboring municipalities,

4.22 To participate in orientation training and other training opportunities with regard to the roles and responsibilities of Council.

4.23 Adhere to the code of conduct.

5.0 CODE OF CONDUCT IN PRACTICE

5.1 Council Decisions

5.1.1 Council meetings are the appropriate forum for healthy and fulsome debate and discussion of matters before Council,

5.1.2 All Councillors must be given a full opportunity to address issues before Council in a full, open and professional manner, to encourage and promote healthy debate of issues,

5.1.3 Council decisions are made by majority vote by the Councillors. The decision of Council must be accepted and respected by all Councillors even if some individual Councillors do not agree with the majority decision,

5.1.4 While an individual Councillor may publicly state that they did not vote with the majority of Council on an issue, this must be made in a manner that respects Council, Council's decision and other members of Council,

5.2 Councillor Expenditures

5.2.1 When incurring expenditures, Councillors shall act responsibly and respect that public monies must be used for the public good,

5.2.2 Councillors shall avoid waste, abuse and inappropriate expenditure in the use of public monies and resources,

5.2.3 Councillors shall be open and accountable with respect to all expenditures,

5.2.4 Councillors shall strictly adhere to all Village guidelines addressing expenditures and reimbursement.

5.3 Dealings with Village administration, staff and members of the public

5.3.1 Councillors shall respect the professional opinion of Village administration and staff,

5.3.2 Councillors shall not abuse relationships or dealings with Village administration or staff by attempting to take advantage of their position as Councillors. Councillors will, at all times, refrain from behaviour which may be perceived to be bullying of staff,

5.3.3 All requests for information shall be directed through the CAO,

5.3.4 Councillors may meet with the CAO at any time. However, Councillors must not meet with any staff member(s), nor discuss municipal business at any time, without the CAO present, unless authorized by the CAO.

5.3.5 Councillors will treat all people with professionalism, courtesy and respect.

5.3.6 Councillors will treat all people in good faith and without bias and shall not discriminate against any person on the basis of:

5.3.6.1 differences in personal opinions, or

5.3.6.2 race, ancestry, place of origin, colour, ethnic origin, culture, citizenship, religion, creed, language, gender, sexual orientation, age, family status, disability or occupation.

5.3.7 It is the sole responsibility of the CAO to hire, discipline, and terminate staff, and that all information pertaining to staff employment matters is confidential. No member of Council, either as an individual or as a group, shall interfere with the CAO role in the hiring, disciplinary action, or termination of any staff member, by way of coercion, persuasion, threats, intimidation, bullying, or any other form of influence. The CAO shall immediately report any incident of this nature to Council as a whole.

5.4 Pecuniary Interest

5.4.1 It is the individual responsibility of each Councillor to be aware of the Pecuniary Interest provisions and the disclosure and procedure requirements as established in *MGA*,

5.4.2 It is the individual responsibility of each Councillor to seek independent legal advice with respect to any occurrence which may result in Pecuniary Interest, at their own expense,

5.4.3 If a Councillor believes that they may have or may reasonably be perceived to have a Pecuniary Interest in a matter before Council or a Council Committee, they shall follow the Pecuniary Interest disclosure and procedure requirements as established in the *MGA* including:

5.4.3.1 Stating the general nature of their Pecuniary Interest at the meeting prior to any discussion of the matter. This will be done on every occasion that the matter arises before Council or Council committee,

5.4.3.2 Refraining from discussing the matter with Council,

5.4.3.3 Subject to 5.4.3, leaving the room in which the meeting is held prior to the matter being discussed until discussion and voting on the matter has concluded,

5.4.3.4 The decision with respect to whether or not the Councillor may have a Pecuniary Interest is the individual Councillor's decision to make, in accordance with the *MGA*.

5.4.4 Where a Councillor believes that they may have a Pecuniary Interest in a matter before Council or a Council committee, they should:

5.4.4.1 Notify the Mayor or Chair of the meeting before the matter is considered that the Councillor has a Pecuniary Interest in the matter,

5.4.4.2 Complete the "Disclosure of Pecuniary Interest" form attached as Schedule "A" prior to the consideration of the matter at the meeting. The "Disclosure of Interest" form shall be received by the Mayor or Chair of the meeting, be read into the meeting minutes and delivered by the Mayor or the Chair to the CAO or his designate. The CAO shall file and maintain the "Disclosure of Interest" forms.

5.5 Conflict of Interest

5.5.1 Receipt and giving of gifts can result in a perceived Conflict of Interest. With the exception of token and minor gifts (having an estimated value under \$50.00), Councillors shall provide a written declaration to the CAO detailing the acceptance of any gifts including estimated value and the donor of the gift, form attached as Schedule "B",

5.5.2 While token and minor gifts can be accepted by Councillors, substantial or material gifts, (over \$50.00), should either be rejected by Councillors or accepted on the condition that the gift is accepted on behalf of Council and donated to a local charity,

5.5.3 This policy does not apply to gifts donated to the Village, nor to gifts or hospitality that are normally received as a matter of protocol or social obligations that normally accompany the position of Councillor and which are not related to any particular transaction or activity of the Cremona or decision by Council,

5.5.4 Councillors shall not engage in any activity, which is incompatible or inconsistent with the discharge of a Councillor's duties and obligations as an elected official in the Village,

5.5.5 The decision with respect to whether or not the Councillor may have a Conflict of Interest is the individual Councillor's decision to make,

5.5.6 It is the individual responsibility of each Councillor to seek independent legal advice with respect to any situation that may result in a Conflict of Interest.

5.6 Use and Disclosure of Information

5.6.1 Councillors must not use information gained through their position on Council for any private or personal benefit or gain,

5.6.2 Councillors shall inform themselves of and strictly adhere to the provisions of the *Freedom of Information and Protection of Privacy Act, R.S.A. 2000, Chapter F-25* with respect to the access to, gathering, use and disclosure of information,

5.6.3 Councillors must not release, disclose, publish or comment on confidential information including any information received during an "in camera" meeting until such information is disclosed at a public meeting. This obligation continues in perpetuity,

5.6.4 Councillors must not release information that is subject to solicitor-client privilege unless expressly authorized by Council or required by law to do so,

5.6.5 Councillors must not misuse confidential information gained by virtue of their position as Councillor that is not in the public domain, including e-mails and correspondence from other Councillors or third parties, such that it may cause harm, detriment or embarrassment to the Village, Council, other Councillors, Village of Cremona administration or staff, members of the public or third parties, or such that it may create a benefit to themselves, the Village, Council, other Councillors, Village administration or staff, members of the public or third parties.

6.0 SANCTIONS FOR BREACHING THE CODE OF CONDUCT

6.1 If a Councillor fails to adhere to the Code of Conduct, any or all of the following sanctions may be imposed:

6.2.1 Letter of reprimand addressed to the councillor,

6.2.2 A request to the councillor to issue a letter of apology,

6.2.3 Publication of the letter of reprimand or request for apology and the councillor's response,

6.2.4 Require the councillor to attend training,

6.2.5 Suspension or removal of the appointment of a councillor as the chief elected official under section 150(2) of the *MGA*,

6.2.6 Suspension or removal of the appointment of a councillor as the deputy chief elected official or acting chief elected official under section 152 of the *MGA*,

6.2.7 Suspension or removal of the chief elected official's presiding duties under section 154 of the *MGA*,

6.2.8 Suspension or removal from some or all of council committees and bodies to which council has the right to appoint members,

6.2.9 Reduction or suspension of remuneration as defined in section 275.1 of the *MGA* corresponding to a reduction in duties, excluding allowances for attendance at council meetings.

This code of conduct, or sanctions imposed under this code of conduct shall not prevent any councillor from fulfilling the legislated duties of a councillor.

7.0 COMPLAINT PROCESS FOR BREACHING CODE OF CONDUCT

7.0.1 Any elector of the Village of Cremona may make a complaint alleging a breach of the code of conduct. Complaints regarding a councillor's conduct be submitted in writing to council through the CAO, using the form attached as Schedule "C",

7.0.2 Where a contravention of any provision in this Code of Conduct is alleged, Council shall, upon request of any member of Council, hold a special meeting of Committee of the Whole within 30 days of the complaint, to determine if the Council member has breached this policy. All discussions surrounding both alleged and substantiated violations of this code shall be conducted in a council meeting in a public or In-Camera meeting of Council, with the intent that the discussion shall remain confidential under the appropriate sections of the *Freedom of Information and Protection of Privacy (FOIP) Act*,

7.0.3 The CC shall be given opportunity to address Council at the meeting referred to in section 5.2, and will be provided with sufficient time to address the alleged breach of confidentiality. The CC shall be permitted to introduce evidence, including witnesses to support their position, and may be represented by legal counsel. Should the CC have legal counsel, then the Village shall have the right to legal representation. Should Council determine that a member has potentially breached the Code of Conduct, Council shall rise and report that such a determination has been made, and shall, at a special open Council session called for that purpose, pass a Resolution that shall require the member to appear before an In-camera Committee of the Whole meeting to be sanctioned,

7.0.4 The Sanction shall be ratified by Resolution at a Regular Meeting of Council,

7.0.5 All Sanctions under this By-Law shall be fair and in keeping with the severity of the infraction, giving due regard to the Councillor's previous conduct,

7.0.6 Nothing in this Section restricts or attempts to countermand a Councillor's legal right to challenge a decision by Council through established legal channels.

8.0 SEVERABILITY


8.0.1 Should any section, subsection, clause or provision of this Bylaw be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this bylaw as a whole or any part thereof, other than the part so declared to be invalid.

READ A FIRST TIME THIS 17 DAY OF OCTOBER 2017

READ A SECOND TIME THIS 17 DAY OF OCTOBER 2017

PRESENTED FOR THIRD READING THIS 17 DAY OF OCTOBER 2017

READ A THIRD TIME THIS 17 DAY OF OCTOBER 2017



(CHIEF ELECTED OFFICIAL)



(CHIEF ADMINISTRATIVE OFFICER)

SIGNATURE

The undersigned member of Council hereby acknowledges receipt of a copy of By-law 474-17, being the Mayor and Councillor's "Code of Conduct By-law".

PRINTED NAME

Signature of Member of Council

Date of Signature Acknowledgement of Receipt of Code of Conduct Bylaw

NOTE: The member of Council acknowledges that two copies of the By-law were provided to the member. One signed copy of the By-law was returned to the CAO and the duplicate copy was retained by the member of Council.

Schedule "A"

Disclosure of Pecuniary Interest Form

Name of Councillor: _____

Date of Council/Committee Meeting: _____

Agenda Item No.: _____

Agenda Item Description: _____

Describe general nature of Pecuniary Interest:

Dated this ____ day of _____, 20__.

Signature of Councillor: _____

Schedule "B"

GIFTS & GRATUITIES POLICY REGISTER

DATE: _____

GIFT GIVEN TO: _____

GIFT FROM: _____

GIFT: _____

VALUE: _____

DISPOSITION: _____

COMMENTS: _____

Signature

Mayor/Chief Administrative Officer

VILLAGE OF CREMONA

Council and Committee Member Code of Conduct Complaint Protocol

Formal Complaint Form / Affidavit

I, _____ (please print) of the Village of Cremona, in the Province of Alberta, do solemnly swear/affirm, and declare that the following contents of this affidavit as subscribed are true and correct:

Civic Address: _____,

Mailing Address: _____,

of the City/Village of _____, in the Province of _____, Postal Code _____

I have personal knowledge of the facts as set out in this Affidavit because (insert reason e.g. I work for..., I attended a meeting at which....., etc.) I have reasonable and probable grounds to believe that _____ (name of member) has contravened section(s) _____ of the Council Code of Conduct for the Village of Cremona. The particulars of which are as follows:

(Set out the statements of fact in consecutively numbered paragraphs in the space below, with each paragraph being confined as far as possible to a particular statement of fact. If you require more space please use the attached Schedule "A" form and check the appropriate box below. If you wish to include exhibits to support this complaint, please refer to the exhibits as Exhibit "A", "B", etc., and attach them to this Affidavit.)

Please see the attached Schedule "C"

This Affidavit is made for the purpose of requesting that this matter be reviewed by the Council and/or the Chief Administrative Officer of the Village of Cremona and for no other purpose.

SWORN BEFORE ME at the City/Village of _____,)

in the Province of Alberta,)

this _____ day of _____, 20 _____)

) _____

) NAME

_____))

A Commissioner for Oath in and)

for the Province of Alberta)

Note: This is a sworn (affirmed) affidavit of the deponent only. No investigation has been conducted by this authority to confirm or verify the above sworn information. The Criminal Code of Canada provides that: everyone commits perjury who, with intent to mislead, makes before a person who is authorized by law to permit it to made before him a false statement under oath or solemn affirmation by affidavit, solemn declaration or deposition or orally, knowing that the statement is false, is guilty of an indictable offence and liable to a term of imprisonment not exceeding fourteen years. (Section 131, 132), or by summary conviction (Section 134). Signing a false affidavit may expose you to prosecution under Sections 131 and 132 or 134 of the Criminal Code, R.S.C. 1985, c. C-46 and also to civil liability for defamation.

SCHEDULE "C"

Formal Complaint of the Council Code of Conduct

(if more than one page is required, please photocopy this blank page and mark each additional page as "2 of 2", "2 of 3", etc. in the top right corner.)

SWORN BEFORE ME at the City/Village of _____,)

in the Province of Alberta,)

this _____ day of _____, 20____))

)

_____)

_____)

)

NAME

)

)

A Commissioner for Oath in and)

for the Province of Alberta)