

# **Town of Shellbrook**

## **Bylaw No. 2016-07**

### **A BYLAW TO PROVIDE FOR A CODE OF CONDUCT FOR MEMBERS OF COUNCIL**

#### **STATEMENT OF PRINCIPLE**

These standards are designed to provide a reference guide and a supplement to the legislative parameters within which the members must operate encouraging high standards of conduct on the part of all municipal officials. The public is entitled to expect the highest standards of conduct from members that it elects to local government. In turn, adherence to these standards will protect and maintain the municipality's reputation and integrity.

Ethics and integrity are the core of public confidence in government and in the political process, and elected officials are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence, avoids the improper use of influence of their office and conflicts of interests, both apparent and real, and in the need to uphold both the letter and the spirit of the law including policies adopted by Council and:

Members of Council must serve and be seen to serve their constituents in a conscientious and diligent manner.

Members of Council must be committed to performing their functions with integrity, avoiding the improper use of the influence of their office, and conflicts of interest, both apparent and real;

Members of Council are expected to perform their duties in office and arrange their private affairs, in a manner that promotes public confidence and will bear close public scrutiny; they are representatives of the Municipality 24/7;

Members of Council must recognize and respect that their actions within this government are taken in as transparent and accountable a manner as possible; and

Members of Council shall seek to serve the public interest by upholding both the letter and spirit of the laws of Parliament and the Saskatchewan Legislature, applicable Federal laws and municipal policy, procedures and by-laws as adopted by this Council.

Every Member of Council shall perform the duties of their position and act following the statements sworn within their declaration.

## OUTLINE OF BYLAW PROVISIONS

### Part 1 General

1. Title
2. Application
3. Definition
4. Interpretation
5. Periodic Review
6. Reliance on advice of Integrity Commissioner

### Part 2 Code of Conduct

7. Key Principles
8. Gifts and benefits
9. Reimbursable expenses
10. Support for Charities
11. Confidential Information
12. Use of municipal staff, etc.
13. Election campaigns
14. Improper use of influence
15. Business relations
16. Conduct at meetings, etc.
17. Media communications
18. Respect for the municipality
19. Respect for the workplace
20. Conduct respecting staff
21. Employment of relatives
22. Reprisals and obstruction

### Part 3 Complaints

23. Informal complaint procedure
24. Formal request for investigation
25. Initial complaint classification
26. Frivolous complaints
27. Investigation
28. Investigation report
29. Council review
30. Confidentiality

### Part 4 Amendments to other Bylaws and Coming into Force

31. Coming in force

### Appendix "A" Request for Investigation Form

## **Part 1** **General**

### **Title**

1. This Bylaw may be cited as *The Code of Conduct Bylaw*.

### **Application**

2. This bylaw applies to the Mayor and all Members of Council and operates together with and as a supplement to the applicable common law and the following statutes and any regulations or other delegated legislation made pursuant to them:

- a. *The Municipalities Act*;
- b. *The Local Government Election Act*;
- c. *The Local Authority Freedom of Information and Protection of Privacy Act*; and
- d. *The Criminal Code*.

### **Definitions**

#### **3. In this bylaw:**

- a. any words and terms that are defined in *The Municipalities Act* have the same meanings as in that Act;
- b. "CAO" means Chief Administrative Officer
- c. "child" means a child born within or outside marriage and includes an adopted child and a person whom a member has demonstrated a settled intention to treat as a child of his or her family;
- d. "civil" means sufficiently observing or befitting accepted social usages; not rude;
- e. "Employee(s)" means direct employees of the Town of Shellbrook whether full-time, part-time, contract (including employees of staffing agencies) or casual (including students and volunteers).
- f. "information" includes a record or document;
- g. "Integrity Commissioner" means the legal counsel for the municipality appointed by the Administrator to fulfill the duties and responsibilities assigned to that office pursuant to this bylaw;
- h. "Member of Council" means the Mayor and all councilors, individually or collectively;
- i. "Municipality Property" includes real property (such as land or interests in land), personal property (such as goods and equipment), and other property interests of any kind.
- j. "parent" means a person who has demonstrated a settled intention to treat a child as a part of his or her family whether or not that person is the natural parent of the child;
- k. "person" includes a corporation, partnership, association and any other entity, as the context allows;
- l. "spouse" means a person to whom a person is married or with whom the person is living in a conjugal relationship outside marriage
- m. "staff" includes the Administrator and all non-union and union staff of the municipality, whether full-time, part-time, contract, seasonal or volunteers.

### **Interpretation**

4. This bylaw is to be given a broad, liberal interpretation in accordance with

applicable legislation and the definitions set out in it.

**Periodic review**

5. As a living document the Code of Conduct will be brought forward for review at the end of each term of Council, when relevant legislation is amended, and at other times when appropriate to ensure that it remains current and continues to be a useful guide to Members of Council.

**Reliance on advice of Integrity Commissioner**

6. Where a Member of Council discloses all known facts to the Integrity Commissioner and as long as those facts remain unchanged, the Member may rely on written advice provided by the Integrity Commissioner and the Integrity Commissioner is bound by the advice given, in the event that he or she is asked to investigate a complaint.

## **Part 2**

### **Code of Conduct**

**Key principles**

7. The following key principles underlie the Code of Conduct:
  - a. Members of Council shall serve and be seen to serve their constituents in a conscientious and diligent manner;
  - b. Members of Council are committed to performing their functions with integrity and to avoiding the improper use of the influence of their office and private conflicts of interest, both apparent and real;
  - c. Members of Council shall not extend, in the discharge of their official duties, preferential treatment to Family Members, organizations or groups in which they or their Family Members have a direct or indirect pecuniary interest;
  - d. Members of Council are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny;
  - e. Members of Council shall not contract with the municipality or any agency of the municipality for the sale and purchase or rental of supplies, material or equipment;
  - f. Members of Council, while holding public office, shall not engage in the management of, or profit directly or indirectly from, a business that does contract or has contracted with the municipality, but may hold office or a directorship:
    - i. in an agency, board, commission or corporation to which the Member has been appointed by the Council or by the federal or provincial government; or

- ii. in a charitable, service or other not-for-profit corporation, as long as the Member discloses all material facts to the Integrity Commissioner and obtains a written opinion from the Integrity Commissioner approving the activity;
- g. Members of Council shall seek to serve the public interest by upholding both the letter of the law and the spirit of applicable federal, provincial and municipal laws;
- h. Members of Council shall respect the role of staff in the administration of the business affairs of the municipality.

**Gifts and benefits**

8(1) No Member of Council shall accept a fee, advance, cash, gift, gift certificate or personal benefit that is connected directly or indirectly with the performance of his or her duties of office, except for the following:

- (a) compensation authorized by law;
- (b) gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- (c) services provided without compensation by persons volunteering their time;
- (d) a suitable memento of a function honoring the Member of Council;
- (e) food, lodging, transportation and entertainment provided by another government or by a conference, seminar or event organizer where the Member of Council is either speaking or attending in an official capacity at an official event;
- (f) food and beverages consumed at banquets, receptions or similar events;
- (g) communication to the offices of a Member of Council, including subscriptions to newspapers, and periodicals; and
- (h) sponsorships and donations for community events organized or run by a Member of Council or by a third party on behalf of a Member of Council.

(2) No Member of Council shall accept the use of property or facilities, such as a vehicle, office or vacation property, at less than fair market value.

(3) A fee or advance paid, or a gift or benefit provided, with the Member's knowledge to a Family Member is deemed to be a gift to the Member of Council.

**Reimbursable expenses**

9 Members of Council may claim reimbursement by the municipality for the following expenses:

- (a) expenses incurred by Members of Council for an official duty or function that are

modest and represent the prudent use of public funds and do not involve the purchase of alcoholic beverages;

(b) hospitality expenses incurred by Members of Council for meetings that include:

- (i) engaging representatives of other levels of government, international delegations or visitors, the broader public sector, business contacts and other third parties in discussions on official matters;
- (ii) providing persons from national, international and charitable organizations with an understanding and appreciation of the municipality or the workings of its municipal government;
- (iii) honouring persons from the municipality in recognition of exceptional public service and staff appreciation events;
- (iv) recognition events for various agencies, boards and commissions of the municipality; or
- (v) ratepayers associations, minor league sports associations and other community groups.

#### **Support for charities**

10(1) As community leaders, Members of Council may lend their support to and encourage community donations to registered charitable, not-for-profit and other community-based groups, as long as monies raised through fundraising efforts go directly to the groups or volunteers or chapters acting as local organizers of the group.

(2) Members of Council shall not directly or indirectly manage or control any monies received relating to community or charitable organizations fundraising.

(3) Members of Council shall not solicit or accept support in any form from an individual, group or corporation, with any pending planning, conversion or demolition variance application or procurement proposal pending before Council.

(4) Nothing in this section affects the entitlement of a Member of Council to:

- (a) urge constituents, businesses or other groups to support community events put on by others in the municipality to advance the needs of a charitable organization;
- (b) play an advisory ex officio, honorary or membership role in any charitable or non-profit organization that holds community events in the municipality; or
- (c) collaborate with the municipality and its agencies, boards or commissions to hold community events.

**Confidential information**

11(1) The following are examples of the types of information that a Member of Council must keep confidential:

- (a) items under litigation, negotiation, or personnel matters;
  - (b) information that infringes on the rights of others;
  - (c) price schedules in a contract tender or request for proposal submissions if so specified;
  - (d) information defined as "personal information" under *The Local Authority Freedom of Information and Protection of Privacy Act* ;
  - (e) matters discussed in an in camera meeting.
- (2) No Member of Council shall disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except where required by law or authorized by the Council to do so.
- (3) No Member of Council shall use confidential information for personal or private gain, or for the gain any other person or entity.
- (4) Members of Council should not access or attempt to gain access to confidential information in the custody of the municipality unless it is necessary for the performance of their duties and is not prohibited by Council policy.

**Use of municipal staff, etc.**

- 12(1) No Member of Council shall use for personal purposes any municipal staff services, property, equipment, services, supplies, websites, webboards, or other municipally-owned materials, other than for purposes connected with the discharge of municipal duties.
- (2) No Member of Council shall obtain personal financial gain from the use or sale of municipally-developed intellectual property.
  - (3) No Member of Council shall use information gained in the execution of his or her duties that is not available to the general public for any purposes other than carrying out his or her official duties.
  - (4) No Member of Council shall use the services of municipal staff, or make requests for documents or information from municipal staff, unless such information is required for the purpose of carrying out his or her official duties.
  - (5) No Member of Council shall include in his or her website, newsletters, emails or other printed material, advertising of businesses in the municipality.

**Election campaigns**

- 13(1) No Member of Council shall use the facilities, equipment, supplies, services, staff, municipal logo or other resources of the municipality for any election campaign or campaign-related activities.
- (2) Members of Council shall not distribute their own newsletters in municipal facilities.
- (3) No Member of Council shall book any municipal facility for any purpose that might be perceived as an election campaign purpose.
- (4) Members of Council shall be respectful of the role of the Administrator in managing the municipal election process and shall not interfere with how the Administrator carries out these duties.
- (5) No Members of Council shall use the services of persons for campaign-related activities during hours in which those persons receive any compensation from the municipality.

**Improper use of influence**

- 14(1) No Member of Council shall use the influence of his or her office for any purpose other than for the exercise of his or her official duties.
- (2) Members of Council shall not contact members of any tribunal regarding any matter before it relating to the municipality.
- (3) Council and not individual Members of Council appropriately give direction to the municipal administration through the Administrator.

**Business relations**

- 15(1) No Member of Council shall allow the prospect of his or her future employment by a person or entity to affect the performance of his or her duties to the municipality.
- (2) No Member of Council shall borrow money from any person who regularly does business with the municipality, unless such person is an institution or company whose shares are publically traded and who is regularly in the business of lending money, such as a credit union.
- (3) No Member of Council shall act as a paid agent before Council or a committee of Council or any agency, board or committee of the municipality.
- (4) No Member of Council shall refer a third party to a person, partnership or corporation in exchange for payment or other personal benefit.

**Conduct at meetings, etc.**

- 16(1) Members of Council shall conduct themselves at Council and committee meetings with decorum.
- (2) Members shall endeavour to conduct Council business and all their duties in an



open and transparent manner, other than for those matters that are legally required to be dealt with in a confidential manner in closed session, and, in so doing, allow the public to view the process and rationale used to reach decisions and the reasons for taking certain actions.

(3) Members of Council shall make every effort to participate diligently in the activities of the committees, agencies, boards, commissions and advisory committees to which they are appointed by the municipality or by virtue of being an elected official.

(4) Members of Council shall not be absent from Council or committee meetings, or from those meetings of agencies, boards and commissions to which they are appointed by virtue of their status as a Member, without reasonable justification for more than three consecutive scheduled meetings or on a regular basis.

#### **Media communications**

17 Members of Council will accurately communicate the decisions of Council, even if they disagree with the majority decision of Council, and by so doing affirm the respect for and integrity in the decision-making processes of Council.

#### **Respect for the municipality**

18 Members of Council shall encourage public respect for the municipality and its bylaws.

#### **Respectful workplace**

19(1) All Members of Council have a duty to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment.

(2) All complaints of discrimination or harassment involving Members of Council shall be referred to the Integrity Commissioner for investigation and disposition in accordance with applicable legislation

#### **Conduct respecting staff**

20(1) No Member of Council shall compel staff to engage in partisan political activities or subject them to threats or discrimination for refusing to engage in such activities.

(2) No Member of Council shall use, or attempt to use, his or her authority for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering in staff's duties, including the duty to disclose improper activity.

(3) Members of Council shall be respectful of the role of staff to advise based on political neutrality and objectivity and without undue influence from any individual Member or faction of the Council.

(4) No Member of Council shall maliciously or falsely impugn or injure the professional or ethical reputation or the prospects or practice of staff, and all Members of Council shall show respect for the professional capacities of the

staff.

**Employment of relatives**

- 21(1) No Member of Council shall attempt to influence any municipal employee to hire or promote a relative.
- (2) No Member of Council shall make any decision or participate in the process to hire, transfer, promote, demote, discipline or terminate any relative.
- (3) No Member of Council shall attempt to use a family relationship for his or her personal benefit or gain

**Reprisals and obstruction**

- 22(1) No Member of Council shall obstruct the Integrity Commissioner in the carrying out of his or her responsibilities.
- (2) No Member of Council shall threaten or undertake any active reprisal against a person initiating an inquiry or complaint under the Code of Conduct, or against a person who provides information to the Integrity Commissioner in any investigation.
- (3) No Member of Council shall destroy documents or erase electronic communications or refuse to respond to the Integrity Commissioner.

### **Part 3 Complaints**

**Informal complaint procedure**

- 23 Any person who has identified or witnessed conduct by a member of Council that the person believes is in contravention of the Code of Conduct may address the conduct by advising the Member of Council that the conduct contravenes the Code and encouraging the Member of Council to stop.

**Formal request for investigation**

- 24(1) A request for an investigation of a complaint that a member has contravened the Code of Conduct shall be sent directly to the Integrity Commissioner by mail, email, fax or courier in the form attached as Appendix "A".
- (2) The Integrity Commissioner shall stay any investigation of any complaint received on or after August 1 in any municipal election year, until the day after the inaugural meeting of the new Council and until then, shall keep the complaint confidential.
- (3) Notwithstanding subsection (2), the Integrity Commissioner shall not stay the investigation of any complaint received at any time that a Member of Council has used municipal facilities to send emails or letters to residents of the municipality that contain information related to the election campaign of the Member of Council.

### **Initial complaint classification**

- 25(1) On receipt of a request for an investigation of a complaint, the Integrity Commissioner shall make an initial classification to determine if the matter is, on its face, a complaint with respect to non-compliance with the Code of Conduct.
- (2) If a complaint is not, on its face, a complaint with respect to non-compliance with the Code of Conduct, the Integrity Commissioner shall advise the complainant in writing as follows:
- (a) if the complaint is an allegation of a criminal nature consistent with the *Criminal Code*, the complainant shall be advised that if the complainant wishes to pursue any such allegation, the complainant must pursue it with the appropriate police force;
  - (b) if the complaint is with respect to non-compliance with *The Local Authority Freedom of Information and Protection of Privacy Act*, the complainant shall be advised that the matter will be referred for review to the Administrator;
  - (c) if the complaint is with respect to non-compliance with a more specific Council policy with a separate complaint procedure, the complainant shall be advised that the matter will be processed under that procedure; and
  - (d) in other cases, the complainant shall be advised that the matter, or part of the matter, is not within the jurisdiction of the Integrity Commissioner to process, with any additional reasons and referrals that the Integrity Commissioner considers appropriate.

### **Frivolous complaints**

26 If the Integrity Commissioner is of the opinion that a complaint is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the Integrity Commissioner shall not conduct an investigation, or, where an investigation has begun, shall terminate the investigation.

### **Investigation**

- 27(1) If a complaint is classified as being within the Integrity Commissioner's jurisdiction and not rejected under section 27, the Integrity Commissioner shall investigate the complaint.
- (2) The Integrity Commissioner shall:
- (a) serve the complaint and supporting material on the Member of Council whose conduct is in question with a request that a written response to the allegation by way of affidavit or otherwise be filed within 10 days; and
  - (b) serve a copy of the response provided upon the complainant with a request for a written reply within 10 days.
- (3) If necessary, after reviewing the written materials, the Integrity Commissioner

may speak to anyone relevant to the complaint and may enter any municipal work location.

- (4) The Integrity Commissioner shall not issue a report finding a violation of the Code of Conduct on the part of any Member of Council unless the Member has had reasonable notice of the basis for the proposed finding and any recommended sanction, and an opportunity either in person or in writing to comment on the proposed finding and any recommended sanction.

#### **Investigation report**

28(1) The Integrity Commissioner shall report to the complainant and the Member of Council no later than 90 days after receipt of the request for investigation of the complaint.

- (2) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall also report to Council outlining the findings and the terms of any settlement or recommended corrective action.
- (3) Where the complaint is dismissed, other than in exceptional circumstances, the Integrity Commissioner shall not report to Council except as part of an annual or other periodic report.
- (4) Any recommended corrective action shall be designed to ensure that the inappropriate conduct does not continue.
- (5) If the Integrity Commissioner determines that there has been no contravention of the Code of Conduct or that a contravention occurred although the Member of Council took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgment made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.
- (6) The Administrator shall present the report at the next meeting of Council.

#### **Council review**

29(1) Council shall consider and respond to an investigation report from the Integrity Commissioner within 90 days after the day the report is laid before it.

- (2) Upon receipt of recommendations from the Integrity Commissioner, Council may, in circumstances where the Integrity Commissioner has determined there has been a violation of the Code of Conduct, impose the corrective action recommended by the Integrity Commissioner.

#### **Confidentiality**

30(1) A complaint will be processed in confidence.

- (2) The Integrity Commissioner and every person acting under his or her instructions shall preserve secrecy with respect to all matters that come to his or her knowledge

in the course of any investigation except as required by law.

- (3) All reports from the Integrity Commissioner to Council will be made available to the public.
- (4) Any references by the Integrity Commissioner in an annual or other periodic report to a complaint or an investigation shall not disclose confidential information that could identify a person concerned.
- (5) The Integrity Commissioner in a report to Council on whether a member has violated the Code of Conduct shall only disclose such matters as in the Integrity Commissioner's opinion are necessary for the purposes of the report.

## Part 4 Amendments to other Bylaws and Coming into Force

### Coming into force

31 This bylaw comes into force on and from the date on which it receives third reading.

READ A FIRST TIME: Sept 12 / 2016  
READ A SECOND TIME: Oct 11 / 2016  
READ A THIRD TIME AND ADOPTED: Oct 26 / 16

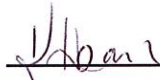
  
\_\_\_\_\_  
Mayor

(SEAL)

  
\_\_\_\_\_  
CAO

Read a third time and  
adopted

this 24 day of Oct, 2016

  
\_\_\_\_\_  
CAO

**Appendix "A"**  
**Request for Investigation Form**  
*(Section 24)*

I hereby request the Integrity Commissioner for the Town of Shellbrook to conduct an investigation into whether or not the following Member(s) of Council has (have) contravened the Code of Conduct applicable to Members of Council:

I have reasonable and probable grounds to believe that the above Member( s) of Council has (have) contravened the Code of Conduct by reason of the following *[please insert date, time and location of conduct, including the Rules contravened, together with particulars and names of all persons involved, and of all witnesses, and information as to how they can be reached, if more space is required, please attach additional pages as needed] :*

Attached are copies of documents and records relevant to the requested inquiry.

Date:

\_\_\_\_\_  
(Signature of Complainant)

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Cell: \_\_\_\_\_

Email: \_\_\_\_\_