

DISTRICT OF LANTZVILLE

BYLAW NO. 171, 2018

A BYLAW TO GOVERN THE CONDUCT OF MEMBERS OF COUNCIL

The Council of the District of Lantzville enacts as follows:

1. CITATION

This Bylaw may be cited as "District of Lantzville Council Code of Conduct Bylaw No. 171, 2018".

2. DEFINITIONS

2.1 In this Bylaw,

- a) "Administration" means the administrative and operational arm of the Municipality, composed of various departments and business units and including all employees who operate under the leadership and supervision of the Chief Administrative Officer;
- b) "Chief Administrative Officer" means the Chief Administrative Officer of the Municipality, or any other person designated to act in the place of the Chief Administrative Officer;
- c) "Investigator" means Council or the individual or body appointed by Council to investigate and report on complaints;
- d) "Member" means a member of Council and includes a Councillor or the Mayor; and
- e) "Municipality" means the municipal corporation of the District of Lantzville.

3. PURPOSE AND APPLICATION

3.1 The purpose of this Bylaw is to establish standards for the ethical conduct of Members relating to their roles and obligations as representatives of the Municipality and a procedure for the investigation and enforcement of those standards and shall apply to all of Council Committees and Commissions.

4. REPRESENTING THE MUNICIPALITY

4.1 Members shall:

- a) act honestly and, in good faith, serve the welfare and interests of the Municipality as a whole;
- b) perform their functions and duties in a conscientious and diligent manner with integrity, accountability, and transparency;
- c) conduct themselves in a professional manner with dignity and make every effort to participate diligently in the meetings of Council, committees of Council, and other bodies to which they are appointed by Council; and
- d) arrange their private affairs and conduct themselves in a manner that promotes public confidence and will bear close public scrutiny.

5. COMMUNICATING ON BEHALF OF THE MUNICIPALITY

- 5.1 A Member must not claim to speak on behalf of Council unless authorized to do so.
- 5.2 Unless Council directs otherwise, the Mayor is Council's official spokesperson and, in the absence of the Mayor, it is the Acting Mayor. All inquiries from the media regarding the official Council position on an issue shall be referred to Council's official spokesperson.
- 5.3 A Member who is authorized to act as Council's official spokesperson must ensure that their comments accurately reflect the official position and will of Council as a whole, even if the Member personally disagrees with Council's position.
- 5.4 No Member shall make a statement when they know that statement is false.
- 5.5 No Member shall make a statement with the intent to mislead Council or members of the public.
- 5.6 Member communication includes all forms of communication, including written, verbal, and social media.

6. RESPECTING THE DECISION-MAKING PROCESS

- 6.1 Decision-making authority lies with Council, and not with any individual Member. Council may only act by bylaw or resolution passed at a Council meeting at which there is a quorum present. No Member shall, unless authorized by Council, attempt to bind the Municipality or give direction to employees in the Administration, agents, contractors, consultants, or other service providers or prospective vendors to the Municipality.
- 6.2 Members shall 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 Members shall accurately communicate the decisions of Council, even if they disagree with Council's decision, such that respect for the decision-making processes of Council is fostered.
- 6.4 Council members have the right to speak publicly and explain their position and agreement or disagreement with the overall Council decision. But must not demean, criticize, dispute or disrespect the decision of Council.

7. ADHERENCE TO POLICIES, PROCEDURES, AND BYLAWS

- 7.1 Members shall uphold the law established by the Parliament of Canada and the Legislature of British Columbia and the bylaws, policies, and procedures adopted by Council.
- 7.2 Members shall respect the Municipality as an institution, its bylaws, policies, and procedures and shall encourage public respect for the Municipality, its bylaws, policies, and procedures.

- 7.3 A Member must not encourage disobedience of any bylaw, policy, or procedure of the Municipality in responding to a member of the public, as this undermines public confidence in the Municipality and in the rule of law.

8. RESPECTFUL INTERACTIONS WITH COUNCIL MEMBERS, STAFF, THE PUBLIC, AND OTHERS

- 8.1 Members shall act in a manner that demonstrates fairness and respect for individual differences and opinions and an intention to work together for the common good and in furtherance of the public interest.
- 8.2 Members shall treat one another, employees of the Municipality, and members of the public with courtesy, dignity, and respect and without abuse, bullying, or intimidation.
- 8.3 No Member shall use indecent, abusive, or insulting words or expressions toward another Member, any employee of the Municipality, or any member of the public.
- 8.4 No Member shall speak in a manner that is discriminatory to any individual based on the person's race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status, or sexual orientation.
- 8.5 Members shall respect the fact that employees in the Administration work for the Municipality as a corporate body and are charged with making recommendations that reflect their professional expertise and a corporate perspective and that employees are required to do so without undue influence from any Member or group of Members.
- 8.6 Members must not:
- a) involve themselves in matters of Administration, which fall within the jurisdiction of the Chief Administrative Officer and are only to contact staff (including Municipal Officers), according to the procedures authorized by Council and the Chief Administrative Officer regarding the interaction of Council and Committee Members and Staff.
 - b) direct inquiries regarding departmental issues or questions to the Chief Administrative Officer and refrain from contacting Staff directly unless the communication is minor and of a day to day operational nature.
 - c) issue instructions to any of the Districts contractors, tenders, consultants or other service providers unless expressly authorized to do so.
 - d) publish or report information or make statements attacking or reflecting negatively on Staff, Council or Committee Members. Any complaint should be brought to the attention of the Chief Administrative Officer for follow-up.
 - e) use information in a Council or political debate, without first providing a copy to all other Council Members and to the Chief Administrative Officer.
 - f) use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any employee of the Municipality with the intent of interfering in the employee's duties; or
 - g) maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of employees of the Municipality.

9. CONFIDENTIAL INFORMATION

- 9.1 Members must keep in confidence matters discussed in private at a Council or Council committee meeting until the matter is discussed at a meeting held in public or until disclosure has been lawfully authorized.
- 9.2 Members shall refrain from disclosing or releasing any confidential information acquired by virtue of their office except when required by law or authorized by Council to do so.
- 9.3 No Member shall use confidential information for personal benefit or for the benefit of any other individual organization.
- 9.4 Confidential information includes information in the possession of, or received in confidence by, the Municipality that the Municipality is prohibited from disclosing pursuant to legislation, court order, or by contract, or is required to refuse to disclose under the *Freedom of Information and Protection of Privacy Act* 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:
 - a) personal information;
 - b) labour relations or other employee relations;
 - c) the security of the property of the Municipality;
 - d) a proposed or pending acquisition or disposition of land or other property;
 - e) law enforcement matters;
 - f) litigation or potential litigation, including matters before administrative tribunals;
 - g) advice subject to solicitor-client privilege;
 - h) contract negotiations and discussions respecting the proposed provision of a service; and
 - i) discussions with other levels of government.

10. CONFLICTS OF INTEREST

- 10.1 Members have a statutory duty to comply with the Conflict of Interest provisions as set out in the *Community Charter*.
- 10.2 Members may request that the Chief Administrative Officer seek a legal opinion from the City Solicitor with respect to situations that may result in a real or perceived conflict of interest.
- 10.3 Members are to be free from undue influence and not act or appear to act in order to gain financial or other benefits for themselves, family, friends, or associates, business or otherwise.
- 10.4 Members shall approach decision-making with an open mind that is capable of persuasion.

11. USE OF SOCIAL MEDIA

- 11.1 Members must not purport to speak in behalf of the District or Council unless expressly authorized to do so.
- 11.2 Members will use caution in reporting Councils decision-making by way of the social media profiles and websites before the District has released any formal communication.
- 11.3 When speaking for themselves as individual Members on social media or to the press, a Member will include “in my opinion” or use a similar disclaimer to ensure it is expressly clear that they are speaking for themselves and not the District or Council as a whole.
- 11.4 Members will refrain from using or permitting the use of their social media accounts for the purposes that include:
 - a) defamatory remarks, obscenities, profane language or sexual content;
 - b) negative statements disparaging staff or calling into question the professional capabilities of staff;
 - c) content that endorses, promotes or perpetuates discrimination or mistreatment on the basis of race, religion or belief, age, gender, marital status, national origin, physical or mental disability or sexual orientation;
 - d) statements that indicate a closed mind in relation to a matter that is to be the subject of a statutory or other public hearing; or,
 - e) promotion of illegal activity.
- 11.5 Members must immediately take measures to deal with the publication of messages or postings by others that violate the terms of these codes of conduct.

12. IMPROPER USE OF INFLUENCE

- 12.1 No Member shall use the influence of the Member's office for any purpose other than for the exercise of the Member's official duties.
- 12.2 No Member shall 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.
- 12.3 Members shall not contact or otherwise attempt to influence members of any adjudicative body regarding any matter before it relating to the Municipality.
- 12.4 Members shall refrain from using their positions to obtain employment with the Municipality for themselves, family members, or close associates. Members are ineligible to apply or be considered for any position with the Municipality while they hold their elected position and for one year after leaving office.

13. USE OF MUNICIPAL ASSETS AND SERVICES

- 13.1 Members shall use municipal property, equipment, services, supplies, and staff resources only for the performance of their duties as a Member, subject to the following limited exceptions:

- a) municipal property, equipment, service, supplies, and staff resources that are available to the general public may be used by a Member for personal use upon the same terms and conditions as members of the general public, including booking and payment of any applicable fees or charges; and
- b) electronic communication devices, including but not limited to desktop computers, laptops, tablets, and smartphones, which are supplied by the Municipality to a Member, may be used by the Member for personal use, provided that the use is not offensive, inappropriate, or for personal gain.

14. ORIENTATION AND OTHER TRAINING ATTENDANCE

- 14.1 Every Member must attend the orientation training offered by the Municipality within 90 days after the Member takes the oath of office.
- 14.2 Unless excused by Council, every Member must attend the Elected Officials Seminar offered by the Local Government Leadership Academy in the first quarter of the year following local government elections.
- 14.3 Unless excused by Council, every Member must attend any other training organized at the direction of Council for the benefit of Members throughout the Council term.

15. REMUNERATION AND EXPENSES

- 15.1 Members are stewards of public resources and shall avoid waste, abuse, and extravagance in the use of public resources.
- 15.2 Members shall be transparent and accountable with respect to all expenditures and strictly comply with all municipal bylaws, policies, and procedures regarding claims for remuneration and expenses.

15. GIFTS AND HOSPITALITY

- 15.1 Members have a statutory duty to comply with provisions of the *Community Charter* on restrictions on accepting gifts.
- 15.2 Members shall not accept gifts, hospitality, or other benefits that would, to a reasonable member of the public, appear to be in gratitude for influence, to induce influence, or otherwise to go beyond the necessary and appropriate public functions involved.
- 15.3 Gifts received by a Member on behalf of the Municipality as a matter of official protocol which have significance or historical value for the Municipality shall be left with the Municipality when the Member ceases to hold office.

16. ELECTION CAMPAIGNS

- 16.1 No Member shall use any facilities, equipment, supplies, services, municipal logo, or other resources of the Municipality for any election campaign or campaign-related activity.

17. INFORMAL COMPLAINT PROCESS

- 17.1 Any Member who has identified or witnessed conduct by a Member that the Member reasonably believes, in good faith, is in contravention of this Bylaw may address the prohibited conduct by:

- a) advising the Member that the conduct violates this Bylaw and encouraging the Member to stop; or
- b) requesting the Mayor to assist in informal discussion of the alleged complaint with the Member in an attempt to resolve the issue. In the event that the Mayor is the subject of, or is implicated in a complaint, the person may request the assistance of the Acting Mayor.

17.2 Individuals are encouraged to pursue this informal complaint procedure as the first means of remedying conduct that they believe violates this Bylaw: however, an individual is not required to complete this informal complaint procedure prior to pursuing the formal complaint procedure outlined below.

18. FORMAL COMPLAINT PROCESS

18.1 Any person who has identified or witnessed conduct by a Member that the person reasonably believes, in good faith, is in contravention of this Bylaw may file a formal complaint in accordance with the following procedure:

- a) all complaints shall be made in writing and shall be dated and signed by an identifiable individual;
- b) all complaints shall be addressed to the Investigator and Council may, in the case of any complaint, either appoint an Investigator, or investigate such complaint itself;
- c) the complaint must set out reasonable and probable grounds for the allegation that the Member has contravened this Bylaw, including a detailed description of the facts, as they are known, giving rise to the allegation;
- d) if the facts, as reported, include the name of one or more Members who are alleged to be responsible for the breach of this Bylaw, the Member or Members concerned shall receive a copy of the complaint submitted to the Investigator and be given the opportunity to provide an initial response to the complaint, prior to the decision being made as to whether to investigate, pursuant to section 18.1(e);
- e) upon receipt of a complaint under this Bylaw, the Investigator shall review the complaint, including any initial response by the Member who is the subject of the complaint, and decide whether to proceed to investigate the complaint. If the Investigator is of the opinion that a complaint is frivolous, vexatious, or is not made in good faith, or that there are no grounds or insufficient grounds for conducting an investigation, the Investigator may choose not to investigate or, if already commenced, may terminate any investigation, or may dispose of the complaint in a summary manner. In that event, the complainant and Council, if Council is not the Investigator, shall be notified of the Investigator's decision;
- f) if the Investigator decides to investigate the complaint, the Investigator shall take such steps as may be considered appropriate, which may include seeking legal advice. All proceedings of the Investigator regarding the investigation shall be confidential;

- g) if the Investigator is not Council, the Investigator shall, upon conclusion of the investigation, provide the Council and the Member who is the subject of the complaint, the results of the Investigator's investigation for Council's consideration, including any decision or imposition of a sanction and if Council is the Investigator and decides to investigate pursuant to section 18.1(f), such investigation shall be conducted pursuant to section 18.1(h) below;
- h) a Member who is the subject of an investigation shall be afforded procedural fairness, including an opportunity to respond to the allegations at the time of receipt by Council of the Investigator's report, where Council is not the Investigator and in any event before Council deliberates and makes any decision or any sanction is imposed; and
- i) a Member who is the subject of an investigation is entitled to be represented by legal counsel at the Council meeting where any decision is to be made or any sanction may be imposed, at the Districts expense once, and subsequently, at the Member's sole expense, unless Council has, in advance, agreed to be responsible for such legal costs.

19. COMPLIANCE AND ENFORCEMENT

19.1 Members shall uphold the letter, the spirit, and the intent of this Bylaw.

19.2 Members are expected to cooperate in every way possible in securing compliance with the application and enforcement of this Bylaw.

19.3 No Member shall:

- a) undertake any act of reprisal or threaten reprisal against a complainant or any other person for providing relevant information to Council or to any other person; or
- b) obstruct Council, or any other person, in carrying out the objectives or requirements of this Bylaw.

19.4 Sanctions that may be imposed on a Member, by Council, upon a finding that the Member has breached this Bylaw may include:

- a) a letter of reprimand addressed to the Member;
- b) requesting that the Member issue a letter of apology;
- c) publication of a letter of reprimand or request for apology and the Member's response;
- d) requirement to attend training;
- e) suspension or removal of the appointment of a Member as the Acting Mayor;
- f) suspension or removal from some or all internal and external Council committees and bodies to which Council has the right to appoint members;
- g) restricting the Member from attending events as a representative of Council;
- h) imposing further limits on Council related travel or expenses beyond those set out in Corporate policies;
- i) requiring the return of Municipal property provided for convenience;
- j) limiting access to certain municipal facilities;

- k) restricting how documents are provided to the Member; and
- l) any other sanction Council deems reasonable and appropriate in the circumstances, provided that the sanction does not prevent a Member from fulfilling the legislated duties of a Member and the sanction is not contrary to Provincial Legislation.

20. REVIEW

20.1 This Bylaw shall be brought forward for review at the beginning of each term of Council and at any other time that Council considers appropriate to ensure that it remains current and continues to accurately reflect the standards of ethical conduct expected of Members.

21. SEVERABILITY

21.1 If a portion of this Bylaw is found invalid by a court, it will be severed and the remainder of the Bylaw will remain in effect.

READ A FIRST TIME on the day of , 2018.

READ A SECOND TIME on the day of , 2018.

READ A THIRD TIME on the day of , 2018.

ADOPTED on the day of , 2018.

Mayor

Director of Corporate Administration