

# 2021

## Municipal Accountability Program Report



Town of Pincher Creek

Municipal Affairs, Government of Alberta

June 7, 2021

Town of Pincher Creek 2021 Municipal Accountability Program Report

The Municipal Accountability Program is intended as a program of support and collaboration for municipal Chief Administrative Officers to either confirm compliance with requirements of municipal legislation or to identify concerns and develop corrective solutions where needed. The scope of this report is limited to confirming the compliance or lack of compliance with mandatory legislative requirements. The content of the report does not constitute an opinion on the legal effectiveness of any documents or actions of the municipality, which should be determined in consultation with independent legal advice.

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# Section 1: Introduction

## 1.1 Our Commitment

Alberta Municipal Affairs is committed to helping to ensure Albertans live in viable municipalities and communities with fiscally responsible, well-managed, accountable local governments. To achieve this, Municipal Affairs plays an important role in assisting and supporting municipalities in Alberta through various programs to foster capacity building, transparency and accountability, which are essential elements for responsible local government.

The *Municipal Government Act (MGA)*, which provides the legislative framework for local government in Alberta, has numerous mandatory requirements that may at times seem overwhelming and difficult to manage for municipalities. Municipalities are also bound by other statutes and corresponding regulations that fall under the purview of Municipal Affairs. Compliance with these statutes and regulations is essential to good governance, the successful operation of a municipality and the viability, safety and well-being of a community. The Municipal Accountability Program is designed to help municipal officials successfully meet the challenges involved in responding to this wide range of legislative needs.

## 1.2 The Municipal Accountability Program

With a focus on supporting municipalities in continuing to strengthen municipal accountability and transparency, the purpose of this program is to:

- support municipalities in strengthening their knowledge of mandatory legislative requirements with a primary focus on the *MGA*;
- support municipalities in achieving legislative compliance;
- support municipalities in being well-managed, accountable and transparent; and
- provide a collaborative partnership between Municipal Affairs and municipalities to address legislative discrepancies that may exist.

In November 2020, the Minister of Municipal Affairs received from the electors of the Town of Pincher Creek, a petition requesting an inspection into the affairs of the municipality. Following a preliminary review into the issues and concerns that led to the petition, the Minister ordered that a Municipal Accountability Program (MAP) review be conducted in the town in 2021.

Working with the chief administrative officer (CAO), support is provided to mitigate any minor legislative gaps that may be identified. Ministry staff work with CAOs to validate compliance,

identify gaps, provide resource information, and develop corrective solutions where needed. The outcome of this program will be strong, well-managed, accountable municipalities and a strong collaborative relationship between the CAOs and the ministry.

The results of the Town of Pincher Creek review, contained in this report, are offered to support the municipality's efforts in achieving its goals for ongoing legislative compliance with the *MGA* and its associated regulations, as well as other legislation under the responsibility of Alberta Municipal Affairs.

# Section 2: Executive Summary

## 2.1 Methodology

The Municipal Accountability Program consists of a review of council meeting minutes, municipal bylaws, and other municipal documents. A visit and interview with town administration is also included. These components assist in determining areas where the municipality is in compliance with legislative requirements, and to identify any areas that require improvement to achieve compliance with the many requirements the *Municipal Government Act* and other legislation imposes on municipalities.

Adhering to the current COVID-19 social distancing recommendations, Municipal Affairs staff met with town administration on June 7, 2021 by electronic means. This virtual format was used to complete the on-site portion of the Municipal Accountability Program review and to examine compliance with mandatory requirements of the *MGA* and other legislation under the purview of Municipal Affairs.

The Town of Pincher Creek is commended for their cooperation and assistance throughout the review. As well as the time commitment during the site visit, municipal staff promptly responded to questions and provided documentation as requested. Ministry staff appreciate this additional time and effort and recognize the commitment to the well-being and success of the municipality demonstrated by town administration.

## 2.2 Legislative Compliance

Overall the review findings are positive. The areas in which the municipality is meeting mandatory legislative requirements include:

- general matters;
- meetings;
- authority to act;
- council meeting minutes;
- code of conduct bylaw;
- property tax bylaw;
- bylaw enforcement officer bylaw;
- public participation policy;
- operating budget;
- capital budget;

- auditor, audited financial statements, auditor report;
- assessment and taxation matters;
- municipal development plan;
- land use bylaw;
- subdivision and development authority;
- subdivision and development appeal board;
- municipal emergency management; and
- libraries.

## 2.3 Legislative Gaps

Specific areas where the municipality is required to take action to achieve compliance are included below along with the page numbers which detail the legislative requirements and the gaps to be addressed:

- requirement to declare pecuniary interest in accordance with the *MGA* ([page 25](#));
- requirement to establish a local and a composite assessment review board by bylaw ([page 31](#));
- requirement for the procedural bylaw to be in accordance with the *MGA* ([page 34](#));
- requirement for the borrowing bylaw to be in accordance with the *MGA* ([page 35](#));
- requirement to pass bylaws in accordance with the *MGA* ([page 37](#));
- requirement to revise and amend bylaws in accordance with the *MGA* ([page 38](#));
- requirement for the salary and benefits to include those of all designated officers ([page 47](#));
- requirement for a municipality to implement a three-year operating plan and a five-year capital plan in accordance with the *MGA* ([page 49](#));
- requirement for the content of tax notices to be in accordance with the *MGA* ([page 54](#));
- requirement to list and publish policies related to planning decisions ([page 64](#));
- requirement for election officers to be appointed and sign the appropriate oath/statement ([page 66](#));
- requirement for nomination forms to be submitted in accordance with the *LAEA* ([page 67](#)); and
- requirement to retain the ballot account ([page 68](#)).

## 2.4 Next Steps

This report contains a complete summary of the Municipal Accountability Program review including legislative requirements, comments and observations, recommendations for actions, as well as links to resources to assist the municipality.

A response by the municipality is required that includes a plan detailing the actions to be taken to rectify the legislative gaps identified in this report. This response must be submitted to Municipal Affairs within eight weeks of receiving this report. For your municipality's convenience, this report has been formatted to provide space in each section for responses to the findings on each particular area of non-compliance; however, your municipality is not required to use this report to provide its responses, and may prefer instead to develop a customized document for the responses and implementation plan.

Ministry staff are available to provide support and additional resources to guide the municipality through the development of the plan and to successfully address the legislative gaps identified. The review will formally conclude upon receipt of documentation confirming that all items have been addressed.

# Section 3: Municipal Accountability Review Findings

## 3.1 General

### 1. Municipal Office

**Legislative requirements:** *MGA 204*

1. Has council named a place as its municipal office?

**Comments/Observations:** Resolution 00-452 was passed on November 27, 2000 and establishes the municipal office as 962 St. John Avenue, Pincher Creek, AB.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 2. Orientation Training

**Legislative requirements:** *MGA 201.1*

1. How was orientation training offered to elected officials following the 2017 general election and any subsequent by-elections?

**Comments/Observations:** All members of council were offered and attended orientation training as evidenced by municipal documentation.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

### 3. Chief Administrative Officer Evaluation

**Legislative requirements:** *MGA 205.1*

1. Has council provided the CAO with an annual written performance evaluation?

**Comments/Observations:** Formal written CAO evaluations are being completed annually by council.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 4. Provision of Information

**Legislative requirements:** *MGA 153.1*

1. When information regarding the operation or administration of the municipality is requested by a councillor, how does the CAO provide information to all of council as soon as practicable?

**Comments/Observations:** The CAO is aware of the *MGA* requirements, and typically provides information to all members of council by email.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 5. Signing of Municipal Documents

### **Legislative requirements: MGA 213**

1. Are the minutes of council meetings signed by:
  - the person presiding at the meeting; and
  - a designated officer?
2. Are the bylaws of a municipality signed by:
  - the chief elected official; and
  - a designated officer?
3. Are agreements, cheques, and other negotiable instruments signed by:
  - the chief elected official or another person authorized by council, and by a designated officer; or
  - by a designated officer acting alone if so authorized by council?

**Comments/Observations:** As the visit was conducted electronically due to the COVID-19 pandemic, the town's minutes and bylaw binders were not reviewed; however, the minutes and bylaws provided and accessed online were signed by both the mayor and CAO. Cheques, and negotiable instruments are all signed by the CAO and a member of council. The documents reviewed were signed in accordance with the requirements of section 213 of the *MGA* and bylaw 1567-14.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 6. Repair of Roads, Public Places, and Public Works (for discussion only)

### **Legislative requirements: MGA 532**

Each municipality must ensure that every road or other public place that is subject to the direction, control and management of the municipality, including all public works in, on or above the roads or public place put there by the municipality or by any other person with the permission of the municipality, are kept in a reasonable state of repair by the municipality, having regard to:

- the character of the road, public place or public work; and
- the area of the municipality in which it is located.

1. Is the municipality aware of this section?
2. What does the municipality do to support this requirement?
3. Is the above supported through the annual budget?
4. Is the municipality aware of the level of risk and liability if the municipality fails to perform its duty outlined in section 532?

**Comments/Observations:** The municipality is encouraged to review all policies and practices in place. In the event the policies and practices established set specific service levels, it may be appropriate to review the service levels and seek the necessary advice to ensure that the service levels are appropriate, and are being followed.

**Resources:** Municipal Affairs Advisors are available to provide general support by calling toll-free 310-0000 and then 780-427-2225.

## 3.2 Meetings

### 1. Public Presence at Meetings

**Legislative requirements:** *MGA 197(1)*, [Meeting Procedures \(COVID-19 Suppression\) Regulation 50/2020](#)

1. Are council and council committee meetings held in public?

**Comments/Observations:** Meetings of council are advertised to the public and open for members of the public to attend. During the public health emergency, the chief administrative officer attended meetings in-person in council chambers. Councillors and members of the public were able to attend meetings either in-person or through electronic means.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 2. Closed Meetings

**Legislative requirements:** *MGA 197*

1. Before closing all or a part of a meeting to the public:
  - Is a resolution passed to indicate what part of the meeting is to be closed?
  - Does the resolution identify what exception to disclosure under the *Freedom of Information and Protection of Privacy Act (FOIPP)* applies to the part of the meeting that is to be closed?
  - Are members of the public notified once the closed portion of the meeting is concluded?

**Comments/Observations:** Minutes reviewed record that prior to moving into a closed session, exceptions to disclosure under the *FOIPP Act* are cited appropriately (e.g., resolution 21-168 from the April 26, 2021 special meeting).

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

### 3. Organizational Meeting

**Legislative requirements:** *MGA 150, 152, 159(1), 192*

1. Is an Organizational Meeting held annually?
2. Is a chief elected official (CEO) appointed (not a requirement if the CEO is elected at large or it is included in the procedural bylaw)?
3. Is a Deputy CEO appointed?

**Comments/Observations:** Council held their last organizational meeting on October 26, 2020 within two weeks of the third Monday in October, which is in accordance with section 192 of the *MGA*. Council appoints the deputy chief elected official from among councillors.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 4. Special Meetings

**Legislative requirements: MGA 194**

1. Has a special council meeting been held?
2. Was the proper notification provided to the public?
3. If less than 24 hours was provided as notification, was the appropriate documentation signed by two-thirds of council?
4. Was there a need to change the agenda for the special meeting?
5. If the agenda was modified, was all of council present at the meeting to approve the change?

**Comments/Observations:** The last special council meeting occurred on March 19, 2021. The meeting was held with more than 24 hours' notice and proper notification was provided to the public. The agenda for the special meeting was not changed.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 5. Regular Meeting Change Notice

**Legislative requirements:** *MGA 193*

1. Has the date, time or place of a regularly scheduled meeting been changed?
2. Was at least 24 hours' notice of the change provided to any councillors not present at the meeting at which the change was made, and to the public?

**Comments/Observations:** No recent changes to a regularly scheduled meeting of council have occurred.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

### 3.3 Meeting Procedures

#### 1. Authority to Act

**Legislative requirements:** MGA 180-181

1. Are resolutions or bylaws passed in an open public meeting?

**Comments/Observations:** A review of past meeting minutes indicate that resolutions were made for all actions requested of administration and council acted only by resolution or bylaw.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 2. Quorum

**Legislative requirements:** *MGA 167* and [Meeting Procedures \(COVID-19 Suppression\) Regulation 50/2020](#)

1. Is a majority of council present at the meeting to exercise their authority to act under sections 180 and 181?

**Comments/Observations:** The Town of Pincher Creek council consists of seven elected officials. The minutes that were reviewed met the quorum requirements.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

### 3. Voting

**Legislative requirements:** *MGA 182-185*

1. Does each councillor participate in voting (unless an abstention is required or permitted and is noted)?
2. Is an abstention from voting recorded in the minutes?
3. Is the request for a recorded vote made prior to the vote being taken?

**Comments/Observations:** The CAO indicated that each member of council votes on all matters put to a vote of council. The voting documented in the council meeting minutes met the legislative requirements.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 4. Pecuniary Interest

### **Legislative requirements: MGA 172**

1. When a pecuniary interest is declared:
  - is the general nature of the pecuniary interest disclosed?
  - has the councillor abstained from voting on any question relating to the matter?
  - has the councillor abstained from any discussion on the matter if applicable? and
  - has the councillor left the room if applicable?

**Comments/Observations:** The minutes reviewed indicate that while members of council declare a pecuniary interest and leave the council chambers, the minutes do not include a disclosure of the general nature of the pecuniary interest as required by section 172(5) of the *MGA* (e.g., June 22, 2020 regular council meeting minutes).

**Meets Legislative Requirements:** No

**Recommendations/Action Items:** Going forward, when a member of council declares a pecuniary interest in an item before council, they must disclose the general nature of the pecuniary interest and the meeting minutes must include the disclosure in accordance with legislation.

**Resources:** Municipal Affairs has prepared a document that describes pecuniary interest, exceptions and the procedures for disclosure: [Pecuniary Interest](#).

**Municipal Response:** Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.

## 5. Council Meeting Minutes

**Legislative requirements:** *MGA 172, 184, 185, 197, 208, 230*

1. Are the minutes recorded in the English language?
2. Do the minutes include the names of the councillors present at the council meeting?
3. Are the minutes given to council for adoption at a subsequent council meeting?
4. Are recorded votes documented?
5. Are abstentions from public hearings recorded?
6. Are the minutes recorded in accordance with section 230 of the *MGA* when a public hearing is held?
7. Are the minutes kept safe?

**Comments/Observations:** Minutes of council were recorded in English. Names of councillors present were recorded and minutes of the previous meeting were reviewed and approved by a resolution of council. Minutes of public hearings (e.g., council meeting held on March 8, 2021) are in accordance with section 230 of the *MGA* and the recorded vote documented in the October 26, 2021 organizational meeting minutes is in accordance with section 185 of the *MGA*. The minutes are kept in a safe location at the village office.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 3.4 Mandatory Bylaws

### 1. Code of Conduct

**Legislative requirements:** *MGA 146.1*, [Code of Conduct for Elected Officials Regulation 200/2017](#)

1. Has a code of conduct governing the conduct of councillors been established by bylaw?
2. Does the bylaw apply to all councillors equally?
3. Are there sanctions for breaching the code of conduct?
4. Does the bylaw include the following topics:
  - representing the municipality;
  - communicating on behalf of the municipality;
  - respecting the decision-making process;
  - adherence to policies, procedures and bylaws;
  - respectful interactions with councillors, staff, the public and others;
  - confidential information;
  - conflicts of interest;
  - improper use of influence;
  - use of municipal assets and services; and
  - orientation and other training attendance?
5. Has a complaint system been established within the bylaw?
6. Does the complaint system address:
  - who may make a complaint alleging a breach of the code of conduct;
  - the method by which a complaint may be made;
  - the process to be used to determine the validity of a complaint; and
  - the process to be used to determine how sanctions are imposed if a complaint is determined to be valid?
7. Has the code of conduct been reviewed in the last four years? (Not applicable until 2022)

**Comments/Observations:** The town passed a code of conduct bylaw (bylaw 1622-18) on March 12, 2018. The bylaw applies to all members of council equally and there are sanctions in place for violations of the code of conduct bylaw. The bylaw includes the topics listed above. A complaint system has been established within the bylaw, which addresses who may make a complaint, how a complaint is made, the process to determine the validity of the complaint and the process to determine how sanctions are imposed.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 2. Establishment of the Chief Administrative Officer Position

**Legislative requirements:** *MGA 205*

1. Is there a bylaw establishing the position of CAO?
2. Is there a council resolution that appoints the current CAO?

**Comments/Observations:** Council passed bylaw 1473-06 on October 23, 2006 establishing the position of chief administrative officer for the town. Bylaw 1473-17 was passed on September 11, 2017 reaffirming the 2009 appointment of the current CAO to the position.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

### 3. Property Tax Bylaw

**Legislative requirements:** *MGA 353-359*, [Matters Relating to Assessment Sub-classes Regulation 202/2017](#)

1. Is a property tax bylaw passed annually?
2. Are the rates in accordance with the:
  - assessment class (section 297);
  - Matters Relating to Assessment Sub-classes Regulation; and
  - municipal assessment sub-class bylaw (if required)?
3. Does the tax rate bylaw maintain a maximum 5:1 tax ratio between residential and non-residential assessment classes?
4. Are the requisitions accounted for (Alberta School Foundation Fund, Seniors, Designated Industrial Property)?
5. Are the calculations correct?
6. Is there a minimum tax applied as per section 357?

**Comments/Observations:** The Town of Pincher Creek passes a tax bylaw annually. The 2021 tax bylaw was passed by council on April 26, 2021. None of the assessment classes have been sub-classed by the municipality. The tax ratio between residential and non-residential properties is under the legislated 5:1 ratio. The requisitions are accounted for and the calculations are correct. The municipality does not levy a minimum tax rate.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 4. Assessment Review Boards

**Legislative requirements:** [MGA 454-456, Matters Relating to Assessment Complaints Regulation 201/2017](#)

1. Has a local assessment review board been established?
  - Are at least three members appointed to this board?
  - Is the term of the office of each member appointed established?
  - Has council prescribed the remuneration and expenses, if any, payable to each member?
  - Has council designated one of the members appointed as chair and prescribed the chair's term of office, remuneration, if any, and expenses?
  - Have the appointed members received the mandatory training?
2. Is a composite assessment review board established?
  - Are at least two members appointed to this board?
  - Is the term of the appointment established?
  - Has council prescribed the remuneration and expenses, if any, payable to each member?
  - Has council designated one of the members appointed as chair and prescribed the chair's term of office, remuneration, if any and expenses?
  - Have the appointed members received the mandatory training?
3. Has a person been appointed as the clerk and received the mandatory training?
4. Has the municipality jointly established the local assessment review board, composite assessment review board, or both, with one or more other municipalities?
  - Have the member councils jointly designated one of the board members as chair?
  - Have the member councils jointly prescribed the chair's term of office and the remuneration and expenses, if any, payable to the chair?
  - Have the member councils jointly appointed the clerk of the assessment review boards?

**Comments/Observations:** Council passed bylaw 2011-02 on May 13, 2011 authorizing a regional assessment review board. The bylaw does not establish the local and composite assessment review boards for the town, but instead authorizes the regional board to exercise the functions of both the local and composite assessment review boards.

Additionally, the bylaw does not address the appointment of a chair. Section 455(2)(a) of the *MGA* requires the councils to jointly designate one of the board members as chair.

**Meets Legislative Requirements:** No

**Recommendations/Action Items:** The town must amend or replace bylaw 2011-02 to:

- establish both a local assessment review board and a composite assessment review board;
- establish a process for jointly appointing a chair; and
- ensure the provisions of the bylaw are in compliance with legislation.

Since all members of the regional board should have the same bylaw, it would be advisable to work with all member municipalities of the regional assessment review board, as well as their legal counsel, to ensure that member bylaws are consistent and comply with the requirements of the *MGA*.

**Resources:** Municipal Affairs has developed a website to assist municipalities with respect to [Assessment Review Boards](#). In addition, Municipal Affairs Assessment Advisors are available to provide general support by calling toll-free 310-0000 and then 780-422-1377.

**Municipal Response:** Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.

## 5. Bylaw Enforcement Officers

### **Legislative requirements:** *MGA 555-556*

1. Has the municipality passed a bylaw enforcement officer bylaw?
2. Are the powers and duties established within the bylaw for the bylaw enforcement officer?
3. Does the bylaw include:
  - disciplinary procedures;
  - penalties; and
  - an appeal process?
4. Have all individuals who perform bylaw enforcement within the municipality taken the official oath?

**Comments/Observations:** Council passed bylaw 1476-95 on April 10, 1995 establishing the powers and duties of bylaw enforcement officers, and establishing disciplinary procedures, including penalties and an appeal process for allegations of abuse of authority. The bylaw enforcement officer has taken the official oath.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 3.5 Discretionary Bylaws

### 1. Procedural Bylaw

**Legislative requirements:** *MGA 145*

1. Does the municipality have a procedural bylaw?

**Comments/Observations:** Bylaw 1956-20 was passed on February 24, 2020 and establishes meeting procedures for council and council committee meetings for the town.

Sections 3 and 4 of the bylaw state that council may waive a portion of this bylaw by special resolution. This section is in contravention of section 191 of the *MGA*, which provides that a bylaw may only be changed through the passing of another bylaw.

Section 58 of the bylaw provides that a councillor may be removed from a meeting through a council resolution. The position of Municipal Affairs is that this contravenes section 153(c) of the *MGA*, in that all councillors must participate in council and council committee meetings.

**Meets Legislative Requirements:** No

**Recommendations/Action Items:** Council must amend or replace bylaw 1956-20 to be consistent with section 153(c) of the *MGA* which states a member of council has a duty to participate in council meetings; and moving forward, bylaws are amended in accordance with section 191 of the *MGA*.

**Resources:** Municipal Affairs Advisors are available to provide general support by calling toll-free 310-0000 and then 780-427-2225.

**Municipal Response:** Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.

## 2. Borrowing Bylaw(s)

**Legislative requirements:** *MGA 251-259*, [Debt Limit Regulation 255/2000](#)

1. Does the municipality have any debt?
2. Has the borrowing been authorized by a borrowing bylaw?
3. Does the borrowing bylaw set out:
  - the amount of money to be borrowed and, in general terms, the purpose for which the money is borrowed;
  - the maximum rate of interest, the term and the terms of repayment of the borrowing; and
  - the source or sources of money to be used to pay the principal and interest owing under the borrowing?
4. Was the borrowing bylaw advertised (if required)?

**Comments/Observations:** Bylaw 1570-20 was passed June 22, 2020 and authorizes a short-term borrowing for operating expenses in the town. The bylaw establishes the term, terms of repayment, the amount to be borrowed, and the purpose of the borrowing. The bylaw also sets out the source of funding to be used to pay the borrowing.

The bylaw does not set out the maximum rate of interest to be paid.

**Meets Legislative Requirements:** No

**Recommendations/Action Items:** Bylaw 1570-20 must be amended or replaced to set out the maximum rate of interest.

**Resources:** Municipal Affairs Financial Advisors are available to provide financial support by calling toll-free 310-0000 and then 780-427-2225.

**Municipal Response:** Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.

### 3. Committee of the Whole Bylaw

**Legislative requirements:** *MGA 145 and 203*

1. Does the municipality have a committee of the whole bylaw?

**Comments/Observations:** Bylaw 1608 -20 was passed on February 24, 2020 to establish a committee of the whole and delegate specific powers to said committee.

**Meets Legislative Requirements:** The bylaw met the general requirements of the *MGA*.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 3.6 Bylaw Procedures

### 1. Passing Bylaws

**Legislative requirements:** *MGA 187-189*

1. Are bylaws given three distinct and separate readings?
2. If all readings are conducted at one council meeting, is there a resolution passed that gives unanimous consent to consider third reading?

**Comments/Observations:** A review of a selection of bylaws indicates that while bylaws are consistently given three distinct readings, a resolution to provide unanimous consent to proceed to third reading is not documented as being carried unanimously in the council meeting minutes (e.g., resolutions 20-298 to 20-301).

**Meets Legislative Requirements:** No

**Recommendations/Action Items:** Moving forward, council must pass bylaws in accordance with section 187 of the *MGA*, which states that a proposed bylaw must not have more than two readings at the same council meeting unless the councillors present unanimously agree to proceed to third reading.

**Resources:** Municipal Affairs Advisors are available to provide general support by calling toll-free 310-0000 and then 780-427-2225.

**Municipal Response:** Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.

## 2. Bylaw Revisions and Amendments

**Legislative requirements:** *MGA 63-69, 191, and 692*

1. Are revision bylaws limited to:
  - consolidation of two or more bylaws;
  - altering citation; and
  - changes that do not materially affect a bylaw (clerical, technical, grammatical, or typographical)?
2. Does the title of the bylaw indicate that it is a revision bylaw?
3. Has the CAO certified in writing the revision prior to the bylaw being given first reading?
4. How are schedules to bylaws amended (e.g., fees charges or rate schedules)?
5. Have there been amendments to a bylaw that initially required advertising?
6. Was the amending bylaw advertised?
7. Are bylaws amended or repealed in the same way as the original bylaw was enacted?

**Comments/Observations:** The town does not use revision bylaws, but instead changes bylaws by repealing and replacing.

The town's land use bylaw (bylaw 1547) has been amended and in each instance, the amendment was advertised and received a public hearing prior to being passed. The bylaw has been consolidated up to and including April 2021 amendments. A designated officer may only make a consolidation of bylaws when council has delegated the authority by bylaw in accordance with section 69(1) of the *MGA*.

**Meets Legislative Requirements:** No

**Recommendations/Action Items:** A bylaw that authorizes the CAO or a designated officer to consolidate one or more bylaws in accordance with section 69(1) of the *MGA* is required.

**Resources:** Municipal Affairs has created a handbook that includes the procedures to pass, amend and revise bylaws: [Basic Principles of Bylaws](#).

**Municipal Response:** Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.

## 3.7 Mandatory Policies

### 1. Public Participation Policy

**Legislative requirements:** *MGA 216.1*, [Public Participation Policy Regulation 193/2017](#)

1. Has a public participation policy been passed?
2. Does the policy identify:
  - types or categories of approaches the municipality will use to engage the public; and
  - types and categories of circumstances in which the municipality will engage with the public?
3. Is the public participation policy available for public inspection?
4. Has the public participation policy been reviewed by council in the last four years? (Not applicable until summer of 2022.)

**Comments/Observations:** The town passed their public participation policy 166-18 on June 25, 2018. The policy establishes the circumstances when the municipality will engage the public and methods the town will use to engage the public.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 3.8 Finance

### 1. Operating Budget

**Legislative requirements:** MGA 242, 243, 244, 248, 248.1

1. Has an operating budget been adopted for each calendar year?
2. Does the operating budget include the estimated amount of each of the following expenditures and transfers:
  - the amount needed to provide for the council's policies and programs;
  - the amount needed to pay the debt obligations in respect of borrowings made to acquire, construct, remove or improve capital property;
  - the amount of expenditures and transfers needed to meet the municipality's obligations as a member of a growth management board, or its obligations for services funded under an intermunicipal collaboration framework (not applicable until April 1, 2020);
  - the amount needed to meet the requisitions or other amounts that the municipality is required to pay under an enactment;
  - if necessary, the amount needed to provide for a depreciation or depletion allowance, or both, for its municipal public utilities as defined in section 28;
  - the amount to be transferred to reserves;
  - the amount to be transferred to the capital budget; and
  - the amount needed to recover any shortfall as required under section 244?
3. Does the operating budget include estimated amounts of each source of revenue (taxes, grants, service fees)?
4. Are the estimated revenues and transfers sufficient to pay the estimated expenditures?
5. Does the budget align with the property tax rate bylaw?
6. Has council established procedures to authorize and verify expenditures that are not included in a budget?

**Comments/Observations:** On December 14, 2020 council adopted an operating budget for 2021 by resolution 20-535 and amendments were adopted at the April 12, 2021 council meeting by resolution 21-142. The operating budget contains the estimated amounts for revenues, expenses, and transfers in accordance with the above identified legislative requirements. The estimated revenues are sufficient to pay the estimated expenses and the budget aligns with the property tax bylaw.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 2. Capital Budget

**Legislative requirements:** *MGA 245, 246, 248.1*

1. Has a capital budget for each calendar year been adopted?
2. Does the capital budget include the estimated amount for the following:
  - the amount needed to acquire, construct, remove or improve capital property;
  - the anticipated sources and amounts of money to pay the costs to acquire, construct, remove or improve capital property; and
  - the amount to be transferred from the operating budget?

**Comments/Observations:** The 2021 capital budget was adopted at the April 12, 2021 council meeting by resolution 21-142. The capital budget includes the estimated amounts to be spent on capital purchases, the amount and sources of funds needed for capital spending, and the amounts required from the operating budget in accordance with legislation.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

### 3. Financial Records and Receipts

**Legislative requirements:** *MGA 268.1*

1. Are accurate records and accounts kept of the municipality's financial affairs?
2. Are actual revenues and expenditures of the municipality, compared with the estimates, reported to council as often as council directs?
3. Are revenues of the municipality collected and controlled, and receipts issued in the manner directed by council?

**Comments/Observations:** The town uses Diamond Software to maintain their financial records. Financial records reviewed met the requirements set out in section 268.1. Council is provided with quarterly variance reports.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 4. Municipal Accounts

**Legislative requirements:** *MGA 270*

1. Is all money belonging to or held by the municipality deposited into a financial institution designated by council?

**Comments/Observations:** Resolution 15-401 was passed at the November 23, 2015 regular meeting and designated ATB Financial. Banking records reviewed confirm that ATB Financial holds municipal financial assets.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 5. Fidelity Bond

**Legislative requirements:** *MGA 212.1*

1. Does the municipality annually obtain a fidelity bond or equivalent insurance?
2. Does the bond or insurance cover:
  - the CAO of the municipality;
  - the designated officers of the municipality; and
  - other employees of the municipality?

**Comments/Observations:** The town has insurance through AMSC Insurance Services Ltd. Based on information provided, insurance was in place.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 6. Auditor, Audited Financial Statements, Auditor Report

**Legislative requirements:** *MGA 276, 280, 281*, [Debt Limit Regulation 255/2000](#)

1. Has one or more auditors for the municipality been appointed?
2. Are annual financial statements of the municipality prepared for the immediately preceding year?
3. Do the financial statements include:
  - the municipality's debt limit; and
  - the amount of the municipality's debt as defined in the regulations under section 271?
4. Are the financial statements, or a summary of them, and the auditor's report on the financial statements available to the public in the manner the council considers appropriate by May 1 of the year following the year for which the financial statements have been prepared?
5. Has council received the auditor's report on the annual financial statements and financial information return of the municipality?

**Comments/Observations:** The auditor was appointed by resolution 19-650 which was passed at the November 25, 2019 regular meeting. The auditor presented the audited financial statements at the April 26, 2021 council meeting and the 2020 financial statements were approved by resolution 21-158. The financial statements are available to the public at the municipal office.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 7. Salary and Benefits

**Legislative requirements:** *MGA 217*, [Supplementary Accounting Principles and Standards Regulation 313/2000](#)

1. Has information been provided on the salaries of councillors, the chief administrative officer and all designated officers of the municipality, including the assessor?

**Comments/Observations:** The 2020 audited financial statements include a disclosure of the salaries and benefits of members of council and the chief administrative officer. Information regarding the salaries and benefits of designated officer(s), (development authority – bylaw 1547 and municipal assessor – Bylaw 1475-17) are not included as required by section 1 of the Supplementary Accounting Principles and Standards Regulation 313/2000.

**Meets Legislative Requirements:** No

**Recommendations/Action Items:** Annual financial statements must disclose the total salary and benefits for all designated officers as a total amount, and indicate the number of designated officers as required by section 1(2)(c) of the Supplementary Accounting Principles and Standards Regulation 313/2000.

**Resources:** Municipal Affairs Financial Advisors are available to provide general financial support by calling toll-free 310-0000 and then 780-427-2225.

**Municipal Response:** Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.

## 8. Management Letter

**Legislative requirements:** *MGA 281(3)*

1. Has council received a separate auditor's report on any improper or unauthorized transaction or non-compliance with this or another enactment or a bylaw that is noted during the course of an audit?

**Comments/Observations:** The town received confidential recommendations from the auditor.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 9. Three-Year Operating and Five-Year Capital Plans

**Legislative requirements:** *MGA 283.1*, [Municipal Corporate Planning Regulation 192/2017](#)

1. Has the municipality prepared a written plan respecting its anticipated financial operations over a period of at least the next three financial years and does it include the following;
  - a. major categories of expenditures and revenues;
  - b. annual surplus/deficit;
  - c. accumulated surplus/deficit?
2. Has the municipality prepared a written plan respecting its anticipated capital property additions over a period of at least the next five financial years and does it include;
  - a. anticipated expenditures; and
  - b. anticipated sources of revenue?
3. Does the three-year operating plan or the five-year capital plan include the current financial year in which the financial plan or capital plan is prepared?
4. Has council reviewed and updated its financial plan and capital plan annually?

**Comments/Observations:** The municipality has prepared both a three-year operating and ten-year capital plan; however, the operating plan does not account for accumulated surplus, and the capital plan does not identify the sources of revenue.

**Meets Legislative Requirements:** No

**Recommendations/Action Items:** Moving forward, the town must ensure that the three-year operating plan includes information regarding the accumulated surplus/deficit and the capital plan identifies the sources of revenue.

**Resources:** Municipal Affairs has created a guide to assist municipalities getting started with multi-year financial planning: [New Legislative Requirements for Municipal Financial & Capital Plans](#).

**Municipal Response:** Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.

## 3.9 Assessment and Taxation

### 1. Assessment Roll

**Legislative requirements:** MGA 210, 284.2(1), 307

1. Has the assessor been established as a designated officer by bylaw?
2. Has a person who has the qualifications as set out in the Municipal Assessor Regulation 347/2009 been appointed to the position of designated officer to carry out the functions of a municipal assessor?
3. Is the assessment roll available for inspection?
4. Is there a fee for this?
5. Does the municipality have a bylaw to establish this fee?

**Comments/Observations:** Bylaw 1475-17 passed on December 11, 2017, establishes the municipal assessor as a designated officer and appoints a qualified assessor. The assessment roll is made available upon request and there is no fee established.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 2. Tax Roll

**Legislative requirements:** *MGA 327, 329*

1. Has an annual tax roll been prepared for the municipality?
2. Does the tax roll include the following:
  - a description sufficient to identify the location of the property or business;
  - name and mailing address of the taxpayer;
  - the assessment;
  - the name, tax rate, and amount of each tax imposed in respect of the property or business;
  - the total amount of all taxes imposed in respect of the property or business;
  - the amount of tax arrears; and
  - if the property is subject to an agreement between the taxpayer and the municipality (section 347 or 364)?

**Comments/Observations:** An annual tax roll has been completed and contains the required legislated content. As the visit was done electronically due to the COVID-19 pandemic, the town's tax software was not reviewed.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

### 3. Assessment and Tax Notice

**Legislative requirements:** *MGA 308, 333*

1. Does the municipality provide for a combined property assessment and tax notice?
2. Are assessment notices prepared annually for all assessed property, other than designated industrial property, shown on the assessment roll?
3. Are assessment notices sent to assessed persons?
4. Are tax notices prepared annually for all taxable property and businesses shown on the tax roll of the municipality?
5. Are the tax notices sent to the taxpayers?

**Comments/Observations:** Combined assessment and tax notices are prepared annually and sent to taxpayers in accordance with *MGA* requirements.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 4. Content of Assessment Notices

**Legislative requirements:** *MGA 303, 308.1, 309*

1. Has the assessor set a notice of assessment date, which must be no earlier than January 1 and no later than July 1?
2. Has the assessor set additional notice of assessment dates for amended and supplementary assessment notices? Are those notice of assessment dates later than the date that tax notices are required to be sent under Part 10?
3. Does the municipal assessment notice show the following:
  - the same information that is required to be shown on the assessment roll;
  - the notice of assessment date;
  - a statement that the assessed person may file a complaint not later than the complaint deadline; and
  - information respecting filing a complaint in accordance with the regulations?

**Comments/Observations:** The assessor set a notice of assessment date of June 8, 2020 and the combined assessment and tax notice contains the required assessment information, the notice of assessment date, a statement that an assessed person may file a complaint and information on how to file an assessment complaint in accordance with legislation.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 5. Content of Tax Notices

### **Legislative requirements: MGA 334**

1. Does the municipal property tax notice show the following:
  - the same information that is required to be shown on the tax roll;
  - the date the tax notice is sent to the taxpayer;
  - the amount of the requisitions, any one or more of which may be shown separately or as part of a combined total;
  - except when the tax is a property tax, the date by which a complaint must be made, which date must not be less than 30 days after the tax notice is sent to the taxpayer;
  - the name and address of the designated officer with whom a complaint must be filed;
  - the dates on which penalties may be imposed if the taxes are not paid; and
  - information on how to request a receipt for taxes paid?

**Comments/Observations:** The combined assessment and tax notice contains most of the information required by legislation; however, the notice does not contain information on how to request a receipt for taxes paid.

**Meets Legislative Requirements:** No

**Recommendations/Action Items:** Moving forward, the town must update the assessment and tax notice to include information on how to request a receipt for taxes paid.

**Resources:** Municipal Affairs Advisors are available to provide general support by calling toll-free 310-0000 and then 780-422-1377.

**Municipal Response:** Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.

## 6. Notice and Certification

**Legislative requirements:** *MGA 311, 335, 336*

1. Has the municipality published in one issue of a newspaper having general circulation in the municipality, or in any other manner considered appropriate by the municipality, a notice that the assessment notices have been sent?
2. Has a designated officer certified the date the tax notices were sent?
3. Have the tax notices been sent before the end of the year in which the taxes were imposed?

**Comments/Observations:** Certification and notification was provided to taxpayers that the combined assessment and tax notices for 2021 were mailed May 10, 2021.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 7. Tax Arrears List

**Legislative requirements: MGA 412, 436.03**

1. Has a tax arrears list been prepared showing the parcels of land in the municipality in respect of which there are tax arrears?
2. Has the list been sent to the Registrar and to the Minister responsible for the *Unclaimed Personal Property and Vested Property Act*?
3. Has the list been posted in a place that is accessible to the public during regular business hours?
4. Were persons notified who are liable to pay the tax arrears that a tax arrears list has been prepared and sent to the Registrar?

**Comments/Observations:** The town prepared the tax arrears list, and submitted the list to the Registrar on March 09, 2021, which was before the required March 31 deadline. Additionally, a tax arrears list was also prepared for designated manufactured homes within the community on March 12, 2021. The lists have been publicly posted in the entry way of the municipal office and the proper notifications to persons liable to pay were made.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 8. Tax Sale

**Legislative requirements:** *MGA 418, 436.08*

1. Have those properties appearing on the tax arrears list been offered for sale within the time frame provided?

**Comments/Observations:** The town's last tax sale was held on January 21, 2021. The property tax recovery process met the legislative requirements including notification, sending the letter to the registrar, council setting the reserve bids, and advertising the auction.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 3.10 Planning

### 1. Municipal Development Plan (MDP)

**Legislative requirements:** MGA 230, 606, 632, 641, 692

1. Is there a Municipal Development Plan (MDP) adopted by bylaw?
  - If the municipality is less than 3,500 in population and did not have an MDP before April 1, 2018, is the municipality preparing to complete and adopt the MDP by bylaw by April 1, 2021?
  - If the population of the municipality is less than 3,500, does the Land Use Bylaw for the municipality contain 'Direct Control' districting as per section 641(1)?
2. Does the MDP address/include:
  - future land use;
  - future development;
  - coordination of land use, growth patterns and infrastructure with adjacent municipalities (if there is no intermunicipal development plan);
  - transportation systems within the municipality and in relation to adjacent municipalities;
  - and
  - provision of municipal services and facilities?

**Comments/Observations:** Council passed bylaw 1518-13 on October 15, 2013 adopting the municipal development plan (MDP) for the town. The content of the MDP includes the topics listed above. There have been no amendments to the MDP.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 2. Land Use Bylaw (LUB)

**Legislative requirements:** *MGA 230, 606, 639, 640, 642 (1), 692 (4)*, [Subdivision and Development Regulation 43/2002](#)

1. Is there a land use bylaw?
2. Does the land use bylaw:
  - divide the municipality into districts (zones);
  - establish a method of making decisions on development permit applications, including provisions for:
    - the types of development permits that may be issued;
    - processing an application for, or issuing, canceling, suspending or refusing to issue development permits;
    - the conditions (contained in the land use bylaw) that development permits may be subject to;
    - how long development permits remain in effect (if applicable);
    - the discretion the development authority may exercise with respect to development permits;
  - provide for how and to whom notice of the issuance of development permits is to be given;
  - establish the number of dwelling units permitted on a parcel of land; and
  - identify permitted and discretionary uses?
3. When an application to amend or change the land use bylaw is submitted, did the notice of the amendment include:
  - the municipal address/legal address of the parcel of land;
  - a map showing the location of the parcel of land;
  - written notice to the assessed owner of that parcel of land; and
  - written notice to the assessed owner of the adjacent parcel of land;
  - the purpose of the bylaw amendment or change and public hearing;
  - the address where the proposed bylaw, and any documents can be inspected; and
  - the date, time and place of the public hearing?

**Comments/Observations:** Bylaw 1547 was passed in July of 2005 to establish a land use bylaw for the Town of Pincher Creek. The bylaw divides the municipality into zones, and establishes a method for making development permit application decisions, including the topics listed above. The bylaw identifies permitted and discretionary uses, establishes the number of dwelling units allowed on a parcel, and provides for the issuance of development permit notices. The land use bylaw has been amended numerous times.

As noted in section 3.6.2 – Bylaw revisions and amendments, the land use bylaw consolidation has not been conducted in accordance with section 69 of the *MGA*.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

### 3. Subdivision Authority

**Legislative requirements:** *MGA 623, 625-626*

1. Has the municipality by bylaw provided for a subdivision authority?
2. Does the structure of the subdivision authority comply with section 623(2) of the *MGA* which specifies that it may include one or more of the following:
  - any or all members of council;
  - a designated officer;
  - a municipal planning commission;
  - any other person or organization?

**Comments/Observations:** Bylaw 1543-15 was passed on February 9, 2015 and establishes the subdivision authority as an organization.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 4. Development Authority

**Legislative requirements:** *MGA 624, 625 - 626*

1. Has the municipality by bylaw provided for a development authority?
2. Does the structure of the development authority comply with section 624(2) of the *MGA* which specifies that it may include one or more of the following:
  - a designated officer;
  - a municipal planning commission;
  - any other person or organization?

**Comments/Observations:** Bylaw 1543-15 was passed on February 9, 2015 and establishes the development authority as an organization and a designated officer.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 5. Subdivision and Development Appeal Board (SDAB)

**Legislative requirements:** [MGA 627, 628](#), [Subdivision and Development Regulation 43/2002](#), [Subdivision and Development Appeal Board Regulation 195/2017](#)

1. Is a subdivision and development appeal board bylaw or intermunicipal agreement established by bylaw?
2. Does the SDAB bylaw describe the functions and duties of the SDAB?
3. Do the SDAB members exclude those who are:
  - municipal employees;
  - members of the municipal planning commission; and
  - individuals who can carry out subdivision and development powers on behalf of the municipality?
4. Is there no more than one councillor appointed to serve on a panel of the board?
5. If more than one, is there Ministerial approval for the additional councillors to sit on the panel?
6. Is there a clerk appointed to the SDAB?
7. Has the clerk successfully completed the required SDAB training?
8. Is the member(s) appointed to the SDAB qualified to do so in accordance with the SDAB provisions in the Act and regulation?
9. Has the municipality completed its Statistical Information Return (SIR) to report that the SDAB clerk and members are trained?

**Comments/Observations:** Bylaw 1544-12 was passed on September 10, 2012 and establishes a subdivision and development appeal board for the town. The bylaw excludes municipal employees, members of the municipal planning commission and any person with subdivision or development authority powers from serving on the SDAB. Council has appointed a clerk to the SDAB and they have received the mandatory training.

The Town of Pincher Creek's 2019 submitted Statistical Information Return reports on the number of SDAB members and their training status as required by section 3 of the Subdivision and Development Appeal Board Regulation 195/2017.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 6. Listing and Publishing Policies Used to Make Planning Decisions

**Legislative requirements:** *MGA 638.2*

1. Are the following published on the municipal website:
  - an up-to-date list of council approved policies (by bylaw or resolution) used to make planning/development decisions;
  - a summary of these policies and their relationship to each other and to statutory plans and bylaws passed under Part 17 of the MGA; and
  - documents incorporated by reference in any bylaws passed under Part 17?

**Comments/Observations:** The municipal website for the town contains a list of council approved policies and bylaws relating to planning decisions; however, there is no summary of the policies and their relationship to each other as required by section 638.2 of the *MGA*.

**Meets Legislative Requirements:** No

**Recommendations/Action Items:** The website for the town must be updated to include a document summarizing the policies and their relationship to each other in accordance with legislative requirements.

**Resources:** Municipal Affairs Planning Advisors are available to provide planning and development support by calling toll-free 310-0000 and then 780-427-2225.

**Municipal Response:** Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.

## 7. Joint Use and Planning Agreements (for discussion only)

### **Legislative requirements: MGA 670.1, 672 and 673, Education Act 53.1**

1. Is the municipality aware that, where a school board is operating within the municipal boundaries of a municipality, the municipality must, by June 11, 2023, enter into an agreement with the school board?

2. Are they aware that the agreement must contain provisions:

- establishing a process for discussing matters relating to:
  - the planning, development and use of school sites on municipal reserves, school reserves and municipal and school reserves in the municipality;
  - transfers under section 672 or 673 of the MGA of municipal reserves, school reserves and municipal and school reserves in the municipality;
  - disposal of school sites;
  - the servicing of school sites on municipal reserves, school reserves and municipal and school reserves in the municipality;
  - the use of school facilities, municipal facilities and playing fields on municipal reserves, school reserves and municipal and school reserves in the municipality, including matters relating to the maintenance of the facilities and fields and the payment of fees and other liabilities associated with them, and
  - how the municipality and the school board will work collaboratively,
- establishing a process for resolving disputes, and
- establishing a time frame for regular review of the agreement, and may, subject to the the governing legislation, contain any other provisions the parties consider necessary or advisable?

**Comments/Observations:** The CAO is aware of the legislative amendments requiring school boards and municipalities to enter into joint use and planning agreements prior to June 11, 2023.

**Resources:** Municipal Affairs Planning Advisors are available to provide general support by calling toll-free 310-0000 and then 780-427-2225.

## 3.11 Elections

### 1. Returning /Substitute/Deputy Officers

**Legislative requirements:** *LAEA* 13, 16, [Local Authorities Election Forms Regulation 106/2007](#)

1. Has a returning officer been appointed for the 2021 general election?
2. Has a substitute returning officer been appointed for the 2021 general election?
3. Have all of the appointed election officers taken the required oath/statement per the Local Authorities Election Forms Regulation?

**Comments/Observations:** The CAO advised that they will not be acting as the returning officer for the upcoming 2021 general election and a returning officer and substitute returning officer have not yet been appointed.

The CAO advised that nomination papers have been received for the upcoming general election. While there is no legislated deadline for the returning officer and substitute returning officer to take the official oath, the official oath of office must be taken prior to performing any duties of their offices, including the preparation for, and acceptance of nomination papers.

Furthermore, section 13(2.1) of the *LAEA* requires that a substitute returning officer be appointed prior to June 30.

**Meets Legislative Requirements:** No

**Recommendations/Action Items:** Moving forward, the returning officer and once appointed, the substitute returning officer must take the official oath prior to receiving any further nomination papers.

**Resources:** Municipal Affairs Advisors are available to provide elections support by calling toll-free 310-0000 and then 780-427-2225. In addition, Municipal Affairs has developed a number of resources available to assist municipalities and individuals with the municipal election process and is available online at [Municipal Elections](#).

**Municipal Response:** Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.

## 2. Nomination Forms

**Legislative requirements:** LAEA 27, 28.1, 34, 97

1. Were the nomination papers signed by at least five electors of the municipality?
2. Were the nomination papers accompanied by the candidate information form (form 5)?
3. Have all nomination papers that were filed prior to the most recent election been retained?
4. Were copies of the prescribed form for the identification of an official agent, campaign workers and scrutineers for the purposes of identification under section 52 made available to the candidates?
5. Does the municipality ensure that the Deputy Minister is forwarded a signed statement showing the name of each nominated candidate, election results, and any information about the candidate that the candidate has consented to being disclosed (for general elections and by-elections)?

**Comments/Observations:** The nominations papers from the 2017 general election were not available.

**Meets Legislative Requirements:** No

**Recommendations/Action Items:** Moving forward, nomination papers must be kept for the duration of the term of office to which they apply.

**Resources:** Municipal Affairs Advisors are available to provide elections support by calling toll-free 310-0000 and then 780-427-2225. In addition, Municipal Affairs has developed a number of resources available to assist municipalities and individuals with the municipal election process and is available online at [Municipal Elections](#).

**Municipal Response:** Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.

### 3. Ballot Account

**Legislative requirements:** LAEA 88, 89, 94, 100

1. Has a copy of the ballot account been retained?

**Comments/Observations:** A ballot account for the 2017 general election was not available.

**Meets Legislative Requirements:** No

**Recommendations/Action Items:** Moving forward, ballot accounts must be retained for the duration of the term of office to which they apply.

**Resources:** Municipal Affairs Advisors are available to provide elections support by calling toll-free 310-0000 and then 780-427-2225. In addition, Municipal Affairs has developed a number of resources available to assist municipalities and individuals with the municipal election process and is available online at [Municipal Elections](#).

**Municipal Response:** Response to the findings, or comments, status or action to be taken including key milestones and deadlines. Where resolutions of council are required please provide the date of approval and resolutions of council and/or bylaw numbers.

## 4. Disposition of Election Material

**Legislative requirements:** *LAEA 101*

1. Were the election materials disposed of in accordance with section 101 of the *LAEA*?
2. Is there a copy of the affidavits of destruction of the ballot box contents sworn or affirmed by the two witnesses?

**Comments/Observations:** The town disposed of the October 2017 general election materials on December 7, 2017 in accordance with Section 101 of the *LAEA*. A copy of the affidavit of destruction was retained by the municipality.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 5. Campaign Disclosure Statements

**Legislative requirements:** LAEA 147.4

1. Have all campaign disclosure statements filed within the last four years been retained by the municipality?
2. Are all documents filed under this section available to the public during regular business hours?

**Comments/Observations:** No campaign contributions were collected by town candidates.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 6. Local Authorities Election Act (for discussion only)

### Legislative requirements: LAEA

1. Is the municipality aware of the amendments passed in July 2020 under Bill 29 (Local Authorities Amendment Act)?
  - Campaign Finance and Contribution Disclosure
    - Candidates must be nominated before incurring any campaign expenses or accepting contributions.
    - Campaign period is shortened from 4 years to one year (January 1 through December 31 of a general election year).
    - Nomination period will now align with beginning of the campaign period (nine months, January 1 of a general election year until nomination day, occurring four weeks before election).
  - Voter Accessibility
    - The Minister of Municipal Affairs may create a list of acceptable identification, in addition to government issued identification and identification provided by the List of Acceptable Identification produced by the Chief Electoral Officer of Alberta.
    - An elector may only vouch for one person, unless multiple individuals share the same residence, in which case the elector may vouch for all persons residing in the same residence.
    - The six-month Alberta residency requirement to be an eligible elector has been removed to align with provincial rules.
  - Advertising and Campaign Restrictions
    - Campaign activities and advertising on property surrounding voting stations will be prohibited.
    - Returning Officers can enforce the restriction on campaign activities or advertising at voting stations by causing campaign advertising to be removed, and instruct those obstructing the voting process or taking part in campaign activities to leave the property.
    - The names of nominated candidates will be released by municipalities 48 hours following the close of nominations.
  - Technical and Clarifying Amendments
    - Definition has been added for “nomination period” to reflect the nomination period from January 1 in the year of an election to four weeks prior to election day.
    - The local jurisdiction may pass bylaws to allow for a returning officer to establish one or more locations, outside of the local jurisdiction office, to accept nomination papers.

- The returning officer can reject a nomination paper that does not have the correct number of signatures, has not been sworn/affirmed and/or is not accompanied by a deposit (if required).
- Candidates can withdraw nomination papers given the nomination period beginning on January 1st in the year of an election.
- The Minister is no longer required to be notified of the use of special ballots, or to appoint special ballot advisors.
- Age-related limitations for institutional votes in care facilities have been removed.
- Municipalities may choose to align their election notifications with a bylaw passed under section 606.1 of the *Municipal Governance Act* that allows for electronic or other methods of advertising.
- The term “incapacitated elector” was amended to “persons with disabilities” or similar wording depending on the context.
- Clarification that if a recount has been requested in a municipality/school board that is divided into wards/divisions, the recount only has to occur in that ward/division where the recount has been requested, and not the entire municipality/school division.
- Notification of a by-election for advance vote and election day is only required to be given to the electors in the affected ward/division.
- Clarified when election materials must be destroyed (after six weeks, before 12 weeks)
- The returning officer must report all complaints or allegations under Parts 5.1 or 8 of the *LAEA* to the Elections Commissioner?

**Comments/Observations:** The CAO is aware of the legislative changes to the *LAEA* and has been encouraged to review and discuss existing election procedures with municipal staff and council in preparation for the 2021 general election.

**Resources:** Municipal Affairs has developed a number of resources available to assist municipalities and individuals with the municipal election process and is available online at [Municipal Elections](#).

## 3.12 Emergency Management

### 1. Municipal Emergency Organization/Agency/Advisory Committee

**Legislative requirements:** *Emergency Management Act (EMA) 11, 11.1, 11.2*

1. Has the emergency management committee been established by bylaw?
2. Has an emergency advisory committee been appointed consisting of a member or members of council to advise on the development of emergency plans and programs?
3. Is an emergency management agency established by bylaw to act as the agent of the local authority in exercising the local authority's powers and duties under the EMA?
4. Has a director of the emergency management agency been appointed?
5. Has the director of emergency management received the required training (Basic Emergency Management, ICS-300, and Director of Emergency Management courses)?
6. Have municipal elected officials received the required training (Municipal Elected Officials course)?
7. Have municipal staff who have been assigned responsibilities respecting the implementation of the emergency plan received the required training (Basic Emergency Management and ICS-100 courses)?
8. Are there prepared and approved emergency plans and programs?

**Comments/Observations:** Bylaw 1590-19 was passed on August 26, 2019 establishing a regional emergency management committee and a regional emergency management agency for the town. A deputy director of emergency management has been appointed to act in the absence of a director of emergency management until the position is filled, and the required training has been completed.

The CAO indicated that the remaining appointees have received the mandatory training. There is an approved municipal emergency plan for the town.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 3.13 Libraries

### 1. Municipal Library Board

**Legislative requirements: Libraries Act 3-5**

1. Is a municipal library board established?
2. Has council provided a copy of the bylaw establishing the board to the Minister?
3. Has council appointed all of the members of the library board?
4. Have two or fewer councillors been appointed to the board?
5. Are there alternate members of council appointed to the board?
6. In the case of an intermunicipal library board, are members appointed to the board in accordance with the intermunicipal agreement?
7. Does the appointment term exceed three years?
8. Does any member's number of terms exceed three consecutive terms? If so, did two-thirds of council pass a resolution stating that they may be reappointed (for each additional term)?

**Comments/Observations:** The Town of Pincher Creek municipal library is established through bylaw 1601-09, which was passed on January 26, 2009. One member of council is appointed to the board, and there is no alternate member. The appointment term does not exceed three years, and no member has exceeded three consecutive terms.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## 2. System Library Board

**Legislative requirements: *Libraries Act 16, Libraries Regulation 141/1998***

1. Is the municipality a member of a library system?
2. If so, has council appointed one member to the board?
3. If so, does the appointment term exceed three years?
4. Does any member's years of service exceed nine consecutive years? If so, did two-thirds of council approve each additional term?

**Comments/Observations:** The town is a member of the Chinook Arch Regional Library System and council appoints a council representative at the organizational meeting. No member has served more than nine consecutive years.

**Meets Legislative Requirements:** Yes

**Recommendations/Action Items:** No action required.

**Resources:** Not applicable.

## Section 4: Conclusion

Your participation and cooperation during the 2020 Municipal Accountability Program review are appreciated. This report is intended to help the Town of Pincher Creek reach full mandatory legislative compliance.

No confidential information is contained within this report; therefore, the report in its entirety should be shared with council to strengthen awareness of the diversity and magnitude of municipal responsibilities, the significant tasks and work involved, and achievements in compliance. The report can be used as a planning tool for addressing the compliance gaps identified and for future training purposes. To demonstrate transparency and accountability to citizens, it is strongly encouraged that the review results are shared during an open public meeting.

The ministry is committed to maintaining a strong collaborative working relationship. We welcome your feedback on our review process as we work together to ensure Albertans live in viable municipalities with well-managed, accountable and transparent local governments.