

WHEATLAND COUNTY

BYLAW NO. 2023-18

BEING A BYLAW OF WHEATLAND COUNTY IN THE PROVINCE OF ALBERTA TO ESTABLISH A CODE OF CONDUCT GOVERNING THE CONDUCT OF ITS COUNCILLORS AND MEMBERS OF COUNCIL COMMITTEES AND OTHER BODIES ESTABLISHED BY COUNCIL WHO ARE NOT COUNCILLORS

WHEREAS section 146.1(1) of the *Municipal Government Act* requires councils of all municipalities in Alberta to adopt a code of conduct by bylaw governing the conduct of councillors;

WHEREAS section 146.1(3) of the *Municipal Government Act* authorizes a council to adopt a code of conduct by bylaw governing the conduct of members of council committees and other bodies established by the council who are not councillors;

WHEREAS the *Code of Conduct for Elected Officials Regulation* sets out matters which must be included in a code of conduct for councillors;

AND WHEREAS Wheatland County Council recognizes that councillors and members of council committees and other bodies established by council who are not councillors have an obligation to conduct themselves and to perform their roles and duties in a professional, ethical and trustworthy manner in accordance with the *Municipal Government Act*;

THEREFORE, Wheatland County Council enacts as follows:

TABLE OF CONTENTS

PART I – INTERPRETATION 4

 Title 4

 Definitions 4

 Purpose 4

 Application 4

 Rules for interpretation 5

PART II – CODE OF CONDUCT 5

 Representing the Municipality 5

 Communicating on Behalf of the Municipality 5

 Respecting the Decision-Making Process 5

 Adherence to Policies, Procedures and Bylaws 6

 Respectful Interactions 6

 Confidential Information 6

 Conflicts of Interest 6

 Improper Use of Influence 7

 Use of County Assets and Services 7

 Orientation and Other Training Attendance 7

 Gifts and Benefits 8

PART III – INTEGRITY COMMISSIONER 8

 Appointment 8

 Ineligibility 9

PART IV – INFORMAL COMPLAINT PROCESS 9

 Informal Complaint 9

 No prerequisite for formal complaint 9

PART V – FORMAL COMPLAINT PROCESS 9

 Formal Complaint 9

 Deadline for receipt 10

 No anonymous complaints 10

 Initial review 10

 Informal Resolution 10

 Formal Investigation 10

 Notice of Investigation 11

 Withdrawal of complaint 11

 Suspension of investigation 11

 Access to records 11

 Disclosure and response 11

 Timeframe for investigation 11

 Investigation Report 11

 Report to Council 11

 No review by Council 12

 Integrity Commissioner authority to impose sanctions 12

 Publication of Report 12

Annual Report.....	12
Independent Legal Advice.....	12
PART VI – COMPLIANCE WITH THE CODE OF CONDUCT	12
Duty to Co-operate	12
Retaliation, Interference and Obstruction.....	12
Sanctions.....	12
PART VII – GENERAL.....	13
Review.....	13
Repeal and Replace.....	13
Coming into Force.....	13

PART I – INTERPRETATION

Title

1. This Bylaw may be referred to as the “Code of Conduct Bylaw.”

Definitions

2. In this Bylaw, words have the meanings set out in the Act, except that:
 - (a) “Act” means the Municipal Government Act;
 - (b) “Board” means a council committee, board or other body established by Council under the Act;
 - (c) “Chief Administrative Officer” means that individual appointed by Council as Chief Administrative Officer for the County in accordance with the Act, or the Chief Administrative Officer’s delegate;
 - (d) “Council” means the duly elected Wheatland County Council;
 - (e) “Councillor” means a duly elected member of Council;
 - (f) “County” means the municipal corporation of Wheatland County;
 - (g) “Frivolous” means a complaint that
 - i. is easily determined to be without merit,
 - ii. is objectively trivial, petty, insignificant, or
 - iii. is otherwise a waste of the County’s time and resources;
 - (h) “Integrity Commissioner” means the individual or corporate entity appointed by Council to receive, assess, investigate, and adjudicate formal complaints regarding potential breaches of the Code of Conduct;
 - (i) “Member” means an individual duly appointed by Council to a Board, who is not a Councillor;
 - (j) “Social Media” means any freely accessible, third-party hosted, interactive web-based technologies used to produce, post, and interact through text, images, video, or audio to inform, share, promote, collaborate or network; and
 - (k) “Vexatious” means a complaint
 - i. where the issue has already been investigated or decided and is merely a repeat of an earlier complaint,
 - ii. that has no reasonable prospect of being successful, or
 - iii. that is brought for an improper purpose (i.e., to harass).

Purpose

3. The purpose of this code of conduct is to establish standards for the ethical conduct of Councillors and Members relating to their roles and obligations as representatives of the County and a procedure for the investigation and enforcement of those standards.

Application

4. This code of conduct applies to
 - (a) all Councillors and Members equally, and
 - (b) to all forms of communication and activity, including on Social Media.

Rules for interpretation

5. This code of conduct is intended to supplement any other legal duties imposed on a Councillor or Member by the Act or any other enactment, bylaw, or Council-approved policy, including:
 - (a) *Alberta Human Rights Act*;
 - (b) *Criminal Code (Canada)*;
 - (c) *Freedom of Information and Protection of Privacy Act*;
 - (d) *Local Authorities Election Act*;
 - (e) *Occupational Health and Safety Act*;
 - (f) Procedural Bylaw.

PART II – CODE OF CONDUCT

Representing the Municipality

6. While performing their duties, Councillors and Members must:
 - (a) act honestly and in good faith;
 - (b) make every effort to diligently attend and participate in all meetings as empowered by and in accordance with the Act; and
 - (c) conduct themselves in a professional manner.

Communicating on Behalf of the Municipality

7. Without limiting the ability of a Councillor or Member to hold a position on an issue and respectfully express their opinions, Councillors and Members must:
 - (a) ensure their communications accurately reflect the facts of Council's decisions, or the Board's decision, as applicable;
 - (b) refer inquiries regarding Council's position on a matter to Council's official spokesperson;
 - (c) refer inquiries regarding the Board's position on a matter to the Board's official spokesperson;
 - (d) ensure that all communications are accurate and not issue any communication that the Councillor or Member knows, or ought to have known, to be false;
 - (e) ensure that all communications issued by, or on behalf of, the Councillor or Member are respectful and do not discriminate, harass, or demonstrate disrespect toward any person; and
 - (f) not issue any communications that mislead Council, the Board or the public about any matter related to the business of the County or the decisions of Council.
8. Unless Council directs otherwise, the Reeve is Council's official spokesperson and in the absence of the Reeve it is the Deputy Reeve.
9. Unless the Board directs otherwise, the chair of the Board is the Board's official spokesperson and in the absence of the chair it is the deputy chair.
10. No Councillor or Member may engage in negotiations or make representations or commitments on behalf of the County unless authorized to do so by Council.

Respecting the Decision-Making Process

11. Councillors and Members must exercise their authority to make decisions in a manner that demonstrates fairness, respect for differences, and an intention to work together for the common good and in the public interest.

12. Councillors and Members must obtain all necessary information about the operations and administration of the County from the Chief Administrative Officer, using processes developed by the Chief Administrative Officer, and must respect the role of County employees to provide neutral and objective information without undue influence and interference.
13. Councillors and Members must not involve themselves in matters of administration which fall within the jurisdiction of the Chief Administrative Officer.
14. Councillors and Members must respect that County employees are required to make recommendations that reflect their expertise and a corporate perspective.
15. Any feedback a Councillor or Member may have about individual County employee performance will only be given privately to the Chief Administrative Officer, bearing in mind that Council has only one employee reporting to them, the Chief Administrative Officer.

Adherence to Policies, Procedures and Bylaws

16. Councillors and Members will comply with all County Bylaws, Council approved policies and procedures.
17. Councillors and Members must not encourage disobedience of any County bylaw, Council approved policy or procedure.

Respectful Interactions

18. Councillors and Members must conduct themselves with decorum when engaging or interacting with other Councillors and Members, County employees and the public.
19. Councillors and Members must not use any harassing, offensive, discriminatory, or disrespectful language or conduct about Council, a Councillor, a Member, County employees or the public.

Confidential Information

20. Councillors and Members must keep confidential all information received during a Council or council committee meeting held in private in accordance with the Act, information that would be exempt from disclosure under the *Freedom of Information and Protection of Privacy Act*, or otherwise received in confidence or marked as confidential.
21. If a Councillor or Member receives confidential information, they must use the information only for the purpose for which the information is intended and to fulfill the duties of their office and must not seek to access confidential information for any other purpose.
22. Councillors and Members must not use confidential information to advance the Councillor's, or Member's, private interests, or personal benefit, or in any way that may cause harm or detriment to any person.

Conflicts of Interest

23. When exercising official duties, a Councillor or Member must not give preferential treatment to any person or organization with the intent of advancing the Councillor's, or Member's, private interests or for their personal benefit.
24. A Councillor or Member must not function as an agent and advocate before Council or a Board on behalf of any person or organization.

25. Councillors and Members must not use information received in the context of their official duties that is not available to the public or the rest of Council or the Board, for a purpose other than performing their duties.

Improper Use of Influence

26. Councillors and Members must not use, or attempt to use, their office for the purpose of intimidating, influencing, threatening, coercing, or directing a County employee, agent, or contractor in a manner contrary to the employee's, agent's or contractor's duties or for the Councillor's or Member's private interests or personal benefit.
27. Councillors and Members must not contact or otherwise attempt in any way to influence any member of a judicial, quasi-judicial, or regulatory body before which the County may be a party regarding a matter before that body.
28. Councillors and Members must not use their role as a Councillor or Member to attempt to influence any hiring decisions.

Use of County Assets and Services

29. Councillors and Members may only use County property, equipment, services, supplies and employee resources for the performance of their duties as a Councillor or Member, except that:
 - (a) County property, equipment, services, supplies and employee resources that are available to the public may be used by a Councillor or Member for personal use on the same terms and conditions as members of the 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 may be supplied by the County to a Councillor or Member, may be used by for personal use, provided that such use is not offensive or inappropriate, or would not cause harm to any person or to the County.
30. A Councillor or Member must not attempt to obtain financial gain from any of the County's intellectual property, and all Councillors and Members acknowledge that the County's intellectual property is owned by the County.
31. Immediately prior to the end of their term of office, Councillors and Members will return County assets and records to the Chief Administrative Officer.

Orientation and Other Training Attendance

32. Unless excused by Council, Councillors must attend
 - (a) Councillor orientation training at the start of each Council term; and
 - (b) any Councillor training session or workshop organized at the direction of Council or mandated by the Province of Alberta.
33. Councillors may attend such other training, workshops or conferences of their choosing related to their role as Councillor so long as there is sufficient budget available within Council's account.
34. Upon being appointed to a Board, Members must attend
 - (a) any Board orientation session(s) hosted by the County; and
 - (b) any specific Board training or workshop offered by the County.

Gifts and Benefits

35. Councillors and Members must not knowingly accept any gift or other personal benefit for themselves or a member of their family that is connected directly or indirectly to the performance of the Councillor's or Member's duties unless an exception under this bylaw applies.

36. Councillors and Members may accept:
 - (a) compensation authorized by Council;
 - (b) suitable mementos received as an incident of accepted protocol or normal expression of courtesy, or a reasonable memento of a function honouring the Councillor or Member;
 - (c) a political contribution otherwise authorized and reported by law, such as in the case of a Councillor running for office;
 - (d) services provided without compensation by persons volunteering their time to further the interests of the County or the Councillor's ward;
 - (e) food, lodging, transportation, or entertainment provided by other levels of government or by the government of a foreign country, or by a conference, seminar, or event organizer where the Councillor or Member is attending in an official capacity;
 - (f) admission to, and food and beverages consumed at, community events and widely attended events such as conventions, conferences, sporting and arts events, banquets, or training and education programs, provided that:
 - i. the Councillor or Member's attendance serves a legitimate purpose associated with their duties;
 - ii. the admission is unsolicited by the Councillor or Member; and
 - iii. the value is reasonable and the invitations infrequent.

37. Councillors and Members will, as soon as practicable, return to the donor any gift that does not comply with this code of conduct, along with an explanation as to why the gift cannot be accepted.

38. Official gifts received by Councillors or Members on behalf of the County are considered County assets and are managed by the Chief Administrative Officer for public display and/or archiving.

39. Councillors and Members must disclose any single gift accepted by the Councillor or Member with a fair market value in excess of \$250, as well as all gifts from a single donor in a calendar year that collectively exceed \$250, apart from gifts falling under sections 33(c) and (d). Each Councillor and Member must file a quarterly disclosure statement with the Chief Administrative Officer for presentation to Council and publication on the County's website.

40. Disclosure statements will identify:
 - (a) Nature and source of the gift or benefit;
 - (b) Date on which the gift or benefit was received; and
 - (c) Fair market value of the gift.

PART III – INTEGRITY COMMISSIONER

Appointment

41. Council will, by resolution, appoint an Integrity Commissioner to accept, assess, investigate formal complaints under this Bylaw and make findings and determinations as to whether a Councillor or Member has contravened this code of conduct.

Ineligibility

42. The following persons are not eligible to act as the Integrity Commissioner:
- (a) a family member, friend or close associate of a Councillor or Member;
 - (b) a family member, friend, or close associate of the Chief Administrative Officer;
 - (c) a County employee; or
 - (d) any person who has a conflict of interest or vested interest in the outcome of an investigation or investigations under this Bylaw.

PART IV – INFORMAL COMPLAINT PROCESS

Informal Complaint

43. Any person who reasonably believes, in good faith, that a Councillor or Member has contravened this code of conduct is encouraged to attempt to address the conduct informally, where appropriate, by:
- (a) advising the Councillor or Member that the conduct appears to contravene this code of conduct and encouraging the Councillor or Member to stop the conduct;
 - (b) requesting the Reeve to assist in informal discussion of the informal complaint with the Councillor or Member to attempt to resolve the issue. If the Reeve is the subject, or is implicated in the informal complaint, the person may request the assistance of the Deputy Reeve.

No prerequisite for formal complaint

44. Individuals are encouraged to pursue the informal complaint procedure as the first means of remedying conduct they believe violates this code of conduct. However, an individual is not required to complete this informal complaint procedure prior to pursuing the formal complaint process outlined below.

PART V – FORMAL COMPLAINT PROCESS

Formal Complaint

45. Any person who reasonably believes, in good faith, that a Councillor or Member has contravened this code of conduct may submit a formal complaint to the Integrity Commissioner by electronic mail to: councilcode.wheatland@kingsgate.legal, or

delivered to:

Wheatland County

#242006 Rge Rd 243

Wheatland County, AB T1P 2C4

Attn: Integrity Commissioner

46. A formal complaint must include the following:
- (a) the complainant's name and contact information, including their residential address and email, if any;
 - (b) the name of the Councillor(s) or Member(s) alleged to have contravened the code of conduct; and
 - (c) the provision(s) of the code of conduct allegedly contravened and the facts surrounding the allegation(s);
 - (d) the name and contact information of any witnesses to the alleged misconduct;

- (e) any other information or supporting documentation that may assist in the evaluation of the complaint.

Deadline for receipt

47. A complaint must be received by the Integrity Commissioner no later than 90 days after the person became aware of, or reasonably ought to have known of, the conduct giving rise to the complaint. The Integrity Commissioner may use their discretion to grant extensions if:
- (a) the delay occurred in good faith;
 - (b) it is in the public interest to conduct an investigation or to give consideration whether to conduct an investigation; and
 - (c) no substantial prejudice will result to any person because of the delay.

No anonymous complaints

48. The Integrity Commissioner will not reply to or accept complaints that are anonymous and may refuse to undertake an investigation if the complainant fails or refuses to provide all the required information.

Initial review

49. On receipt of a formal complaint, the Integrity Commissioner will conduct an initial review to determine whether an investigation should be conducted. If the Integrity Commissioner is of the opinion that:
- (a) the complaint is not about a current Councillor or Member;
 - (b) the complaint was received outside the timeframe provided in this bylaw;
 - (c) the complaint is Frivolous or Vexatious;
 - (d) the complaint was not made in good faith;
 - (e) there are no or insufficient grounds for conducting an investigation; or
 - (f) the complaint is not within the authority of the Integrity Commissioner to investigate or should be referred to a different body for investigation,

the Integrity Commissioner must refuse the complaint and advise the complainant in writing, with reasons, and provide information regarding other options, if applicable.

50. When determining if a complaint is Frivolous, Vexatious or otherwise made in bad faith, the Integrity Commissioner must accept that complaints are made in a political environment and are not automatically deemed to be in bad faith if they appear to be made for political purposes or if they are found to be unsubstantiated.

Informal Resolution

51. Whenever possible, the Integrity Commissioner will take a restorative approach when dealing with formal complaints. If the Integrity Commissioner determines that informal resolution may be possible, they may recommend:
- (a) direct communications between the complainant and the respondent Councillor(s) or Member(s);
 - (b) facilitated discussions, as agreed upon by the parties;
 - (c) mediation by an independent mediator, as agreed upon by the parties.

Formal Investigation

52. If a complaint cannot be resolved informally, the Integrity Commissioner will conduct a formal investigation. Formal investigations must be conducted in a fair, timely, and confidential manner that respects the principles of procedural fairness and natural justice.

Notice of Investigation

53. The complainant and respondent Councillor(s) or Member(s) will receive written notice of the investigation, and the respondent Councillor(s) or Member(s) will receive the content of the complaint. Names of complainants and witnesses may be provided to the respondent Councillor(s) or Member(s) if the respondent Councillor(s) or Member(s) require the name(s) to properly respond to the allegations.

Withdrawal of complaint

54. A complaint may be withdrawn by a complainant at any time during an investigation. Notwithstanding a request to withdraw a complaint, the Integrity Commissioner may continue an investigation without the complainant's participation if, in their sole opinion, it is in the public interest to do so.

Suspension of investigation

55. In the period 90 days prior to the date of a municipal election, the Integrity Commissioner may suspend any investigation underway or decline to commence an investigation until after the municipal election.

Access to records

56. The Integrity Commissioner may review all books, financial records, electronic data, processing records, reports, files and any other records, things or property belonging to or used by the County and enter any County facility for the purpose of the investigation.

Disclosure and response

57. The respondent Councillor(s) or Member(s) is entitled to disclosure of all relevant information gathered during an investigation.
58. Once all relevant information has been provided to the respondent Councillor(s) or Member(s) by the Integrity Commissioner, the respondent Councillor(s) or Member(s) will have 10 days to respond to the complaint in writing and may provide any further information in support of their response. This deadline may be extended at the discretion of the Integrity Commissioner.

Timeframe for investigation

59. The Integrity Commissioner will make every reasonable effort to complete an investigation and either dismiss the complaint or prepare a report to Council within 90 days of receiving a formal complaint. This deadline may be extended at the discretion of the Integrity Commissioner.

Investigation Report

60. When a contravention of this bylaw has been proven on the balance of probabilities, the Integrity Commissioner's report to Council must include the following:
- (a) a summary of the evidence and the Integrity Commissioner's findings;
 - (b) a description of the contravention of this bylaw that occurred; and
 - (c) a recommendation as to the appropriate sanctions to be imposed on the Councillor, if any.

Report to Council

61. Upon completion of a report to Council, the Integrity Commissioner will advise the Chief Administrative Officer who will schedule the matter as a closed session item for the next available Council meeting.
62. After considering a report by the Integrity Commissioner, Council may by resolution:
- (a) impose sanctions on the Councillor in accordance with this bylaw, or not impose sanctions on the Councillor, and

- (b) Council is not bound by the Integrity Commissioner's recommendation on sanctions.

No review by Council

- 63. The Integrity Commissioner's decision that a Councillor violated this code of conduct is final and may not be reviewed or reconsidered by Council.

Integrity Commissioner authority to impose sanctions

- 64. If all of Council are the subjects of the complaint, it will fall to the Integrity Commissioner to determine what sanctions, if any, will be imposed on the finding of a contravention of this bylaw.

Publication of Report

- 65. When the Integrity Commissioner determines that a contravention of this bylaw has occurred, the report from the Integrity Commissioner will be made public and posted on Wheatland County's website, subject to the *Freedom of Information and Protection of Privacy Act*, following Council's consideration of the report and decision on sanctions, if any.

Annual Report

- 66. The Integrity Commissioner will submit an annual report to Council, which summarizes the activities of the Integrity Commissioner over the previous year, and any other Code of Conduct matters that, in the opinion of the Integrity Commissioner, should be brought to Council's attention.

Independent Legal Advice

- 67. Councillors and Members are entitled to seek legal advice, at their sole expense, regarding compliance or contraventions of this bylaw or in relation to any proceedings conducted under it.

PART VI – COMPLIANCE WITH THE CODE OF CONDUCT

Duty to Co-operate

- 68. Councillors and Members must co-operate in every way possible in the investigation of alleged contraventions and enforcement of this code of conduct.

Retaliation, Interference and Obstruction

- 69. Councillors and Members must not retaliate against anyone, including another Councillor or Member, who participates or provides information in good faith during an investigation under this code of conduct.

- 70. Interfering with or obstructing an investigation under this code of conduct is prohibited.

Sanctions

- 71.
 - (1) When imposing a sanction, Council will consider the following:
 - (a) the nature, extent, and gravity of the contravention;
 - (b) the consequences and impact of the contravention;
 - (c) whether the Councillor or Member has previously contravened this code of conduct;
 - (d) the principles and intent of this code of conduct;
 - (e) the presence of any legitimate mitigating circumstances;
 - (f) the need to deter future contraventions; and

- (g) the public interest, including the need to promote the public's confidence in the integrity of Council.
- (2) After considering these factors, Council may determine that although there was a breach of this code of conduct, no sanction is warranted. Contraventions that were inadvertent or made in good faith may result in no sanction being imposed.
72. When imposing a sanction Council must provide clear direction on when the sanction(s) to be imposed will expire if the sanctions are to be imposed over a period of time.
73. Sanctions that may be imposed on a Councillor or Member, by Council, upon a finding that the Councillor or Member has breached a provision of this code of conduct may include:
- (a) a letter of reprimand addressed to the Councillor or Member;
 - (b) requesting the Councillor or Member to issue a verbal or written apology;
 - (c) publication of a letter of reprimand or request for apology and the Councillor's or Member's response;
 - (d) suspension or removal of the appointment of a Councillor as the Deputy Reeve or Acting Reeve under section 152 of the Act;
 - (e) suspension or removal of the Reeve's presiding duties under section 154 of the Act;
 - (f) suspension or removal of a Councillor from some or all Council committees and bodies to which Council has the right to appoint members;
 - (g) suspension or removal of a Member from some, or all, Boards to which the Member has been appointed by Council;
 - (h) any other sanction Council deems reasonable and appropriate in the circumstances provided that the sanction does not prevent a Councillor from fulfilling the legislated duties of a councillor and the sanction is not otherwise contrary to law.

PART VII – GENERAL

Review

74. This Bylaw will be brought forward for review annually at Council's organizational meeting.

Repeal and Replace

75. This Bylaw repeals and replaces Code of Conduct Bylaw 2023-02.

Coming into Force

76. This Bylaw comes into force upon receiving third reading and being duly signed.

Read a first time this 5 day of SEPT, 2023.

Read a second time this 5 day of SEPT, 2023.

Read a third and final time this 5 day of SEPT, 2023.

This Bylaw was signed on 5 day of SEPTEMBER, 2023.



REEVE



CHIEF ADMINISTRATIVE OFFICER