

BYLAW # 2024 - 012

COUNCIL CODE OF CONDUCT BYLAW

A BYLAW OF THE VILLAGE OF ANDREW, IN THE PROVINCE OF ALBERTA

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

WHEREAS the *Code of Conduct for Officials Regulation, AR 200/2017* provides that a Code of Conduct must contain certain provisions;

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

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

WHEREAS this Code of Conduct must be reviewed every four years from date of Passing.

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

BYLAW TITLE

1. This Bylaw shall be called the "Council Code of Conduct".

DEFINITIONS

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

"Conflict of Interest" means an occurrence where a Councillor's personal or private interests are, or may be perceived as, influencing the Councillor on a matter of public interest before Village Council, including occurrences which may result in common law bias, including direct or indirect pecuniary interest, prejudice, close mindedness or undue influence. A Conflict of Interest occurrence also includes using the Councillor's position, confidential information or Village of Andrew employees, materials, or facilities for personal or private gain or advancement or the expectation of personal or private gain or advancement. A Conflict of Interest may include advancing the interests of the Councillor's family, friends or business associates.

"Complainant" means the individual who submitted a complaint under the provisions of this bylaw.

"Complained of Councillor" means the councillor against whom a complaint has been made.

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

“Council” means the Village of Andrew Council.

“Integrity Commissioner” means the individual/business appointed by Council to assess and adjudicate formal code of conduct complaints.

“MGA” means the Municipal Government Act, as amended from time to time.

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

“Village” means the municipality of the Village of Andrew.

GUIDING PRINCIPLES

2. Council is to review this Code of Conduct annually at the Organizational Meeting, to ensure that the Bylaw is current and remains relevant to the day to day conduct of Council and individual Councillors.
3. Councillors are expected to formally and informally review this Code of Conduct, and their adherence thereto on a regular and ongoing basis.

MUNICIPAL PURPOSE

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

REPRESENTING THE MUNICIPALITY

5. Councillors must:
 - a. serve the welfare and interests of the Village as a whole to the best of their abilities and act in good faith as elected officials;
 - b. carry out their duties in a conscientious and diligent manner and act with honesty, dignity, and openness in their public affairs;
 - c. arrange their private affairs and conduct themselves in a manner that promotes public confidence in the Village of Andrew.

COMMUNICATING ON BEHALF OF THE MUNICIPALITY

6. Councillors must not:

- a. communicate on behalf of Council on a matter unless authorized to do so;
 - b. make statements that they know to be false; nor
 - c. make intentionally misleading or reckless statements.
7. Requests from the media regarding the official position of Council on a matter will be referred to the official spokesperson of Council for response. The Chief Elected Official is the official spokesperson of Council or another Councillor who is authorized by Council to act as the official spokesperson.
8. Any Councillor who is authorized to act as the official spokesperson of Council must ensure that their comments accurately reflect the official position and will of Council, even if that Councillor personally disagrees with the official position and will of Council.
9. When a Councillor receives a request from the media and they are not authorized to act as the official spokesperson of Council, the Councillor must forward the request to: (1) the Chief Elected Official if the matter pertains to Council business; or (2) the Chief Administrative Officer if the matter is operational in nature.

RESPECTING THE DECISION MAKING PROCESS

10. Council meetings are the appropriate forum for healthy and fulsome debate and discussion of matters before Council.
11. All Councillors must be given a full opportunity to address issues before Council in a full, open and professional manner, to encourage and promote healthy debate of issues.
12. Council decisions are made by majority vote by the Councillors. The decision of Council must be accepted and respected by all Councillors even if some individual Councillors do not agree with the majority decision.
13. While an individual Councillor may publicly state that they did not vote with the majority of Council on an issue, this must be made in a manner that respects Council, Council's decision and other members of Council.

PECUNIARY INTEREST

14. It is the individual responsibility of each Councillor to be aware of the Pecuniary Interest provisions and the disclosure and procedure requirements as established in *MGA*.
15. It is the individual responsibility of each Councillor to seek independent legal advice with respect to any occurrence which may result in Pecuniary Interest, at their own expense.
16. If a Councillor believes that they may have or may reasonably be perceived to have a Pecuniary Interest in a matter before Council or a Council Committee, they shall follow the Pecuniary Interest disclosure and procedure requirements as established in the *MGA*.

ADHERENCE TO POLICIES, PROCEDURES AND BYLAWS

17. Councillors must uphold the law established by the Parliament of Canada and the Legislature of Alberta.
18. Councillors must not encourage or condone unlawful conduct or undermine public confidence in the rule of law.
19. Councillors must respect the Village of Andrew as an institution and must comply with its bylaws, policies, and procedures, and must encourage public respect for the Village of Andrew and its bylaws, policies, and procedures.

RESPECTFUL INTERACTIONS WITH COUNCILLORS, STAFF, THE PUBLIC

20. Councillors shall respect the professional opinion of Village administration and staff.
21. Councillors shall not abuse relationships or dealings with Village administration or staff by attempting to take advantage of their position as Councillors. Councillors must refrain from behaviour which may be perceived to be bullying of staff.
 - a. All requests for information shall be directed through the CAO.
 - b. Councillors may meet with the CAO at any time. However, Councillors must not direct any staff member(s) regarding municipal business, and must not discuss municipal business at any time, without the CAO present, unless authorized by the CAO.
22. It is the sole responsibility of the CAO to hire, discipline, and terminate staff, and that all information pertaining to staff employment matters is confidential. No member of Council, either as an individual or as a group, shall interfere with the CAO role in the hiring, disciplinary action, or termination of any staff member, by way of coercion, persuasion, threats, intimidation, bullying, or any other form of influence. The CAO shall immediately report any incident of this nature to Council as a whole.
23. Councillors will treat all people with professionalism, courtesy and respect.
 - a. Councillors will treat all people in good faith and without bias and shall not discriminate against any person on the basis of:
 - i. differences in personal opinions, or
 - ii. race, ancestry, place of origin, colour, ethnic origin, culture, citizenship, religion, creed, language, gender, sexual orientation, age, family status, disability or occupation.

CONFLICT OF INTEREST

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

25. This bylaw does not apply to gifts donated to the Village, nor to gifts or hospitality that are normally received as a matter of protocol or social obligations that normally accompany the position of Councillor and which are not related to any particular transaction or activity of the Village of Andrew or decision by Council.
26. A councillor may seek the advice of the CAO respecting a potential conflict prior to the matter coming before council.
 - a. It is the individual responsibility of each Councillor to seek independent legal advice with respect to any situation that may result in a Conflict of Interest.

IMPROPER USE OF INFLUENCE

27. No Councillor shall use the influence of the Councillor's office for any purpose other than for the exercise of the Councillor's official duties.
28. No Councillor shall act as a paid agent to advocate on behalf of any individual, organization or corporate entity before Council or a committee of Council or any other body established by Council.
29. Councillors shall not contact or otherwise attempt to influence individual members of any adjudicative body regarding any matter before it relating to the Village.
30. Councillors shall refrain from using their positions to obtain employment with the Village for themselves, family members or close associates. Councillors are ineligible to serve any position with the Village while they hold their elected position.

USE OF MUNICIPAL INFORMATION, ASSETS AND SERVICES

31. Councillors must not use information gained through their position on Council for any private or personal benefit or gain.
32. Councillors shall inform themselves of and strictly adhere to the provisions of the *Freedom of Information and Protection of Privacy Act, R.S.A. 2000, Chapter F-25* with respect to the access to, gathering, use and disclosure of information.
33. Councillors must not release, disclose, publish or comment on confidential information including any information received during a closed session meeting until such information is disclosed at a public meeting. This obligation continues in perpetuity.
34. Councillors must not release information that is subject to solicitor-client privilege unless expressly authorized by Council or required by law to do so.
35. Councillors must not misuse confidential information gained by virtue of their position as Councillor that is not in the public domain, including e- mails and correspondence from other Councillors or third parties, such that it may cause harm, detriment or embarrassment to the Village, Council, other Councillors, Village of Andrew administration or staff, members of the public or third parties, or such that it may create a benefit to themselves, the Village, Council, other Councillors, Village administration or staff, members of the public or third parties.

ORIENTATION AND TRAINING

36. Councillors must attend orientation pursuant to section 201.1 of the *MGA* within 90 days of taking the oath of office.
37. Councillors must attend any training organized at the direction of Council or mandated by the Province of Alberta.

INFORMAL COMPLAINT PROCESS

38. Any person who witnesses or becomes aware of conduct by a Councillor that they reasonably believe, in good faith, contravenes any provision of this bylaw may pursue an informal resolution by:
 - a. advising the Councillor, in person or in writing, that their conduct may contravene this bylaw and encouraging the offending Councillor to refrain from said conduct in the future; or
 - b. if the matter is not resolved, requesting an informal dispute resolution process with a mutually agreed upon Councillor.
39. Councillors and all others are encouraged to pursue the informal complaint process as the first step of addressing conduct that they believe contravenes this bylaw; however, it is not required to pursue an informal complaint prior to pursuing a formal complaint.

FORMAL COMPLAINT PROCESS

40. All formal complaints will be assessed and adjudicated by a third-party Integrity Commissioner.
 - a. Council must appoint a third-party Integrity Commissioner.
 - b. The following persons are not eligible to act as the Integrity Commissioner:
 - i. a Councillor of the Village, or a family member, friend, or close associate of a Councillor of the Village;
 - ii. the CAO of the Village, or a family member, friend, or close associate of the CAO of Andrew;
 - iii. a Village employee; nor
 - iv. any other person with a conflict of interest or vested interest in the outcome of investigations conducted under this bylaw.
 - c. The CAO shall bring forth a recommendation to Council on the appointment of an Integrity Commissioner, during the annual organizational meeting or when a Formal Code of Conduct Complaint is received to ensure timely review and processing of the complaint.

41. Any person who has identified or witnessed conduct by a Councillor that the person reasonably believes, in good faith, is a contravention of this Bylaw may file a formal complaint in accordance with the following procedure:
 - a. All complaints shall be made in writing, and shall be dated and signed by an identifiable individual.
 - b. The complaint must set out reasonable and probable grounds for the allegation that a Councillor has contravened this Bylaw, including a detailed statement of the facts giving rise to the allegation. The complaint shall contain the following information:
 - i. The name and contact information of the complainant.
 - ii. The nature of the complaint
 - iii. The name of the Councillor (respondent)
 - iv. Copies of any letters, memos, emails or other documents that support the complaint; and
 - v. The name of any witness to any incident related to the complaint.
 - c. All complaints shall be addressed to the Integrity Commissioner who shall be identified on the Village website and at the Village Office. Alternatively, if there is not an Integrity Commissioner appointed when a complaint is submitted, the CAO will maintain possession of the complaint in a sealed confidential envelope until such a time that an Integrity Commissioner is appointed.
 - d. The Integrity Commissioner will provide a copy of the complaint to the Councillor(s) who are alleged to have breached this Bylaw.
42. The Integrity Commissioner will make every reasonable effort to protect the identity of complainants and to maintain confidentiality throughout the formal complaint and investigation process.
 - a. If disclosure of a Complainant's identity is required as part of an investigation under this bylaw, the Integrity Commissioner will notify the complainant and seek their consent to the disclosure before disclosing the information.
 - b. Disclosures of information will be restricted to what is required to complete an investigation and ensure adequate procedural fairness. If a Complainant does not consent to a disclosure, the Integrity Commissioner will provide them with an opportunity to withdraw their complaint.
43. Any records provided by the Village of Andrew to the Integrity Commissioner during an investigation or for other purposes related to this bylaw will be returned to the Village of Andrew when the investigation in question is concluded or when the records are no longer required for the Integrity Commissioner to fulfill their duties under this bylaw.
44. All formal complaints must be submitted to the Integrity Commissioner, or CAO if required, within 90 days of the alleged contravention of this bylaw occurring or within 90 days of the complainant becoming aware of the alleged contravention.

- a. The Integrity Commissioner may accept formal complaints submitted after 90 days when, in their sole discretion, it is reasonable and appropriate to do so.
- 45. 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.

PROCESS FOR REVIEW OF COMPLAINTS

- 46. When the Integrity Commissioner receives a formal complaint under this bylaw, the Integrity Commissioner will provide a copy of the complaint and all related documents and records to the Councillor(s) who are alleged to have breached this Bylaw and may, in response to the complaint, request information from the complainant or the named Councillor before conducting the initial review of the complaint.
- 47. The Integrity Commissioner will conduct an initial review of the formal complaint and all related documents and records to determine whether an investigation should be conducted.
- 48. The Integrity Commissioner may dismiss the complaint if the Integrity Commissioner is of the opinion that:
 - a. the complaint was received after the timeframes provided in this bylaw;
 - b. the complaint is frivolous or vexatious;
 - c. the complaint was not made in good faith;
 - d. there are no or insufficient grounds for conducting an investigation;
 - e. the complaint is not within the authority of the Integrity Commissioner to investigate or should be referred to a different body for investigation.
- 49. The Integrity Commissioner, in their sole discretion, may proceed with, suspend, or decline to proceed with conducting an initial review or investigation into a formal complaint beginning on nomination day in a general election year and ending on the day of the organizational meeting following the general election.

FORMAL COMPLAINT INVESTIGATION PROCESS

- 50. Complainants and Councillors who are the subject of an investigation will be afforded procedural fairness throughout the investigation process, including an opportunity to review and respond to the complaint, responses, documents, and records provided to the Integrity Commissioner during the investigation, prior to a final decision or report being made.
- 51. When the Integrity Commissioner proceeds with an investigation into a formal complaint, the Integrity Commissioner or will proceed as follows:

- a. the Integrity Commissioner will serve the Councillor with notice of the investigation by email or in person. The notice will include the complaint and any additional documents or records received in relation to the complaint;
 - b. after receiving notice of an investigation, the Councillor will have 10 business days to provide a written statement to the Integrity Commissioner, which must include the Councillor's response to the allegations and any supporting documents and records by email;
 - c. after receiving the Councillor's response to the complaint, the Integrity Commissioner will provide the Councillor's response and any supporting documents and records to the complainant by email;
 - d. after receiving the Councillor's response to the complaint, the complainant will have 10 business days to provide additional documents and records in response to the Councillor's response by email; and
 - e. the Integrity Commissioner, in their sole discretion, may extend the deadline(s) under this section, where there are reasonable grounds to do so.
52. The Integrity Commissioner may request access to Village of Andrew records, documents, and information related to the complaint as necessary to complete an investigation.
53. The Integrity Commissioner may request additional information from any person involved in an investigation at any time during the investigation, as necessary, including any witnesses.
54. All communications between the Integrity Commissioner and any person involved in an investigation are provided on a strictly confidential basis until the investigation is concluded. If a breach of confidentiality occurs during an investigation it may result in, at the Integrity Commissioner's sole discretion, the dismissal of the complaint or an adverse finding against the Councillor.

CONCLUDING THE FORMAL COMPLAINT INVESTIGATION PROCESS

55. Upon conclusion of an investigation, the Integrity Commissioner will either:
- a. dismiss the complaint with written reasons to both Council and the Complainant, if a contravention of this bylaw has not been proven on the balance of probabilities; or
 - b. prepare a report to Council if a contravention of this bylaw has been proven on the balance of probabilities.
56. 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 of fact;
 - b. a description of the contravention of this bylaw that occurred; and
 - c. recommendation as to the appropriate sanctions to be imposed on the Councillor, if any.

60. The Integrity Commissioner will make every reasonable effort to complete an investigation and either dismiss the complaint or provide a report to Council within 90 days of receiving a formal complaint.
 - a. If it is not practically possible to complete an investigation and provide a report to Council within 90 days, the Integrity Commissioner may extend the time period at their sole discretion.
61. Upon completion of a report, the Integrity Commissioner will advise the Chief Administrative Officer pursuant to this bylaw. The Chief Administrative Officer will schedule the matter as a closed session item at the next available Council meeting.
62. A copy of the Integrity Commissioner's report will be provided to Council and the Chief Administrative Officer via email on a strictly confidential basis no sooner than 48 hours and no later than 24 hours prior to the Council meeting at which the report will be considered.
 - a. A breach of confidentiality under the above section of this bylaw will be considered a contravention of this bylaw.
63. After considering a report by the Integrity Commissioner, Council may by resolution:
 - a. impose sanctions on the Councillor in accordance with this bylaw; or
 - b. not impose sanctions on the Councillor.
64. When the Integrity Commissioner determines that a contravention of this bylaw has occurred, the report from the Integrity Commissioner will be considered a public document after the Council meeting in which Council reviews the report.
65. All other proceedings and decisions under the formal complaint process will remain confidential and will be protected under the Freedom of Information and Protection of Privacy Act.

COMPLIANCE, ENFORCEMENT AND SANCTIONS

66. Councillors must not:
 - a. undertake any act of reprisal or threaten reprisal against a complainant or any other person for providing information to the Integrity Commissioner or any other person involved in a formal complaint; nor
 - b. obstruct Council, the Integrity Commissioner, or any other person in ensuring compliance with this bylaw.
67. When determining which sanctions, if any, should be imposed on a Councillor for a contravention of this bylaw, Council must:
 - a. consider whether the sanctions to be imposed are reasonable, proportional, and appropriate to address the contravention that occurred; and
 - b. provide clear direction on when the sanctions to be imposed will expire if the sanctions are to be imposed over a period of time.


68. If it is determined that sanctions should be imposed on a Councillor for contravention of this bylaw, Council may impose any of the following, or a combination of the following, sanctions by resolution:
- a. a letter of reprimand addressed to the Councillor;
 - b. requiring that the Councillor issue a letter of apology;
 - c. requiring that the Councillor attend training;
 - d. requiring that the Councillor return or reimburse the value of property, equipment, gifts, benefits, or other items, or to reimburse the value of services rendered;
 - e. restricting the travel and representation of the Councillor on behalf of the Village of Andrew;
 - f. restrictions on how documents are provided to the Councillor (e.g. no electronic copies of documents or only watermarked copies for tracking purposes);
 - g. suspension or removal from some or all boards, committees, commissions, and other bodies to which Council has the right to appoint members;
 - h. suspension or removal as the Chair or Vice Chair of boards, committees, commissions, and other bodies to which Council has the right to appoint members;
 - i. suspension or removal of the Chief Elected Official's presiding duties under the *MGA* and the Procedural Bylaw;
 - j. suspension or removal of the appointment of a Councillor as the Chief Elected Official;
 - k. suspension or removal of the appointment of a Councillor as the Deputy Chief Elected Official;
 - l. reduction or suspension of remuneration corresponding to a reduction in official duties, excluding allowances for attendance at Council meetings; or
 - m. any other sanction that Council deems reasonable, proportional, and appropriate in the circumstances so long as the sanction is not contrary to the Municipal Government Act and does not prevent a Councillor from fulfilling their legislated duties under the *MGA*.
69. Councillors 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.
70. Bylaw 2018-01 is hereby repealed.
71. This Bylaw comes into force upon the date of the passing of the third and final reading thereof.

READ for a first time this 11th day of September, 2024.

READ for a second time this 11th day of September, 2024.

READ for a third and final time and passed this 11th day of September, 2024.



Mayor Barry Goertz

Deputy Mayor Tammy Pickett

CAO, Kylie Rude