

## **TOWN OF SACKVILLE**

### **BY-LAW NO. 271 A BY-LAW RELATING TO ESTABLISHING A CODE OF CONDUCT FOR MEMBERS OF COUNCIL**

**BE IT ENACTED** by the Council of the Town of Sackville under the authority vested in it by the Local Governance Act, S.N.B. 2017, c.18, paragraph 10(2)(b) as follows:

#### **SHORT TITLE**

1. This By-Law may be cited as the “Code of Conduct for Members of Council”.

#### **DEFINITIONS**

2. In this By-Law:
  - (a) “Town” means the Town of Sackville;
  - (b) “Council” means the duly constituted Council of the Town of Sackville;
  - (c) “Members” means the duly elected members of the Sackville Town Council;
  - (d) “Common Law” means a body of unwritten laws based on legal precedents established by the courts. Common law influences the decision-making process in unusual cases where the outcome cannot be determined based on existing statutes or written rules of law;
  - (e) “Fiduciary Duty” means a duty owed by a person or an organization that requires that person or organization to act ethically in another’s best interest;
  - (f) “Complaint” means a complaint made under the auspices of this By-Law;
  - (g) “Code” means this Code of Conduct for Members of Council;
  - (h) “Residents” means residents of the Town of Sackville;
  - (i) “Town Administration” means all Officers, staff and employees of the Town of Sackville.

#### **PURPOSE AND APPLICATION**

3. The purpose of this Code is to provide an objective standard for the conduct of Members relating to their roles and responsibilities as elected Members of Sackville Town Council and applies to all Members.

#### **FRAMEWORK AND INTERPRETATION**

4. This Code provides a framework to guide ethical conduct which that upholds the integrity of the Town and the high standards of professional conduct the public expects of its local government elected representatives. This Code is intended to supplement and not replace existing legislation governing the conduct of Members.
5. Along with the bylaws and policies of the Town, Members’ conduct is also governed by applicable provincial and federal legislation, including but not limited to:
  - a) the Local Governance Act;

- b) the Right to Information and Protection of Privacy Act;
- c) the Elections Act;
- d) the New Brunswick Human Rights Act;
- e) the Occupational Health and Safety Act; and
- f) the Criminal Code of Canada; and.
- g) the Common Law.

Where there is any conflict between this Code and the requirements of any federal or provincial laws, such provincial or federal laws shall take precedence.

- 6. This Code is to be given a broad and liberal interpretation in accordance with applicable legislation. It is not possible to write a code of conduct that covers every scenario and, accordingly, Members are to be guided by and conduct themselves in a manner that reflects not only the text, but also the spirit and intent of this Code.

#### **STATEMENT OF PRINCIPLES AND VALUES**

- 7. Members are expected to perform their functions of office with integrity, accountability and transparency and conduct themselves in a professional manner at all times.
- 8. Members have a fiduciary duty to act honestly, in good faith, and in best interests of the Town and its Residents.
- 9. Members shall:
  - a) uphold the law established by the Federal Parliament and the New Brunswick Legislature and the by-laws and policies adopted by Council; including this Code;
  - b) carry out their duties in accordance with the applicable legislation, by-laws and policies pertaining to their position as a Member;
  - c) observe the highest standards of ethical conduct and perform their duties in office, and arrange their private affairs in a manner which promotes public confidence and will bear close public scrutiny; and
  - d) serve, and be seen to serve, the welfare and interest of the Town as a whole and the community at large in a conscientious and diligent manner and approach decision-making with an open mind.

## **COUNCIL RESPONSIBILITIES**

10. Council will:

- a) review this Code from time-to-time and make any amendments considered appropriate; and
- b) review, consider or take other action concerning any violation of this Code which is referred to Council for consideration.

## **MEMBERS RESPONSIBILITIES**

### **Conduct to be Observed**

11. Members are agents of the public whose primary objective is to address the needs of the Residents. As such, they are entrusted with upholding and adhering to the law and proper process. As public servants, Members must observe a high standard of morality in the conduct of their official duties and faithfully fulfill the responsibilities of their offices, regardless of their personal or financial interest.

### **Dedicated Service**

12. All Members should faithfully work towards developing programs to address the needs of the Town and its Residents in the course of their duties. Members should strive to perform at a level which is expected of those who work in the public's interest.

### **Conduct at Meetings**

13. Members shall respect the chair, colleagues, Town Administration and members of the public present during Council meetings or other proceedings of the Town. Meetings shall provide an environment for transparent, respectful and healthy debate on matters requiring decision-making.

### **Release of Confidential Information Prohibited**

14. No Member shall disclose or release to any member of the public any confidential information acquired by the virtue of their office, in either oral or written form except when required by law or specifically authorized by the Town to do so. Members shall not use confidential information for personal or private gain, for the gain of any other person or corporation or for any improper or unauthorized purpose.

### **Gifts and Benefits**

15. No Member shall show favoritism or bias towards any vendor, contractor or others doing business for the Town. Members are prohibited from accepting any fees, gifts, gratuities or other benefits.

### **Use of Public Property**

16. No Member shall request or permit the use of Town owned vehicles, equipment, materials, or property for personal convenience or profit, except where such privileges are granted to the general public. Members shall ensure that the business of the Town is conducted with efficiency and shall avoid waste, abuse and extravagance in the provision or use of municipal resources.

### **Obligations to Citizens**

17. No Member shall grant any special consideration, treatment, or advantage to any Resident or group of citizens beyond that which is accorded to all Residents.

### **Interpersonal Behaviour**

18. Members shall treat every person, including other Members, Town Administration, volunteers or individuals providing services on a contract for service, and the public with dignity, understanding and respect, and ensure that their work environment is free from discrimination, bullying and harassment in accordance with the Town's Workplace Harassment and Violence Policy, as amended from time-to-time.
19. No Member shall use indecent, abusive, or insulting words or expressions toward any other Member, Town Administration or any member of the public.

### **Community Representation**

20. Members shall observe a high standard of professionalism when representing the Town and in their dealings with members of the broader community.

### **RESPECT FOR DECISION-MAKING PROCESS**

21. Decision-making authority lies with Council, and not with an individual Member. A Member must not purport to bind Council, either by publicly expressing their personal views on behalf of Council when not authorized to do so or by giving direction to Town administration, agents, contractors, consultants or other service providers of the Town or prospective vendors.
22. Members shall accurately communicate the decisions of Council, even if they disagree with Council's decision, such that respect for the decision-making processes of Council is fostered.

### **CONDUCT RESPECTING TOWN EMPLOYEES**

23. Under the direction of the Chief Administrative Officer, Town staff/employees serve Council as a whole. No individual Member shall instruct or give direction to Town staff/employees.
24. Members shall respect the fact that Town staff/employees work for the Town as a body corporate and are charged with;
  - (a) making recommendations that reflect their professional expertise and a corporate perspective;

- (b) carrying out directions of Council and administering the policies and programs of the Town;

and that they are required to do so without undue influence from any Member or group of Members.

25. A Member must not:

- a) involve themselves in matters of administration, which fall within the jurisdiction of the Chief Administrative Officer;
- b) use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any of the Town Administration with the intent of interfering in their duties; or
- c) maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of the Town Administration.

#### **USE OF COMMUNICATION TOOLS**

26. All Electronic communication devices provided by the Town are the property of the Town, and shall, at all times, be treated as the Town's property. Members hereby acknowledge that there is no expectation of privacy in the use of these devices and further that:

- a) all emails or messages sent or received on Town devices, as well as emails or messages relating to the public business of the Town sent on private devices, are subject to the Right to Information and Protection of Privacy Act and, in any event, may be read and reviewed at the direction of Council;
- b) all files stored on Town devices, all use of email and all use of the internet through the Town's firewall may be inspected, traced or logged by the Town; and
- c) in the event of a complaint pursuant to this Code, Council may require that any or all of the electronic communication devices provided by the Town to Members may be confiscated and inspected as part of the investigation including downloading information which is considered relevant to the investigation. All email and text messages or internet connections may be retrieved, read and reviewed.

27. No Member shall use any property, equipment, services or supplies of the Town, including text messaging, email, internet services or any other electronic communication device, if the use could be considered offensive, inappropriate, or otherwise contrary to this Code.

#### **USE OF SOCIAL MEDIA**

28. Once posted on social media, any material or comment is accessible to anyone with an Internet connection. Furthermore, the content can never be effectively removed. As

public figures and representatives of the Town, Members should act with discretion and be judicious in what material they post on social media. As with any other communication, Members are accountable for content and confidentiality. Care should be exercised in debates or comments on contentious matters, as feelings and emotions can become inflamed very quickly.

29. No Member shall attempt to disguise or mislead as to their identity or status as an elected representative of the Town when using social media, or otherwise.
30. No Member shall use social media to publish anything that is dishonest, untrue, unsubstantiated, offensive, disrespectful, constitutes harassment, is defamatory or misleading in any way.
31. Where Members provide a personal view or opinion on social media, Members should take steps to ensure that such personal views or opinions are not construed to be those of the Town or Council as a whole and/or that such personal view or opinion does not accurately reflect the decisions of Council or bring the decision-making process of Council into dispute.

#### **GOVERNMENT RELATIONSHIPS**

32. Members recognize the importance of working constructively with other levels of government and organizations in New Brunswick and beyond to achieve the goals of the Town.

#### **CONFLICT OF INTEREST AVOIDANCE**

33. Members are committed to making decisions impartially and in the best interests of the Town and recognize the importance of fully observing the requirements of the Local Governance Act, with regard to the disclosure and avoidance of conflicts of interest.

#### **COMPLIANCE WITH THIS CODE OF CONDUCT**

34. Members are expected to adhere to the provisions of this Code. Council does not have the authority to disqualify or remove a Member from office; only a court of competent jurisdiction or the Minister of Environment and Local Government can do so. Council does, however, have the right to sanction a Member, provided that the Member continues to have sufficient access to information and services so as to be able to carry out their duties as a Member.
35. Persons who have reason to believe that this Code has been breached in any way are encouraged to bring their concerns forward. No Member shall undertake any act of reprisal or threaten reprisal against a complainant or any other person who, in good faith, provides relevant information in relation to a possible violation of this Code.
36. Any reported violations of this Code will be subject to an investigation by Council. All reasonable efforts shall be made to keep the reports and complaints confidential until a full investigation is completed in order to protect the Member and the complainant. Council may retain an external investigator with relevant experience to conduct an

investigation and provide a report and recommendation to Council. Members are expected to co-operate in every way possible to ensure compliance with the application and enforcement of this Code, and shall not obstruct any person in carrying out the objectives or requirements of this Code, or investigating a possible breach of this Code.

37. Complaints shall be dealt with by Council in accordance with the process set out in Schedule "A" attached hereto.

38. If Council concludes a Member has breached a provision of this Code, Council may take corrective actions which may include, but are not limited to, any of the following:

- a) letter of reprimand addressed to the Member;
- b) demand for a public apology;
- c) public reprimand through a motion of censure;
- d) removal from membership of a committee;
- e) a requirement to attend training;
- f) removal as chair of a committee;
- g) reduction or suspension of remuneration paid to the Member in respect of the Member's services;
- h) required return of Town property or reimbursement of its value;
- i) restrictions on access to Town facilities, property, equipment, services and supplies;
- j) restrictions on contact with Town Administration;
- k) restriction on travel and representation on behalf of Council;
- l) restrictions on how documents are provided to the Member (e.g. no electronic copies, but only watermarked paper copies for tracking purposes);
- m) letter to the Minister recommending the dismissal of a Council Member; and
- n) any combination of any of the above.

### **STATEMENT OF COMMITMENT**

39. Members acknowledge the importance of the principles contained in this Code which will be self-regulated by Council. Members are required to sign a "Statement of Commitment to the Code of Conduct" (Schedule "B") within seven (7) calendar days of this By-Law

coming into force, and then within seven (7) calendar days of taking the oath of office pursuant to section 58 of the Local Governance Act.

**EFFECTIVE DATE**

40. This By-Law shall come into force and effect upon receiving third reading and being signed

Read a first time this 10<sup>th</sup> day of February 2020.

Read a second time this 9<sup>th</sup> day of March 2020.

Read a third time and passed Council this 9<sup>th</sup> day of March 2020.

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Mayor

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Clerk



**SCHEDULE "A"**  
**INFORMAL AND FORMAL COMPLAINT PROCESS TO THE CODE OF CONDUCT**

**INFORMAL COMPLAINT PROCESS**

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

- (a) advising the Member that the conduct violates this Code and encouraging the Member to stop; or
- (b) requesting the Mayor to assist in informal discussion of the alleged complaint with the Member in an attempt to resolve the issue.

In the event that the Mayor is the subject of, or is implicated in a Complaint, the person may request the assistance of the Deputy Mayor. Individuals are encouraged to pursue this informal complaint procedure as the first means of remedying conduct that they believe violates this By-Law. However, an individual is not required to complete this informal complaint procedure prior to pursuing the formal complaint procedure outlined below.

**FORMAL COMPLAINT PROCESS**

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

- (a) All formal Complaints shall be made in writing to Council and shall be dated and signed by an identifiable individual. Complaints shall be addressed to the Mayor. In the event that the Mayor is subject, or is implicated in a Complaint, the person shall address their Complaint to the Deputy Mayor. The Mayor (or Deputy Mayor) shall provide all Members with a copy of the Complaint, including the Member who is the subject of the Complaint.
- (b) The formal Complaint must set out reasonable and probable grounds for the allegation that the Member has contravened this By-Law, including a detailed description of the facts, as they are known, giving rise to the allegation.
- (c) Council may appoint an investigator to investigate a Complaint.
- (d) If the facts, as reported, include the name of one or more Members who are alleged to be responsible for the breach of this By-Law, the Member or Members concerned shall receive a copy of the Complaint submitted to the investigator, subject to the Rights to Information and Protection of Privacy Act
- (e) An investigator appointed by Council shall review the Complaint and decide whether to proceed with an investigation of the Complaint or not. If the investigator is of the opinion that a formal Complaint is frivolous, vexatious or is not made in good faith,

or that there are no grounds or insufficient grounds for conducting an investigation, the investigator may choose not to conduct an investigation and, if already commenced, may terminate the investigation and shall advise Council accordingly.

- (f) If the investigator decides to investigate the Complaint, the investigator shall take such steps as he/she may consider appropriate, including conducting interviews of Members, Town Administration or members of the public and which may seek legal advice in appropriate circumstances. An investigator shall make all reasonable efforts to conduct their investigation on a confidential basis.
- (g) While, ultimately, Council adjudicates the validity of any Complaint and/or imposes the resulting sanction, if any, the investigator shall, upon conclusion of the investigation, provide Council including the Member who is the subject of the Complaint, with a written report outlining the conduct of the investigator's investigation, including any conclusion reached by the investigator on the validity of the Complaint and their recommendation of an appropriate sanction, if any.
- (h) A Member who is the subject of an investigation shall be afforded procedural fairness, including an opportunity to respond to the allegations before Council deliberates and makes any decision on the validity of the Complaint and/or any sanction is imposed.
- (i) The decision of Council on the validity of a Complaint, including any sanction imposed shall be a matter of public record.
- (j) A Member who is the subject of a Complaint is entitled to be represented by legal counsel, at the Member's sole expense.

**SCHEDULE "B"**  
**STATEMENT OF COMMITMENT TO THE CODE OF CONDUCT OF**  
**MEMBERS OF COUNCIL**

I, (Full Name) \_\_\_\_\_ declare that, as a Member of Sackville Town Council, I have read, support and acknowledge I am bound to follow the Code of Conduct for Members of Council.

Signed: \_\_\_\_\_

Declared this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

Before me:

\_\_\_\_\_  
Clerk