

**BY-LAW NO. 056;  
A BYLAW OF THE MUNICIPALITY OF QUISPAMISIS  
RESPECTING COUNCIL CODE OF CONDUCT**

**PURPOSE:** A Bylaw of Town of Quispamsis, in the Province of New Brunswick, for the purpose of establishing a Code of Conduct for Councillors.

**WHEREAS,** pursuant to Section 10 of the Local Governance Act, a Council shall pass a bylaw establishing a code of conduct for Councillors;

**WHEREAS,** the citizens and the taxpayers of the Town have the right to be served by a Council committed to conducting its service in an ethical, impartial, businesslike, and professional manner;

**WHEREAS,** Quispamsis Council deems it necessary to establish a Council Code of Conduct to guide members of Council, reflecting the values of Quispamsis, its commitment to professional, accountable and lawful conduct, and its desire to provide strong local governance and leadership; and

**NOW THEREFORE,** the Council for Quispamsis, duly assembled, enact as follows:

**1. TITLE**

- a. This Bylaw will be cited as the “Council Code of Conduct”.

**2. DEFINITIONS** (changed to read alphabetically- AMD.#01\_DATED MAR.21/23)

- a. “CAO” means the Chief Administrative Officer for the Town of Quispamsis.
- b. “Confidential” or “Confidential Information” means any aspect of in-camera deliberations; information identified as confidential within the provisions of the Right to Information and Protection of Privacy Act; and information subject to solicitor-client privilege;
- c. “Council” means all members of Council duly elected and holding office;
- d. “Councillor” means any member of Council including the Mayor and Deputy Mayor;
- e. (AMD.#01\_DATED MAR.21/23) “Family Associate” means a member’s
  - i. spouse or common law partner,

- ii. child,
  - iii. parent, or mother/father-in-law,
  - iv. sibling.
- f. “Officer” means an employee of the Town that reports directly to the CAO and may carry some delegated or designated duties of the CAO.
- g. “Town” means the Town of Quispamsis;
- h. “Town Property” means the Town’s financial and non-financial assets including but not limited to land, vehicles, equipment, electronic devices and documents.

### **3. CODE OF CONDUCT**

#### **a. Representing the Town**

i. All Councillors shall:

1. Work for the common good of the Town’s citizens and taxpayers while promoting the public interest and advancing the mandate and long term interests of the Town;
2. Conduct Council business in an open and transparent manner that promotes public confidence and trust, recognizing that an individual Councillor cannot exercise individual authority over the Town;
3. Exercise their duties with care, diligence and skills that a reasonably prudent person would exercise in comparable circumstances;
4. Exercise their duties by placing the interests of the Town ahead of their personal interests; and
5. Exercise their duties in an impartial manner, making decisions based on objective criteria, rather than on the basis of bias or prejudice.

#### **b. Communicating on Behalf of the Town**

i. The Mayor, or in his/her absence the Deputy Mayor, is the official spokesperson for the Town;

ii. All Councillors acknowledge that official information related to the decisions of Council will be communicated to the community and the media on behalf of the Council as a whole.

**c. Respecting the Decision Making Process**

i. All Councillors shall:

1. Foster respect for the democratic decision making process; and
2. Work towards effective and consistent implementation of the positions and/or decisions of Council.

**d. Adherence to Policies, Procedures And Bylaws**

i. As the Town's stewards and decision makers, all Councillors shall respect, and adhere to, the established policies, procedures and bylaws of the Town, showing commitment to performing their duties and functions with care and diligence.

**e. Respectful Interaction with Councillors, Staff, the Public and Other Members of Society**

i. All Councillors shall:

1. Treat fellow Councillors, Administration/Staff and the public with respect, concern and courtesy and not engage in discrimination, bullying, harassment or use of derogatory language towards others in their roles as Councillors;
2. Demonstrate the highest standards of personal integrity and honesty;
3. communicate and work with all fellow Councillors in an open and honest manner promoting a spirit of cooperation by listening to and respecting those opinions that may differ;

4. Avoid forming “cliques” with other Councilors for the purpose of controlling Council meetings, agendas or outcomes; and

5. (AMD.#01\_DATED MAR.21/23) Use communication tools and social media in a professional, courteous, and respectful manner accurately communicating the decision of council even if they disagree with the decision, and not to use these tools in an attempt to reflect on Council decisions or criticize other Councillors or Town Staff. Derogatory, defamatory, discriminatory, indecent, obscene or false comments shall not be posted.

6. (AMD.#01\_DATED MAR.21/23) As with any other communications, Members are accountable for content and confidentiality. 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.

#### **f. Confidential Information**

i. All Councillors shall hold in strict confidence all information concerning matters deemed confidential and shall not, either directly or indirectly, release, make public or in any way divulge any information which is deemed to be confidential unless expressly authorized by Council or required by law to do so.

#### **g. Conflict of Interest**

i. No Councillor shall engage in any activity which is incompatible or inconsistent with the ethical conduct of official duties in the public interest. These activities include but are not limited to:

1. Use any influence of the office for any purpose other than official duties;

2. Use any information gained in the execution of the office that is not available to the general public for any purpose other than for official duties;

3. Place themselves in a position of obligation to any person or organization who might reasonably benefit from special consideration or may seek preferential treatment; and
4. Influence any Council decision or decision-making process involving or affecting any person or organization in which a Councillor or Councillors have a financial interest.

ii In general terms, a Councillor has a conflict of interest, outlined as follows: (AMD.#01\_DATED MAR.21/23)

1. The Councillor or family associate

- i. Has or proposes to have an interest in a contract in which the council, local board or committee of which he or she is a member has an interest, or
- ii. Has an interest in any other matter in which the council, local board or committee is concerned that would be of financial benefit to the member or family associate.

2. The Councillor or family associate is a shareholder in or is a director or an officer of a private corporation that

- i. Has or proposes to have an interest in a contract with the Council, local board or committee, or,
- ii. Has an interest in any other matter in which the Council, local board or committee is concerned that would be of financial benefit to the corporation.

3. The Councillor or family associate has a controlling interest in or is a director or an officer of a public corporation that

- i. Has or proposes to have an interest in a contract with the Council, local board or Committee, or
- ii. Has an interest in any other matter in which the Council, local board or committee is concerned that would be of financial benefit to the corporation, or

4. The Councillor or a family associate would otherwise benefit financially by a decision of the Council, local board or committee in a contract, proposed contract or other matter in which the council, local board or committee is concerned.

5. A Councillor does not have a conflict of interest by reason of a family associate's interest as described in Sections g. ii (1), (2), (3) or (4) unless the member or senior officer knew or ought reasonably to have known of the family associate's interest.

6. If a trade union has entered into or is seeking to enter into a collective agreement with a local government or a local board, a member who belongs to or is employed by the trade union has a conflict of interest with respect to any matter relating to the administration or negotiation of the collective agreement.

iii. Disclosure of Conflict of Interest – (AMD.#01\_DATED MAR.21/23)

1. On assuming office, each Councillor shall file a statement with the clerk disclosing any actual or potential conflict of interest of which he or she has knowledge.

2. If a conflict of interest arises while a member is in office, the Councillor shall immediately file a statement disclosing the conflict of interest with the clerk.

3. A member is not required, in a statement filed under subsection (1) or (2), to disclose particulars of his or her financial interest or the extent of any interest in the matter giving rise to the conflict.

4. A statement disclosing a conflict of interest shall be made in the form prescribed by regulation.

5. If a member has a conflict of interest with respect to any matter in which the Council, local board or committee is concerned and the Councillor is present at a meeting of council or the local board, a meeting of a committee, or any other meeting at which business of the council, local board or committee is conducted, at which the matter is a subject of consideration the member shall,

- i. as soon as the matter is introduced, disclose that he or she has a conflict of interest in the matter, and
- ii. immediately withdraw from the meeting room while the matter is under consideration or put to a vote.

iv. Prohibited Conflict (AMD.#01\_DATED MAR.21/23)

1. A Councillor shall not

- i. accept any fees, gifts, gratuities or other benefit that could reasonably be seen to influence any decision made by him or her in the carrying out of his or her functions as a Councillor;
- ii. or his or her personal gain, or for the personal gain of a family associate, make use of his or her position or of any information that is obtained in his or her position and is not available to the public.

#### **h. Improper Use of Influence**

i. All Councillors shall, at all times, conduct themselves in a manner that reflects the separation of roles and responsibilities between Council and Administration, and shall:

1. Refrain from giving direction to any municipal employee or contracted resource, except through the CAO;

2. Convey all concerns or requests for action or information directly to the CAO or, where appropriate, and as agreed by the CAO, communicate with an officer without committing the Town to any specific course of action, expenditure, or use of municipal resources outside of the Town's established policies, procedures, or budget, or otherwise;

3. Not solicit, demand or accept the services of any municipal employee;

4. Avoid any situation in which a (AMD.#01\_DATED MAR.21/23), social relationship or social interaction with a member of staff may be seen to create undue influence, access to information, conflict of interest, or to undermine the authority of the CAO; and

5. Not express any opinion on the performance of any municipal employee with exception of the formal CAO performance evaluation as specifically required by Town policy, or in good faith, as may be deemed necessary;

6. Not advocate for the promotion, sanction, or termination of any municipal employee.

## **i. Use of Municipal Assets and Services**

i. No Councillor shall use or attempt to use the Town's property, funds, services, or information for personal benefit or the benefit of any other individual.

ii. No Councillor shall use Town assets including Town cell phones or Town email accounts for (AMD.#01\_DATED MAR.21/23) municipal, provincial or federal (AMD.#01\_DATED MAR.21/23) campaign activity.

2. (AMD.#01\_DATED MAR.21/23) "Members should have no expectation of privacy in the use of these devices and all communication sent or received related to local government business are subject to the *Right to Information and Protection of Privacy Act*."

## **j. Orientation and Other Training Attendance**

i. All new Councillors must attend the local orientation sessions. All Councillors are encouraged to attend training opportunities that may be provided during their term.

## **4. COMPLAINTS**

### **4.1 Informal Complaint Process . (AMD.#01\_DATED MAR.21/23)**

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

i. Advising the Member that the conduct violates this bylaw and encouraging the Member to stop; or

ii. Requesting the Mayor to assist in an 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.

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



#### 4.2 Formal Complaint Process . (AMD.#01\_DATED MAR.21/23)

- a. Any person, in good faith, may report perceived wrongdoing or make a complaint alleging a breach of the Council Code of Conduct by a Councillor. All reasonable attempts shall be made to keep the reports and complaints confidential until a full investigation is completed in order to protect the Councillor and complainant.
- b. The report or complaint shall be in writing outlining the nature and specifics, be dated, include the name of the complainant, signed, addressed to the Mayor (or in the case of perceived wrongdoing of the Mayor, to the Deputy Mayor), and marked “confidential”. The complaint may be mailed, emailed, or hand-delivered to the Town office . (AMD.#01\_DATED MAR.21/23) to the attention of the Clerk.
- c. (AMD.#01\_DATED MAR.21/23) All received complaints shall be read to Council by the Mayor, (or in the case of the Mayor, the Deputy Mayor), in a closed Committee of the Whole, and the Councillor who has been named in the complaint will have the option to recuse himself or herself or to remain present during Council’s review of the complaint.
- d. Depending on the nature of the complaint, Council may:
  - i. Authorize the Mayor and Deputy Mayor (or in the case of perceived wrongdoing by the Mayor, the Deputy Mayor and one Councillor), to investigate the complaint and report to Council;
  - ii. Dismiss the report or complaint as invalid; (AMD.#01\_DATED MAR.21/23) providing a reason for such dismissal;
    - ii.i. (AMD.#01\_DATED MAR.21/23) Determine if the report or complaint would more effectively be addressed through an informal resolution; which may include the complainant addressing the issue directly with the Member in an attempt to encourage compliance and resolve the issue with the Mayor, (or the Deputy Mayor if the Mayor is the respondent), to attend the discussion as a third party moderator.
  - iii. Request . (AMD.#01\_DATED MAR.21/23) an opinion regarding the report or complaint through the Town’s legal counsel or other approved third-party;

iv. Request the Town's legal counsel (AMD.#01\_DATED MAR.21/23) or other approved third-party to investigate the complaint and report directly to Council on their findings.

e. If the complaint is determined to be valid by the majority of Council or through independent legal advice, based on relevant evidence, or the Member admits he or she has breached the Council Code of Conduct By-law, Council may impose sanctions, defining the specific action to be taken by a motion.

f. A complaint received after the end of the nomination period preceding a general municipal election in Quispamsis will not be considered until after the election.

## 5. SANCTIONS

a. Council may impose sanctions on a Councillor who contravenes the Council Code of Conduct in the following forms:

i. A letter of reprimand;

ii. Requesting a letter of apology (AMD.#01\_DATED MAR.21/23) to the complainant;

iii. Requesting to attend training;

iv. Suspension or removal of the Mayor or Deputy Mayor as official spokesperson for the Council;

v. (AMD.#01\_DATED MAR.21/23) Suspension from Council Meetings and/or suspension or removal from some or all Council committees and bodies to which Council has the right to appoint members;

vi. Restricting the privileges of attending conferences and workshops at the Town's expense;

vii. Reduction or suspension of remuneration as Council may deem appropriate.

viii.(AMD.#01\_DATED MAR.21/23) Removal of all town devices, and if personal devices are used, the access to Town email and all software used for town business. be revoked.

b. (AMD.#01\_DATED MAR.21/23) "To protect the privacy of the individuals involved, the Council will maintain confidentiality throughout the complaint and

investigation process. Once the investigation is complete, and if Council's findings determine that there was a violation to the Code of Conduct By-law, any sanctions to be imposed upon the Member will be made public in an open session of Council by resolutions made to that effect."

c. (AMD.#01\_DATED MAR.21/23) "Any finding of Council on whether a violation has occurred, and the imposition of any resulting sanction is final and not subject to reconsideration or appeal."

## 6. REVIEW

a. The Council Code of Conduct Bylaw must at a minimum be reviewed (AMD.#01\_DATED MAR.21/23) within the first twelve months following the general municipal election.

## 7. ENACTMENT

This Bylaw shall come into effect upon the date of the final passage thereof.

**READ FIRST TIME:** October 16, 2018

**READ SECOND TIME:** October 16, 2018

**READ THIRD TIME AND ENACTED:** November 6, 2018

**REVIEWED AND AMENDED BY COUNCIL:** March 21, 2023

**S E A L**

X

Gary Clark  
Mayor

X

Catherine P. Snow  
Clerk

**Appendix “A” (AMD.#01\_DATED MAR.21/23)**

**STATEMENT OF COMMITMENT TO THE CODE OF CONDUCT**

I, (Full Name) \_\_\_\_\_ declare that, as a Member of the Quispamsis Town Council, I have read and support the Code of Conduct By-law for elected officials.

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