**AMENDMENT NO. 056-01**

**TO**

**A BY-LAW OF THE MUNICIPALITY OF QUISPAMSIS RESPECTING THE COUNCIL CODE OF CONDUCT**

**BE IT ENACTED** by the Council of the Town of Quispamsis that Bylaw No. 056; A By-law of the Municipality of Quispamsis Establishing a Council Code of Conduct By-law, pursuant to Section 10.2.(b) of the *Local Governance Act of New Brunswick* is hereby amended as follows:

1. Section 2. “DEFINITIONS” – to be rearranged in alphabetical order.
2. Section 2., “DEFINITIONS’”
   1. Insert as Subsection e. ”Family Associate means a member’s
      1. Spouse or common law partner,
      2. Child,
      3. Parent, or mother/father in-law,
      4. Sibling.”
3. Section 3. “CODE OF CONDUCT” -
   1. Delete Subsection 5, and replace with “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”
4. Section 3. “CODE OF CONDUCT”
   1. Insert Section 6, “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.”
5. Section 3. “CODE OF CONDUCT”
   1. Insert the following to Section g. “Conflict of Interest”, Subsections ii., iii, and iv:

ii In general terms, a Councillor has a conflict of interest, outlined as follows:

1. The Councillor or family associate
   * 1. 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
     2. 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
   * 1. Has or proposes to have an interest in a contract with the Council, local board or committee, or,
     2. 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 of an officer of a public corporation that
   * 1. Has or proposes to have an interest in a contract with the Council, local board or Committee, or
     2. 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.
7. Disclosure of Conflict of Interest –
8. 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.
9. 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.
10. 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.
11. A statement disclosing a conflict of interest shall be made in the form prescribed by regulation.
12. 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,
    * 1. as soon as the matter is introduced, disclose that he or she has a conflict of interest in the matter, and
      2. immediately withdraw from the meeting room while the matter is under consideration or put to a vote.
13. Prohibited Conflict
    1. A Councillor shall not
       1. 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;
       2. 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.
14. Section 3., ‘CODE OF CONDUCT’ Subsection h.i, 4. under “Improper Use of Influence”, delete the word ‘friendship’.
15. Section 3., ‘CODE OF CONDUCT’, Subsection i. ii, under “Use of Municipal Assets and Services”, prior to the word “provincial” add, “municipal” and prior to the word “activity”, remove the word “political” and replace with “campaign; and,
16. Section 3., ‘CODE OF CONDUCT’, immediately following Section i., ii, insert
    * + 1. “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.”*
17. Section 4. ‘COMPLAINTS’, immediately following the title, COMPLAINTS, insert the following:
    1. **Informal Complaint Process**
       1. 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:
18. Advising the Member that the conduct violates this bylaw and encouraging the Member to stop; or
19. 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.

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.

1. Section 4. ‘COMPLAINTS’, - The previous Subsection a. become Subsection b. under the Subtitle b. “Formal Complaint Process”.
2. Section 4. ‘COMPLAINTS’, - b. Formal Complaint Process, -
   1. Sebsection b. i.,insert ‘a’ before the words full investigation, and following the word protect, delete ‘a’ and insert ‘the’;
   2. Subsection b.,ii, following the word ‘include, delete ‘a’, and replace with ‘the’, and following office, insert, ‘to the attention of the Clerk’.
   3. Delete Subsection b. ii. 1. in its entirety.
   4. Delete Subsection b.iii, and replace with the following:

“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 Session 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.”

* 1. Subsection b. iv. 2., insert following the word ‘invalid’, ‘providing a reason for such dismissal’.
  2. Immediately following Subsection b. iv, 2; insert as the following:

“3. 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 respondent 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.”

* 1. Delete subsection b.iv.4, and replace it with the following:

“4. Request an opinion regarding the report or complaint through the Town’s legal counsel or other approved third-party.”

* 1. Delete subsection b. iv. 5, and replace it with the following:

“5. Request the Town’s legal counsel or other approved third party to investigate the complaint and report directly to Council on their findings.”

* 1. Delete subsection b. v., and replace it with the following:

“v. If the complaint is determined to be valid by the majority of Council or through independent legal advice, based on relevant evidence, or the respondent 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.”

* 1. Insert the following subsection b. vi, immediately following subsection by:

“vi. 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.”

1. Section 5. ‘SANCTIONS’
   1. Subsection a. ii, after the word ‘apology’ insert “to the complainant’.
   2. Insert at the beginning of subsection 5. 1. v., “Suspension from Council Meetings and/or . . . ”, immediately prior to the words “Suspension or removal from some or all Council committees and bodies to which Council has the right to appoint members”.
   3. Insert the following subsection 5. a. viii., immediately following Subsection 5. A. vii:

“viii. Removal of all town devices, and if personal devices are used, of access to Town email and all software used for town business. be revoked.”

* 1. Insert the following subsection b. and c. immediately following Subsection 5. a. viii:

b. “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. “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.”

1. Section 6. “REVIEW” – delete ‘every four (4) years’ and insert ‘within the first twelve months following every general municipal election’.
2. Insert as Appendix “A”, a Statement of Commitment to the Code of Conduct to be signed by each member of the Quispamsis Town Council upon the completion of Council’s required review of the By-law.

**READ FIRST TIME:** February 21, 2023

**READ SECOND TIME:** February 21, 2023

**READ THIRD TIME AND ENACTED:**

**SEAL**



**Appendix “A”**

**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

Declared before me this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Town Clerk