

CODE OF CONDUCT BY-LAW

BY-LAW # 201-19

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The Council of Sussex, under authority vested in it by Section 10(2)(b) of the Local Governance Act 2017 RSNB C18 and amendments thereto of the Province of New Brunswick, enacts as follows:

1.0 TITLE

This by-law is titled as the “Code of Conduct By-Law”.

2.0 DEFINITIONS

In this By-law:

- a) “*Act*” means the Local Governance Act c-18 and assorted regulations and amendments.
- b) “*CAO*” means the Chief Administrative Officer of the Municipality or his / her delegate.
- c) “*Council*” means the Council of the Town of Sussex, and includes the Mayor, the Deputy Mayor, and all the Councillors;
- d) “*Confidential information*” includes information in the possession of, or received in confidence by, the Municipality that the Municipality is prohibited from disclosing pursuant to legislation, court order or by contract, or is required to refuse to disclose under RTIPPA or any other legislation, or any other information that pertains to the business of the Municipality, and is generally considered to be of a confidential nature, including but not limited to the information concerning:

- i. the security of municipal property;
 - ii. a proposed or pending acquisition or disposition of land or other property;
 - iii. a tender that has or will be issued but has not been awarded;
 - iv. contract negotiations;
 - v. employment and labor relations;
 - vi. draft documents and legal instruments, including reports, policies, by-laws and resolutions, that have not been the subject matter of deliberation in a meeting open to the public;
 - vii. law enforcement matters;
 - viii. litigation or potential litigation, including matters before administrative tribunals; and
 - ix. advice that is subject to solicitor-client privilege.
- e) *“Member”* means a member of Council and includes the Mayor, Deputy Mayor and Councillors
- f) *“Municipality”* means the Town of Sussex;
- g) *“RTIPPA”* means the Right to Information and Privacy Protection Act c. R-10.6 and assorted regulations as amended.
- h) *“Social media”* means web-based applications and on-line forums that allow users to interact, share and publish content such as text, links, photos, audio and video.
- i) *“Town resources”* includes, but is not limited to, all real and personal property, facilities, vehicles, equipment, supplies, services, staff, documents, intellectual property, computer programs or technological innovations belonging to the Town.
- j) *“Undue influence”* is characterized by one person taking advantage of a position of power over another person or influence by which a person is induced to act otherwise than by his or her own free will.

3.0 PURPOSE

The purpose of this by-law is to establish standards for the ethical conduct of Members relating to their roles and obligations as representatives of the Municipality and a procedure for the investigation and enforcement of those standards.

4.0 REPRESENTING THE MUNICIPALITY

4.1 Members shall:

- a) act honestly and, in good faith, serve the welfare and interests of the Municipality as a whole;
- b) perform their functions and duties in a conscientious and diligent manner with integrity, accountability and transparency;
- c) conduct themselves in a professional manner with dignity and make every effort to participate diligently in the meetings of Council, committees of Council and other bodies to which they are appointed by Council;
- d) arrange their private affairs and conduct themselves in a manner that promotes public confidence and will bear close public scrutiny;
- e) not use the public office for the personal financial benefit of any Member; and
- f) at all times, conduct themselves with decorum and in accordance with the Town's Procedural By-law during any meeting.

5.0 COMMUNICATING ON BEHALF OF THE MUNICIPALITY

5.1 A Member must not claim to speak on behalf of Council unless authorized to do so.

5.2 Unless Council directs otherwise, the Mayor is Council's official spokesperson and in the absence of the Mayor, it is the Deputy Mayor. All inquiries from the media regarding the official Council position on an issue shall be referred to Council's official spokesperson.

- 5.3 A Member who is authorized to act as Council's official spokesperson must ensure that their comments accurately reflect the official position and will of Council as a whole, even if the Member personally disagrees with Council's position.
- 5.4 Members must keep in mind they are always a representative of the Town of Sussex, including when engaging in social media activities, and Members are encouraged to identify when views expressed are theirs alone and not official Town of Sussex communication.
- 5.5 No Member shall make a statement when they know that statement is false.
- 5.6 No Member shall make a statement with the intent to mislead Council or members of the public.

6.0 RESPECTING THE DECISION-MAKING PROCESS

- 6.1 Decision making authority lies with Council, and not with any individual Member. No Member shall, unless authorized by Council, attempt to bind the Municipality or give direction to employees, agents, contractors, consultants or other service providers or prospective vendors to the Municipality.
- 6.2 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.

7.0 ADHERENCE TO POLICIES, PROCEDURES AND BY-LAWS

- 7.1 Members shall uphold the by-laws, policies and procedures adopted by Council.
- 7.2 Members shall respect the Municipality as an institution, its by-laws, policies and procedures and shall encourage public respect for the Municipality, its by-laws and procedures.
- 7.3 A Member must not encourage disobedience of any by-law, policy or procedure of the Municipality in responding to a member of the public, as this undermines public confidence in the Municipality and in the rule of law.

8.0 RESPECTFUL INTERACTIONS WITH COUNCIL MEMBERS, STAFF, THE PUBLIC AND OTHERS

- 8.1 Members shall act in a manner that demonstrates fairness, respect for individual differences and opinions, and an intention to work together, for the common good and in furtherance of the public interest.**
- 8.2 Members shall treat one another, employees of the Municipality and members of the public with courtesy, dignity and respect and without abuse, bullying or intimidation.**
- 8.3 No Member shall use indecent, abusive or insulting words or expressions toward another Member, any employee of the Municipality or any member of the public.**
- 8.4 No member shall speak in a manner that is discriminatory to any individual based on the person's race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place or origin, marital status, source of income, family status or sexual orientation.**
- 8.5 Members shall respect the fact that employees work for the Municipality as a corporate body and are charged with making recommendations that reflect their professional expertise and a corporate perspective and that employees are required to do so without undue influence from any Member or group of Members.**
- 8.6 Members must not:**
- a) involve themselves in matters of Administration, which fall within the jurisdiction of the CAO;**
 - b) use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any employee of the Municipality with the intent of interfering in the employee's duties;**
 - c) maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of employees of the Municipality; or**
 - d) compel staff to engage in partisan political activities, or subject staff to threat or discrimination for refusing to engage in such activities.**

9.0 CONFIDENTIAL INFORMATION

- 9.1** Members shall only be entitled to have access to information in the possession of the Town that is relevant to matters before Council or a Committee or that is relevant to their role as Members of Council. Otherwise, they have the same access rights to information as any member of the public.
- 9.2** Members must keep in confidence matters discussed in a closed Council or Council committee meeting until the matter is discussed at a meeting held in public.
- 9.3** No Member shall use confidential information for personal benefit or for the benefit of any other individual or organization.

10.0 CONFLICTS OF INTEREST

- 10.1** Members have a statutory duty to comply with the Conflict of interest provisions set out in Part 8 of the Act and a corresponding duty to vote unless required or permitted to abstain under the Act or another enactment.
- 10.2** Members are to be free from undue influence and not act or appear to act in order to gain financial or other benefits for themselves, family, friends or associates, business or otherwise.

11.0 IMPROPER USE OF INFLUENCE

No Member shall use the influence of the Member's office for any purpose other than for the exercise of the Member's official duties.

12.0 USE OF MUNICIPAL ASSETS AND SERVICES

- 12.1** No Member shall obtain any personal financial gain or advantage from the use of town property. Members shall use municipal property, equipment, services, supplies and staff resources only for the performance of their duties as a Member, subject to the following limited exceptions:
- a) municipal property, equipment, service, supplies and staff resources that are available to the general public may be used by a Member for

personal use upon the same terms and conditions as members of the general public, including booking and payment of any applicable fees or charges; or

- b) electronic communication devices, including but not limited to desktop computers, laptops, tablets and smartphones, which are supplied by the Municipality to a Member, may be used by the Member for personal use, provided that the use is not for personal gain, offensive or inappropriate.

13.0 REMUNERATION AND EXPENSES

Members shall be transparent and accountable with respect to all expenditures and strictly comply with all municipal by-laws, policies and procedures regarding claims for remuneration and expenses.

14.0 ACCEPTANCE OF GIFTS AND HOSPITALITY

14.1 Members shall not accept gifts, hospitality or other benefits that would, to a reasonable member of the public, appear to be in gratitude for influence, to induce influence, or otherwise to go beyond the necessary and appropriate public functions involved.

14.2 Gifts received by a Member on behalf of the Municipality as a matter of official protocol which have significance or historical value for the Municipality shall be left with the Municipality when the Member ceases to hold office

15.0 ELECTION CAMPAIGNS

No Member shall use any facilities, equipment, supplies, municipal logo or other resources of the Municipality for any election campaign or campaign-related activity.

16.0 INFORMAL COMPLAINT PROCESS

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

- a) **advising the Member that the conduct violates this by-law 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.**

16.2 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.

17.0 FORMAL COMPLAINT PROCESS

- 17.1 Any person who has identified or witnessed conduct by a Member that the person reasonably believes, in good faith, is in contravention of this by-law may file a formal complaint in accordance with the following procedure:**
- a) **All complaints shall be made in writing to Council and shall be dated and signed by an identifiable individual;**
 - b) **Council may appoint an investigator by resolution of Council to investigate a formal complaint;**
 - c) **All complaints shall be addressed to the investigator;**
 - d) **The 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;**
 - e) **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 RTIPPA.**
 - f) **Upon receipt of a complaint under this by-law, the investigator shall review the complaint and decide whether to proceed to investigate the complaint or not. If the Investigator is of the opinion that a complaint**

is frivolous or 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 investigate or, if already commenced, may terminate the investigation or may dispose of the complaint in a summary manner. In that event, the complainant and Council, if Council is not the Investigator, shall be notified of the Investigator's decision;

- g) If the investigator decides to investigate the complaint, the Investigator shall take such steps as he/she may consider appropriate, which may include seeking legal advice. All proceedings of the Investigator regarding the investigation shall be confidential;
- h) If the investigator is not Council, the Investigator shall, upon conclusion of the investigation, provide the Council and the Member who is the subject of the complaint, the result of the investigator's investigation;
- i) 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 or any sanction is imposed; and
- j) A Member who is the subject of an investigation is entitled to be represented by legal counsel, at the Member's sole expense.

18.0 COMPLIANCE AND ENFORCEMENT

18.1 Members shall uphold the letter and the spirit and intent of this by-law.

18.2 Members are expected to co-operate in every way possible in securing compliance with the application and enforcement of this by-law.

18.3 No Member shall:

- a) undertake any act of reprisal or threaten reprisal against a complainant or any other person for providing relevant information to Council or to any other person; or
- b) obstruct Council, or any other person, in carrying out the objectives or requirements of this by-law.

18.4 Sanctions that may be imposed on a Member, by Council, upon a finding that the Member has breached this by-law may include:

- a) a letter of reprimand addressed to the Member;
- b) requesting the Member to issue a letter of apology;
- c) publication of a letter of reprimand or request for apology and the Member's response;
- d) suspension or removal from some or all Council committees and bodies to which council has the right to appoint members;
- e) reduction or suspension of remuneration as defined in section 49(1) of the Act corresponding to a reduction in duties, excluding allowances for attendance at council meetings; and
- f) any other sanction Council deems reasonable and appropriate in the circumstances provided that the sanction does not prevent a Member from fulfilling the legislated duties of a Councillor and the sanction is not contrary to the Act.

19.0 GENERAL

Every member of Council shall be provided with a copy of this by-law, and will sign the statement of commitment after each municipal election as an acknowledgement that he or she has read and supports it.

20.0 PLURAL OR FEMININE TERMS

In this by-law plural or feminine terms may apply whenever the singular, masculine or feminine is used. It shall be considered as if the plural,

feminine or masculine has been used where the context of the party or parties hereto so requires.

21.0 VALIDITY

The invalidity of any section, clause, sentence or provision of this by-law shall not affect the validity of any other part of this by-law which can be given effect without such invalid part or parts.

FIRST READING BY TITLE November 26, 2018

SECOND READING BY TITLE December 17, 2018

READ IN ENTIRETY February 19, 2019

THIRD READING BY TITLE & ENACTED February 19, 2019

Marc. Thorne
MAYOR

Paul Maguire
TOWN CLERK