

A BY-LAW ESTABLISHING A CODE OF CONDUCT FOR MEMBERS OF COUNCIL OF
THE MUNICIPAL DISTRICT OF ST. STEPHEN

WHEREAS local governments are authorized and required to enact a by-law establishing a code of conduct for members of council prescribed by regulation;

AND WHEREAS New Brunswick Regulation 2018-64 under the Local Governance Act prescribes that the following matters be included in a code of conduct: "(a) the values to which Members of Council are expected to adhere"; (b) the behavior by the Members of Council toward other Members of Council, officers, employees and residents of the local government, including provisions respecting bullying, discrimination and harassment by Members of Council, (c) the use of local government property, resources and services by Members of Council; and (d) the use of communication tools and social media by Members of Council";

AND WHEREAS it is recognized that responsible conduct is essential to providing good governance for the Municipal District of St. Stephen as a local government;

AND WHEREAS the establishment of a code of conduct for Members of Council is consistent with the principles of transparent and accountable government;

AND WHEREAS the adoption of a code of conduct establishes a common understanding and shared expectations for how Members of Council should conduct themselves individually while carrying out their responsibilities and as a collective decision making body;

NOW THEREFORE, BE IT ENACTED by the Council of the Municipal District of St. Stephen, and pursuant to the authority vested in it by the Local Governance Act, SNB 2017, c.18, as amended, adopts rules in the form of a code of conduct by-law for elected officials as follows:

1. SHORT TITLE

1.1 This by-law may be cited as the "Code of Conduct By-law".

2. DEFINITIONS

2.0 The following definitions apply in this By- law:

"accountability" means an obligation and willingness to accept responsibility or to account for one's actions;

"Act" means the Local Governance Act, SNB, 2017, c.18, as amended, and accompanying regulations, as amended;

"Administration" means the management and operations of the local government, comprised of various departments, divisions and employees;

"Chief Administrative Officer" means of the individual appointed by Council resolution or their delegate;

"Confidential information" means and includes all information in the possession of, or received in confidence by, the local government that the local government is prohibited from disclosing pursuant to legislation, court order or by contract or is required to refuse to disclose pursuant to RTIPPA or any other

legislation or any other information that pertains to the business of the local government, and is generally considered to be of a confidential nature, including but not limited to information concerning:

- (i) the security of local government 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 deliberations in a Council meeting open to the public;
- (vii) law enforcement matters;
- (viii) litigation or potential litigation, including matters before administrative tribunals; and
- (ix) legal advice that is subject to solicitor-client privilege.

“Council” means the mayor and councillors of the local government;

“Employees” means all employees of the local government, unionized or not unionized, full-time, part-time, contract or seasonal;

“integrity” means being honest and demonstrating strong ethical principles. It also involves being free from undue influence and not acting, or appearing to act, in a way to gain financial or other benefits for themselves, family, friends or business interests. Acting with integrity also means disclosing actual or potential conflict of interest relating to the public duties and to follow the letter and spirit of policies and procedures; and to exercise all conferred power strictly for the purpose for which the powers of been conferred;

“leadership, collaboration and public interest” means an ability to lead, listen to, and positively influence others; it also means coming together to create or meet a common goal through collective efforts and serving their constituents by acting in the best interests of the local government;

“local government” means the Municipal District of St. Stephen;

“Member” means a member of Council and includes the Mayor, Deputy Mayor and Councillors of the local government;

“respect” means having due regard for others’ perspectives, wishes and rights while conducting the business of the local government with decorum and with consideration of the ’s diversity. It also means not using derogatory language towards others, respecting the rights of other people, treating people with courtesy and recognizing the different roles others play in local government decision-making. Members would demonstrate awareness of their own conduct and consider how their words or actions may be perceived as offensive or demeaning;

“RTIPPA” means the Right to Information and Protection of Privacy Act, SNB 2009, c. R-10.6, as amended and accompanying regulations, as amended;

“social media” means freely accessible, third-party hosted, interactive internet technologies used to produce, post and interact through text, images, video, and audio to inform, share, promote, collaborate or network and include but are not limited to Twitter, Facebook, Instagram, Snapchat, YouTube and LinkedIn;

“transparency” means being as open as possible about decisions and actions;

“Undue influence” means behavior that 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 their own free will.

3. PURPOSE

- 3.1 The purpose of this By-law is to establish standards for the ethical conduct of Members relating to their roles and duties as representatives of the local government and a procedure for the investigation and enforcement of those standards.

4. FRAMEWORK AND INTERPRETATION

- 4.1 This By-law provides a framework to guide ethical conduct in a way that upholds the integrity of the local government and the high standards of professional conduct the public expects of its local government elected representatives.

- 4.2 As the conduct of Members is also governed by other legislation, this By-law is intended to operate with and supplement the common law, existing municipal, provincial and federal legislation, as amended, including but not limited to:

- (1) the Local Governance Act, SNB 2017, c. 18;
- (2) the Right to Information and Protection of Privacy Act, SNB 2009, c. R-10.6;
- (3) the Municipal Elections Act, SNB 1979, c. M-21.0;
- (4) the New Brunswick Human Rights Act, RSNB 2011, c. 171;
- (5) the Occupational Health and Safety Act, SNB 1983, c. O-0.2;
- (6) the Criminal Code of Canada, RSC 1985, c. C-46;
- (7) local government by-laws; and

- (8) any and all other municipal, provincial and federal laws that may govern the conduct of Members.

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

- 4.3 This By-law also operates with and is intended to supplement any existing and future Municipal District of St. Stephen policies and operating procedures that may from time to time apply to Members.
- 4.4 Members shall be guided by and conduct themselves in a manner that reflects the spirit and intent of this By-law.

5. VALUES AND PRINCIPLES OF MEMBERS

Values

- 5.1 Members shall perform their functions of office with integrity, respect, accountability, leadership, collaboration, public interest and transparency to the best of their knowledge and ability.
 - (1) **Integrity**
Conduct under this value and principle upholds the public interest, is truthful, trustworthy and honourable.
 - (2) **Respect**
Conduct under this value and principle is demonstrated when a Member fosters an environment of trust by demonstrating due regard for the perspectives, wishes and rights of others and an understanding of the role of the local government.
 - (3) **Accountability**
Conduct under this value and principle is demonstrated when council or Members individually and collectively, accept responsibility for their actions and decisions.
 - (4) **Leadership, collaboration and public interest**
Conduct under this value and principle is demonstrated when Council or a Member encourages individuals to work together in pursuit of collective objectives by leading, listening to, and positively influencing others. Members as community leaders must build and inspire the public's trust and confidence in local government in all their dealings.
 - (5) **Transparency**
Conduct under this value and principle is demonstrated when Council communicates appropriate information openly to the public about decision-making processes and issues being considered; encourages appropriate public participation; communicates clearly; allowing for public scrutiny and providing appropriate means for feedback.

Principles

- 5.2 Members are the keepers of the public trust and shall uphold the highest standards of ethical behaviour.
- 5.3 Members have a duty to make decisions based on the best interests of the Municipal District of St. Stephen.
- 5.4 Members are responsible for their decisions. This includes acts of commission and acts of omission. The decision-making processes of Members must be transparent.
- 5.5 Members shall demonstrate and promote the principles of this By-law through their decisions, actions and behaviour. The behaviour of Members must build and inspire the public's trust and confidence in the local government.

6. COUNCIL RESPONSIBILITIES

- 6.1 The Clerk shall provide every Member with a certified copy of this By-law and every Member will sign a statement of commitment, as attached as Schedule "A" to this By-law, within seven (7) calendar days of this By-law coming into force, and also within seven (7) calendar days of taking the oath of office pursuant to the Act.
- 6.2 Council shall review this By-law as required and make any amendments considered appropriate to ensure that it remains current and continues to accurately reflect the standards of ethical conduct expected of Members.

7. BEHAVIOUR OF MEMBERS OF COUNCIL

Representing the local government

7.1 Members shall:

- (1) act honestly, and in good faith, serve the welfare and best interests of the local government without regard to personal interests;
- (2) perform their functions and duties in a conscientious and diligent manner with integrity, accountability and transparency;
- (3) conduct themselves in a professional manner with dignity;
- (4) make every effort to participate in the meetings of Council, committees of Council and other bodies to which they are appointed by Council;
- (5) respect and comply with the law and avoid conduct that, in the eyes of a reasonable person could be viewed as undermining or has the potential to undermine public confidence in the governance of the local government;
- (6) not use their public office for personal financial benefit;
- (7) not disguise or mislead as to their identity or status as an elected representative of the local government;
- (8) at all times, conduct themselves with decorum and act in accordance with the procedural by-law, as amended and;

- (9) serve and be seen to serve the local government community in a conscientious and diligent manner and shall approach decision making with an open mind.

Respecting the decision-making process

- 7.2 Council may only act in accordance with provincial laws and municipal by-laws. No Member shall, unless authorized by Council, attempt to bind the local government or give direction to Employees, agents, contractors, consultants or other service providers or prospective vendors to the local government. Council makes decisions as a whole not as individual Members.
- 7.3 Members shall accurately communicate the decisions of Council, even if they disagree with the decision.
- 7.4 Members shall conduct and convey Council business in an open and transparent manner other than for those matters which by law are authorized to be kept confidential allowing the public to view the process and rationale which was used to reach decisions or for taking certain actions.
- 7.5 Members shall exercise their authority to make decisions in a manner that demonstrates fairness, respect for individual differences and opinions, an intention to work together for the common good and in the public interest. Members will demonstrate this in the following ways:
 - (1) respecting differing opinions and the right of others to express those opinions;
 - (2) refraining from making disparaging comments about other Members, Council's decision-making process or a decision of Council; and
 - (3) refraining from speculating or reflecting upon the motives of other Members in respect of their actions and decisions as a Member.

Adherence to policies, procedures, and by-laws

- 7.6 Members shall comply with the legislation adopted by the Parliament of Canada and the Legislature of the Province of New Brunswick and all by-laws, policies and procedures of the local government.
- 7.7 Members shall respect the local government as an institution and shall encourage public respect for the by-laws, policies, and procedures of the local government. A Member must not encourage disobedience of any by-law, policy, or procedure of the local government in responding to a member of the public, as this undermines public confidence in the local government and of the rule of law.

Respectful interactions with fellow Members, Employees and the public

- 7.8 Members shall establish and model a respectful workplace where they will not speak disrespectfully about the local government, other Members or Employees. While Members may debate issues and promote ideas, they must always maintain decorum.

- 7.9 Members shall treat one another, Employees, and members of the public with civility, dignity and respect.
- 7.10 No Member shall use indecent, abusive, or insulting words or expressions towards another Member, Employee or a member of the public.
- 7.11 Members shall promote good governance and take steps to ensure that their behaviour and work environment is free from abuse, harassment, discrimination, bullying, intimidation, offensive and derogatory language.
- 7.12 No Member shall refuse to speak with, or refuse to interact with, anyone based on the grounds listed under the Human Rights Act.
- 7.13 Members shall direct inquiries of staff to the Chief Administrative Officer or the appropriate senior management Employee as directed by the Chief Administrative Officer.
- 7.14 Members shall respect Employees who may present information and provide advice that may not align with their views. Members shall also respect the role of Employees to advise based on political neutrality, objectivity and without undue influence from any individual Member. All Members shall show respect for the professional capacities of the Employees of the local government.
- 7.15 Employees have a duty and obligation to act impartially and in accordance with prescribed standards of conduct or procedures of the local government. Similarly, Employees with professional qualifications have an additional duty and obligation to act in accordance with standards of conduct prescribed for their profession. Members shall refrain from any conduct which may deter, interfere or unduly influence Employees in the performance of such duties and obligations.
- 7.16 Members shall not:
- (1) involve themselves in matters of Administration which fall within the jurisdiction of the Chief Administrative Officer;
 - (2) use or attempt to use their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any Employee with the intent of interfering in their duties;
 - (3) maliciously or falsely injure the professional or ethical reputation or the prospects or practice of Employees;
 - (4) cause persistent, excessive nit-picking, unjustified criticism and constant scrutiny;
 - (5) exclude or ignore an Employee, refuse to acknowledge their contributions, undermine their efforts in advancing, promotions or transfers; or

- (6) compel Employees to engage in partisan political activities or subject Employees to threats, discrimination, abuse, intimidation, bullying or harassment for refusing to engage in such activities.
- 7.17 Members shall not directly or indirectly request, induce, encourage, or aid Employees to do something which, if done by the Member, would be a breach of this By-law.
- 7.18 Members shall not require Employees to undertake public or private work on behalf of the Member.

Confidential information

- 7.19 Members shall only be entitled to have access to Confidential information in the possession of the local government that is relevant to matters before Council or that is relevant to their role as Members. Otherwise, Members have the same access rights to information as any member of the public.
- 7.20 Members shall not directly or indirectly disclose, release, publish or divulge to any member of the public any Confidential information in either written or oral form, including personal information as defined under RTIPPA, or any aspect of deliberations of Council obtained as a Member.
- 7.21 Members shall keep confidential all matters discussed in a meeting of Council where the public has been excluded pursuant to the Act.
- 7.22 Members shall not use Confidential information, including any knowledge held as a result of their position as a Member that is not in the public domain, including e-mails or correspondence from other Members or third parties, for personal or private gain, or for the gain of any other person or corporation.
- 7.23 Members may also become privy to Confidential information received outside of an “in-camera” or closed meeting. Members shall not directly or indirectly disclose, release, or publish by any means, including social media, to any member of the public, including the media, any Confidential information acquired by virtue of their office, unless the disclosure is required by law or authorized by Council.
- 7.24 The obligations identified under Section 7.20 – 7.23 constitute obligations that continue to apply to Members following their service when they are no longer Members.

Conflict of Interest

- 7.25 Members have a statutory duty to comply with the requirements of the conflict of interest provisions set out in the Act.
- 7.26 Members shall be free from undue influence and shall not act or appear to act in order to gain financial or other benefits for themselves, friends or family associates.
- 7.27 Members shall not place themselves in a position of obligation to any person or corporation which might reasonably benefit from special consideration or may seek preferential treatment.
- 7.28 Each Member has the individual responsibility to seek independent legal

advice, at the Member's sole cost and expense, with respect to any situation that may result in a conflict of interest.

Improper use of influence

- 7.29 No Member shall use the influence of their office for any purpose other than for the exercise of their official duties. Members attempting to use their office for private gain or for the gain of another person or organization that they are associated with is not permitted.
- 7.30 When a local government matter is before any adjudicative body or court, Members shall not contact or attempt to influence any tribunal members, adverse parties, or witnesses.
- 7.31 No Member shall attempt to influence the Chief Administrative Officer in matters that relate to Administration.
- 7.32 Under the direction of the Chief Administrative Officer, the Administration serves Council as a whole, no individual Member has executive authority over the Administration. All Members 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 Employee or contracted resource except through the Chief Administrative Officer;
 - (2) not use, or attempt to use, their office for the purpose of intimidating, influencing, threatening, coercing, or directing an Employee in a manner contrary to their duties or for the Member's own personal benefit; and
 - (3) not advocate for the promotion, sanction, or termination of any Employee.
- 7.33 When a Member's private life or employment intersects with Employees, Members should not expect that their role as a Member will affect or influence the services that they would receive as a private citizen.
- 7.34 Members should avoid any situation in which a friendship, social relationship or social interaction with an Employee may be seen to create undue influence, gain, access to information or undermine the authority of the Chief Administrative Officer.
- 7.35 No Member shall attempt to influence any Employee to hire or promote a person closely connected to the Member.
- 7.36 No Member shall attempt to use a family relationship for their personal benefit or gain.

Gifts and benefits

- 7.37 In accordance with the Act, Members 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" Member, or

- (2) “for 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.”

7.38 Members may accept:

- (1) compensation or benefits authorized by Council or in accordance with policies or procedures of the local government;
- (2) political contributions that are accepted in accordance with applicable law;
- (3) rewards, gifts or benefits not connected with the performance or duties of office;
- (4) services provided without compensation by persons volunteering their time;
- (5) food, lodging, transportation and entertainment provided by other levels of government or by other local governments, boards and commissions;
- (6) reasonable quantities of food and beverages consumed at banquets, receptions, ceremonies and similar events;
- (7) token gifts such as souvenirs and commemorative gifts that are received in recognition of service for attending an event; and
- (8) gifts received as an incident of protocol or social obligation that normally and reasonably accompany the responsibility of the office.

7.39 Gifts received by the Member on behalf of the local government as a matter of official protocol that have significance or historical value for the local government shall be delivered to the Clerk’s office.

7.40 Where a Member or a family associate, which includes a spouse or common-law partner, child, parent or sibling, as defined under the Act, receives a gift inconsistent with this By-law or where it was not possible to decline the unauthorized gift, hospitality or other benefit, the Member or their family associate should refuse it or, at the earliest opportunity, return it to the donor without making any personal use of it or dispose of it for charitable purposes.

7.41 In accordance with Section 7.38, and the principle of transparency, Members shall disclose annually to the Clerk any gifts and benefits that exceeds ninety-nine dollars (\$99.00).

7.42 No Member shall accept the use of property or facilities, such as a vehicle, office or vacation property, at less than fair market value.

Orientation and training attendance

7.43 Every Member must attend orientation training sessions, if offered by the local government, within ninety (90) days after the Member takes the oath of office, unless doing so is not practically possible.

- 7.44 Unless excused by Council, every Member must attend workshops and any other training sessions, organized at the direction of Council, for the benefit of Members throughout the Council term, unless doing so is not practically possible.

8. USE OF LOCAL GOVERNMENT PROPERTY, RESOURCES AND SERVICES

- 8.1 No Member shall use or permit the use of any local government property (such as but not limited to land, facilities, equipment, supplies), resources (including but not limited to Employees, computers, information technology networks, websites) or services other than for carrying out the business of the local government or in accordance with procedure or practices of the local government.
- 8.2 No Member shall obtain any personal financial gain or advantage from the use of local government property, resources or services.
- 8.3 Members shall comply with all information security procedures applicable to Employees and shall not take any actions that may compromise the integrity or security of the local government's information systems.

Expenditures

- 8.4 Members are stewards of public resources and shall avoid waste, abuse and extravagance in the use of public resources.
- 8.5 Members shall be transparent and accountable with respect to all expenditures and shall comply with all local government by-laws, policies and procedures regarding claims for remuneration and expenses.

Election activities

- 8.6 No Member shall use any supplies, services, Employees, local government logo or other local government resource for any election campaign or campaign-related activity.
- 8.7 Members may use a local government facility or access equipment in the same manner as any other candidate for the purpose of an election campaign.

9. COMMUNICATION, USE OF COMMUNICATION TOOLS AND SOCIAL MEDIA

Communication

- 9.1 A Member must not speak on behalf of Council unless authorized to do so.
- 9.2 Unless Council directs otherwise, the Mayor is Council's official spokesperson and in the absence of the Mayor, the Deputy Mayor. Members shall direct media inquiries regarding the official Council position on an issue to Council's official spokesperson.
- 9.3 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.

- 9.4 Members shall identify when views expressed are theirs alone and not official communications of the local government when engaging in social media activities.
- 9.5 No Member shall make a statement when they know the statement is false.
- 9.6 No Member shall make a statement with the intent to mislead Council or members of the public. Any statement made by a Member that is not consistent with the official position of Council should be prefaced as their personal opinion.

Use of Communication Tools and Social Media

- 9.7 Electronic communication devices which include but are not limited to tablets, smartphones, laptops, desktop computers may be used by Members of the local government. Members should have no expectation of privacy in the use of these devices and all communications sent or received related to local government business are subject to RTIPPA. Members shall use these devices in a responsible and respectful manner.
- 9.8 Members shall use their social media in a professional, courteous, respectful manner.
- 9.9 Members shall not use communication tools, devices or social media to bully or encourage bullying of other Members, Employees or the general public.
- 9.10 Members shall not knowingly publish information using social media that is untrue, derogatory, defamatory or misleading in any way.

10. GOVERNMENT RELATIONSHIPS

- 10.1 In the spirit of collaboration, Members shall work constructively with other levels of government and organizations to achieve the goals of the local government.

11. BY-LAW COMPLIANCE

- 11.1 Members shall adhere to the provisions of this By-law.
- 11.2 This By-law is intended to be self-enforcing. It establishes standards of conduct for Members. Members shall be thoroughly familiar with and adhere to the By-law thereby enhancing public confidence in the local government by acting with integrity, respect, accountability, leadership, collaboration, public interest and transparency.
- 11.3 Members shall not undertake any act of reprisal or threaten reprisal against a complainant, Employees or any other person for providing relevant information in relation to a possible violation of this By-law.
- 11.4 Members shall not obstruct any person that carries out the objectives or requirements of this By-law.

Informal Complaint Process

- 11.5 Members shall endeavor to resolve interpersonal disputes with other Members using best efforts in good faith.

- 11.6 Any person who has identified or witnessed behavior or activity by a Member that the person reasonably believes, in good faith, is in contravention of this By-law may address the prohibited conduct by:
- (1) advising the Member that the conduct violates this By-law and encouraging the Member to stop; or
 - (2) requesting that the Mayor facilitate discussion between the parties in an attempt to resolve the issue. In the event that the Mayor is the subject of, or is implicated in the complaint, the person may request the assistance of the Deputy Mayor.
- 11.7 If a person is not satisfied with the response or resolution received through the informal process, they may file a formal complaint as outlined below .

Formal Complaint Process

- 11.8 Any person who has identified or witnessed behaviour or activity by a Member that the person reasonably believes, in good faith, is in contravention of this By-law may file a formal complaint with the Clerk in accordance with the following procedure:
- (1) All formal complaints must:
 - (a) be made using the local government's complaint form (see Schedule "B") and shall be dated and signed by the complainant;
 - (b) name the Member to whom the complaint relates;
 - (c) identify the section(s) of the By-law they believe has been breached;
 - (d) provide the date of the alleged breach;
 - (e) provide the facts and an explanation as to why there may be a contravention of the By- law;
 - (f) identify the names of any witnesses to the alleged contravention;
 - (g) provide any evidence or material in support of the alleged contravention; and
 - (h) acknowledge who may receive the complaint form and supporting documentation.
- 11.9 The Clerk shall acknowledge receipt of the formal complaint and provide the Mayor or Deputy Mayor with the formal complaint for processing.
- 11.10 Notwithstanding any other provisions of this By-law, any formal complaint received by the Clerk ninety (90) days before the date of a municipal election shall not be referred to the Mayor or Deputy Mayor for an initial assessment until after the election has occurred.

Initial Assessment

- 11.11 The Mayor or Deputy Mayor shall complete an initial assessment by reviewing any complaints received about a Member and determine whether the conduct described in the complaint form is within their authority to review and whether the information provided in

the complaint form provides reasonable grounds for believing that a violation of this By-law occurred.

11.12 The Mayor or Deputy Mayor may reject any complaint received:

- (1) more than twelve (12) months after the date of the reported alleged breach or
- (2) more than twelve (12) months after the complainant became aware of the alleged breach.

11.13 The Mayor or Deputy Mayor may request further information from the complainant before determining whether or not there are reasonable grounds for believing that a violation of this By-law may have occurred.

11.14 If the Mayor or Deputy Mayor is of the opinion that:

- (1) the conduct is not within their authority to investigate;
- (2) the complaint is frivolous, vexatious or not made in good faith;
- (3) the conduct occurred between the date that the municipal election is called and the election day and not related to the legislated duties of a Member;
- (4) the complaint is anonymous; or
- (4) there are no reasonable grounds for believing that a violation of the By-law has occurred the Mayor or Deputy Mayor will advise the complainant in writing, setting out reasons for the decision not to proceed with an investigation and close the file.

11.15 If the complainant disagrees with the conclusion of the Mayor or Deputy Mayor under Section 11.14, they may file an appeal with the Clerk who will place the matter on a closed meeting of Council for consideration.

11.16 If the Mayor or Deputy Mayor decides the complaint should be investigated, or if Council, under s. 11.15, determines the complaint should be investigated, the Clerk, on behalf of Council, shall retain an external investigator to conduct an investigation.

11.17 The parties shall participate in good faith in the investigation.

11.18 The external investigator shall:

- (1) Consider the alleged contravention of this By-law;
- (2) ensure the parties are given an opportunity to be heard;
- (3) allow the Member at least ten (10) days to submit a written response to the complaint for the consideration of the external investigator;
- (4) explore if the complaint can be resolved between the parties without making any recommendations for a sanction;

- (5) if the complaint is resolved to the satisfaction of the parties pursuant to 11.18(4), the external investigator shall advise the Clerk in writing within ten (10) days;
- (6) provide a written confidential report of the findings of the investigation, including whether there has been a breach of this By-law and a recommendation as to the appropriate sanction for the violation no later than ninety (90) days after the filing of the complaint;
- (7) state in their report if there is a recommendation that no sanction be imposed if they determine that a violation of this By-law occurred but that the Member took all reasonable steps to prevent it or that it was trivial or that it was committed through inadvertence or a genuine error of judgment;
- (8) file the written confidential report with the Clerk;
- (9) provide a copy of the written confidential report to the complainant and the Member; and
- (10) present the confidential report to Council.

11.19 The ninety (90) day timeline to complete an investigation may be extended by the external investigator depending on the nature and complexity of the investigation. Reasonable notice of the extension shall be provided by the external investigator to the Clerk, the complainant and the Member.

11.20 The Clerk shall place the matter on a closed meeting of Council and provide a copy of the confidential report from the external investigator to the parties.

11.21 If an external investigation has determined that a Member has breached a provision(s) of this By-law, the sanctions available to Council include, but are not limited to:

- (1) letter of reprimand addressed to the Member;
- (2) a sincere verbal or written apology by the Member to the impacted person(s);
- (3) suspension or removal of the Member from a committee of Council and bodies to which Council has a right to appoint members;
- (4) removal of the Member as chair or vice-chair of a committee of Council;
- (5) require the Member attend training or counselling;
- (6) reduction or suspension of remuneration paid to the Member for a period of up to ninety (90) days;
- (7) restrictions on contact with Employees;
- (8) restrictions on travel and representation on behalf of Council;
- (9) restrictions on access to local government facilities, property, equipment, supplies or services;

- (10) restrictions on how documents are provided to the Member;
- (11) require the return of local government property or the reimbursement of its value;
and
- (12) the offences and penalties provided under the Act with respect to violations of the disclosure of conflict of interest provisions of the Act.

11.22 Council, while acting in Committee, shall consider the confidential report from the external investigator. Their recommendation with respect to whether a sanction should be imposed to resolve the matter shall be forwarded to Council for a decision.

11.23 A Member who is the subject of an investigation shall be afforded procedural fairness, including the opportunity to respond to the allegation(s) before Council makes a decision or imposes any sanction.

11.24 A Member who is the subject of an investigation is entitled to be represented by a spokesperson or legal counsel, at the Member's sole cost and expense.

11.25 The complaint process shall not apply retroactively to any alleged conduct violations of Members prior to the date on which this By-law was formally adopted by Council.

EFFECTIVE DATE

Given under the hands of the Transition Facilitator, on behalf of the Minister of Local Government and Local Governance Reform, on this 9th day of December 2022 and repealing Bylaw A-13 , being the Council Code of Conduct of the Town of St. Stephen



Transition Facilitator

SCHEDULE A

ACKNOWLEDGEMENT

I hereby acknowledge that I have read and understand the Code of Conduct for Municipal District of St. Stephen Council.

I further acknowledge that I have read and understand all of my obligations, duties, and responsibilities under each principle and provision of the Code of Conduct and will read and understand all of my obligations, duties, and responsibilities under all future amendments and modifications thereto.

I understand that violations of the Code of Conduct may result in disciplinary action.

I certify that this is a true and correct statement by my signature below:

Elected Official Name (printed)

Elected Official Signature

Clerk

Date

NAME OF THE COMPLAINANT:

I, _____, OF _____
(full name of individual signing and filing this Complaint) (full address)

HEREBY MAKE THIS COMPLAINT AGAINST:

(name of Member(s) of Council alleged to have contravened the Council Code of Conduct of the Municipal District o)

I AM:

- a member of Council;
- an employee;
- a resident;
- other _____

I HAVE REASONABLE AND PROBABLE GROUNDS TO BELIEVE THAT THE FOLLOWING SECTIONS OF THE CODE OF CONDUCT WERE CONTRAVENED:

Contravention: *please state which section(s) of the Code of Conduct By-law you believe have been breached:*

THE PARTICULARS OF WHICH ARE AS FOLLOWS:

Statements of Fact: Why do you believe a Member of Council contravened the Code of Conduct? Please include the date, time and location of conduct, details and names of all persons involved and names of any witnesses and their contact information. Attach extra pages if necessary.

SUPPORTING DOCUMENTATION:

It is recommended that you provide supporting documentation that will help verify your complaint. Please attach any supporting documentation to this complaint.

I have attached supporting records and/or additional pages no yes
(Please specify the number of attached pages _____)

MY PERSONAL CONTACT INFORMATION:

Full name: _____
Email address: _____ Phone number: _____
Mailing Address: _____
City: _____ Province: _____ Postal code: _____

This Statement of Complaint is made and filed for the purpose of making a complaint regarding the conduct of one or more members of the Council of the Municipal District of St. Stephen.

I UNDERSTAND THAT:

- this form may be sent to the Member of Council;
- supporting documentation relevant to this complaint may be sent to the Member of Council;
- this form and supporting documents may be sent to an external investigator.

I CERTIFY THAT I HAVE PERSONAL KNOWLEDGE of the facts as laid out in this form and I DECLARE THAT the information in this form is true and accurate to the best of my knowledge and belief.

Signature of Complainant

Date

Please submit completed complaint in a sealed envelope to:

Municipal District of St. Stephen

ATTN: Clerk

Re: *Code of Conduct Complaint*

22 Budd Avenue, St. Stephen, New Brunswick E3 1E9

Personal information on this form is collected pursuant to the Government of New Brunswick *Right to Information and Protection of Privacy Act*, as amended, and will be used to review, assess and potentially investigate the details of the complaint. Any questions related to the collection and use of this information should be directed to the City Clerk, 22 Budd Avenue, St. Stephen, NB E3L 1E95, [506-460-7700](tel:506-460-7700).