

THE TOWN OF ST. STEPHEN

By-Law No. A-13

**A BY-LAW RESPECTING THE CODE OF CONDUCT FOR MEMBERS
OF THE TOWN COUNCIL**

The Council for the Town of St. Stephen, duly assembled, hereby ENACTS AS FOLLOWS:

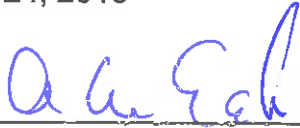
1. That the document attached to and forming part of this by-law as "Schedule A", being the "Council Code of Conduct" be adopted.
2. That the terms and conditions of the "Council Code of Conduct" come into full force and effect upon the final passing hereof.
3. That no complaint with respect to an action having occurred prior to the enacting hereof shall be considered pursuant to this by-law.

IN WITNESS WHEREOF the Town of St. Stephen has caused its corporate seal of the said Town to be affixed to this By-law the 24th day of September, 2018.

First Reading: July 23, 2018

Second Reading: August 27, 2018

Third Reading and Enactment: September 24, 2018



Allan MacEachern, Mayor



Joan M. Flewelling, Town Clerk

“Schedule A”

Council Code of Conduct

Policy Statement

The purpose and intent of the Council Code of Conduct is to establish standards of conduct for Members of Council, Local Boards and Committee Members in the individual conduct of their official duties.

The Code represents general standards. The Code does not replace Council Member’s roles, responsibilities, actions and behaviours required by various statutes, by-laws and policies.

Statements of Principle

A written Code of Conduct helps to ensure that the Members of Council share a common basis of acceptable conduct. These standards are designed to supplement the legislative parameters within which the Members must operate. These standards are intended to enhance public confidence that the Town of St. Stephen’s elected and appointed officials operate from a basis of integrity, justice and courtesy.

Special Policy Requirements

Section 1: Overview

- 1.1 The Town of St. Stephen’s Code of Conduct is a general standard that augments the provincial laws and municipal policies and by-laws that govern the Members’ conduct.

Section 2: Statutory Provisions Regulating Conduct

- 2.1 This Code of Conduct operates along with, and as a supplement to, the existing statutes governing the conduct of Members. Six pieces of provincial legislation govern the conduct of Members of Council those being:
 - (a) *Local Governance Act*, S.N.B. (2017), Chapter 18;
 - (b) *Right to Information and Protection of Privacy Act*, S.N.B. (2009), Chapter R-10.6;
 - (c) *Municipal Elections Act*, S.N.B. (1979), Chapter M-21.01;
 - (d) *Occupational Health and Safety Act*, S.N.B. (1983), Chapter O-0.2;

(e) *Human Rights Act*, S.N.B. (2011), Chapter 171;

2.2 The Town of St. Stephen's Procedural By-law addresses the conduct of Council during a Town Council meeting.

2.3 The Criminal Code of Canada also governs the conduct of Members.

Section 3: Application

3.1 This Code of Conduct and the references within it shall apply to all members of St. Stephen Town Council and members of Local Boards and Council Committees, including those citizens and/or staff appointed by Town Council.

Section 4: Definitions

4.1 For the purpose of this Code of Conduct,

(a) "child" means a child born within or outside a marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family or as defined under Part 8 of the *Local Governance Act* as amended from time to time.

(b) "Town" means The Town of St. Stephen.

(c) "Town property" means items, services or resources which are the property of the Town, including, but not limited to: materials, equipment, vehicles, facilities, technology, Town-developed computer programs of technological innovations, databases, intellectual property, Town-owned images, logos, coat of arms, and supplies.

(d) "Clerk" means the Town Clerk of The Town of St. Stephen.

(e) "Code" means this Code of Conduct as it applies to Members of Council, Local Boards and/or Town Council Committees.

(f) "committee member" means citizens and/or staff appointed by Town Council to Committees of Council.

(g) "complaint" means an alleged contravention of this Code.

(h) "confidential information" includes information in the possession of the Town that the Town is either prohibited from disclosing, or is required to

refuse to disclose, under the *Right to Information and Protection of Privacy Act (RTIPPA)*, or other legislation. Confidential information includes, but is not limited to, the following information:

- (i) disclosed or discussed at a Closed Session meeting of Council;
 - (ii) that is circulated to Members of Council and marked “Confidential”;
and
 - (iii) that is given verbally in confidence in preparation of or following a meeting that is closed to the public and includes, but is not limited to, the following types of information:
 - 1. personal matters about an identifiable individual(s);
 - 2. information about suppliers provided for evaluation which might be useful to other suppliers;
 - 3. matters relating to legal affairs of the Town; sources of complaints where the identity of the complainant is given in confidence; items under negotiations; and
 - 4. Matters identified as solicitor-client privileged.
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- (i) “Council” means the Council of the Town of St. Stephen.
 - (j) “Council Committee” means an Advisory, Reference, Standing or Special Committee of Town Council, established in the Procedural By-Law No. as amended from time to time.
 - (k) “employee” means a person employed by the Town of St. Stephen or Local Board, including those employed on a personal services contract, and volunteers, but does not include Members.
 - (l) “frivolous” means something that is not worthy of serious consideration, or that is of little or no importance, due to its lack of seriousness or sense.
 - (m) “gifts and benefits” means any cash or monetary equivalent, fee, object of value, service, travel and accommodation, or entertainment.
 - (n) “good faith” means in accordance with standards of honesty, trust and sincerity.

- (o) "hospitality" means instances where there is entertainment of or by outside parties for the furtherance of municipal business.
- (p) "in-law" means a relative by marriage.
- (q) "Local Board" means an agency, board or commission to which Council may assign or appoint members from time to time.
- (r) "Member" means a member of Council, a Local Board or Committee member.
- (s) "Member of Council" means the Mayor or Councillor of the Town of St. Stephen.
- (t) "office" means the authority and duties attached to the position of being an elected member of Council.
- (u) "official duties" means the public duties of a Member and includes functions performed by Members necessary to demonstrate responsible and accountable government with respect to matters within the Town's or Local Board's jurisdiction, and which are done for the purpose of providing good government with respect to those matters.
- (v) "parent" means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child or as defined under Part 8 of the *Local Governance Act* as amended from time to time.
- (w) "pecuniary interests" means interests that have a direct or indirect financial impact or as defined under Part 8 of the *Local Governance Act* as amended from time to time they include:
 - (i) any matter in which the Member has a financial interest;
 - (ii) any matter in which the Member is a shareholder, director or senior officer of or holds a controlling interest in a corporation that does or does not offer its securities to the public, and such corporation has a financial interest;
 - (iii) any matter in which the Member is a partner of a person or is in the employment of a person that has a financial interest; and
 - (iv) any matter in which a parent, spouse, same sex partner or any

child of the Member has a financial interest, if known to the Member.

- (x) "personal benefit" means forms of advantage other than financial such as seeking an appointment, promotion or transfer with the Town on behalf of a family member and includes the private interests of a Member.
- (y) "private interest" means all of the activities of a Member not included in the term defined as "Official Duties".
- (z) "sibling" means one of two or more children having one or both parents in common; a brother or sister.
- (aa) "vexatious" means without reasonable or probable cause or excuse.

Section 5: General Standards of Conduct

- 5.1 Members are responsible for making honest statements. No member shall make a statement when they know that statement is false. No member shall make a statement with the intent to mislead Council, staff, or the public.
- 5.2 Members shall at all times serve, and be seen to serve, their constituents in a conscientious and diligent manner.
- 5.3 Members will conduct their dealings with each other in ways that maintain public confidence in the office to which they have been elected, are open and honest, focus on issues rather than personalities, avoid aggressive, offensive or abusive conduct.
- 5.4 Members should be committed to performing their functions with integrity, accountability, and transparency.
- 5.5 Members shall perform official duties and arrange their affairs in a manner that promotes public confidence and respect and will bear close public scrutiny.
- 5.6 It shall be the duty of all Members to abide by all applicable legislation, policies and procedures pertaining to their position as a Member.
- 5.7 Members shall not engage in any activity, financial or otherwise, which is incompatible or inconsistent with the ethical discharge of Official Duties to the Town or Local Board.

- 5.8 Every Member in exercising his or her powers and in discharging his or her Official Duties shall, in accordance with Part 8 of the *Local Governance Act*:
- (a) seek to advance the common good of the Town of St. Stephen;
 - (b) truly, faithfully and impartially exercise his or her office to the best of his or her knowledge and ability;
 - (c) exercise care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances;
 - (d) exercise his or her powers only for the purpose for which they were intended; and
 - (e) competently exercise his or her office by educating themselves either formally or informally, in matters pertaining to their official duties.

Responsibilities of Council, the Mayor and Councillors

- 5.9 Council as a whole has the authority to approve budget, policy or processes, including the structures and procedures for committees. Authority to act on behalf of Council, including through a committee, can only be delegated by Council or through law.
- 5.10 Council is responsible for, and dedicated to, providing good and effective government for the public in an open, accountable and transparent manner.
- 5.11 A fiduciary relationship exists between the Council and inhabitants of the municipality.
- 5.12 Members of Council:
- (a) may not impugn or malign a debate or decision, or otherwise erode the authority of Council;
 - (b) when appointed to committees and other bodies as part of their duties must make every effort to participate diligently in these bodies with good faith and care;
 - (c) must uphold the law and conduct themselves with the highest degree of ethical behaviour and integrity;
 - (d) must avoid conflict of interest;

- (e) must seek to advance the public interest with honesty and treat members of the public and staff with dignity, understanding and respect;
- (f) may not make statements known to be false or make a statement with the intent to mislead Council, staff, or the public;

Committees, Local Boards and Members of Committees/Local Boards

- 5.13 Members of the public appointed to committees or Local Boards are appointed at the pleasure of Council. They do not hold office nor do they represent a constituency within the community nor do they represent Council, or the committee or the Local Board unless mandated to do so. Members of the public appointed to committees and Local Boards must respect both the word and spirit of this Code as it applies to them and also as it applies to Members of Council.
- 5.14 Committees and Local Boards operate only within meetings for which proper notice has been given pursuant to a set agenda unless otherwise mandated by Council.
- 5.15 No Committee member/Local Board member may act beyond the mandate of the committee/local board granted by Council. They must not undertake site visits, direct discussions with residents, informal meetings or communications including emails except:
 - (a) as granted the right to do so by Council;
 - (b) pursuant to the duties of a Member of Council; or
 - (c) otherwise if required by law.

Section 6: Respect for Decision Making Process

- 6.1 Members shall accurately and adequately communicate the decisions of Council and Local Boards such that respect for the decision and decision-making process is fostered.
- 6.2 Members shall not attempt to influence the decision-making process, as it relates to the award of contracts or settlement of claims. This includes, but is not limited to, direct or indirect personal contact or interaction with the parties administering or directly involved in such processes.

Section 7: Avoidance of Waste

- 7.1 Members shall avoid waste, abuse and extravagance in the provision or use of public resources or any other Town property.

Section 8: Gifts and Benefits

- 8.1 No Member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of office, unless permitted by the exceptions listed below.
- 8.2 For these purposes, a fee, advance, gift or benefit provided with the Member's knowledge to a Member's spouse, child, parent, brother, sister, father-in-law, mother-in-law, sister-in-law and brother-in-law or to a Member's staff that is connected directly or indirectly to the performance of the Member's duties is deemed to be a gift to that Member.
- 8.3 The following are recognized as exceptions:
- (a) compensation or benefit authorized by Council;
 - (b) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
 - (c) services provided without compensation by persons volunteering their time;
 - (d) a suitable memento of a function honouring the member;
 - (e) food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the federal government or by a foreign government within a foreign country;
 - (f) food and beverages consumed at banquets, receptions or similar events, if:
 - (i) attendance serves a legitimate business purpose;
 - (ii) the person extending the invitation or a representation of the organization is in attendance; and
 - (iii) the value is reasonable and the invitations infrequent.

(g) communication to the offices of a Member, including unpaid subscriptions to newspapers and periodicals.

8.4 Except in the case of category (a) or (f), a Member may not accept a gift or benefit worth in excess of \$250.00 or gifts and benefits from one source during a calendar year worth in excess of \$250.00.

Section 9: Confidential Information

9.1 No Member shall disclose or release by any means to any member of the public, or in any way divulge any confidential information, including personal information or any aspect of deliberations acquired by virtue of their office, in either oral or written form, except when required by law or authorized by Council resolution to do so.

9.2 Members shall not release information subject to solicitor-client privilege, unless expressly authorized by Council, Local Board resolution (if so empowered), or required by law to do.

9.3 Nor shall Members use confidential information including information that they have knowledge of by virtue of their position that is not in the public domain, including e-mails and correspondence from other Members, or third parties, for personal or private gain, or for the gain of relatives or any person or corporation or cause detriment to the Town, Council, Local Board, or others. As one example, no Member should directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of Town property or assets.

9.4 Confidential information includes information in the possession of the Town that the Town is either prohibited from disclosing, or is required to refuse to disclose, under the Provincial *Right to Information and Protection of Privacy Act (RTIPPA)*, or other legislation. Generally, *RTIPPA* restricts or prohibits disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, information that is personal, and information that is subject to solicitor/client privilege. Members shall not disclose, use or release information in contravention of applicable privacy law.

9.5 The *Local Governance Act* permits information that concerns personal matters, labour relations, litigation, property acquisitions/dispositions, the security of the property of the Town or a Local Board, and matters authorized in other legislation, to remain confidential. For the purposes of the Code of Conduct, "confidential information" also includes this type of information.

- 9.6 Under the Town of St. Stephen Procedural By-law, as amended from time to time, a matter that has been discussed at an in-camera meeting remains confidential. Members have a duty to hold information received at closed meetings in strict confidence for as long and as broadly as the confidence applies. Members shall not either directly or indirectly, release, make public or in any way divulge the content of any such matter, or the substance of deliberations, of the in-camera meeting, including memorandums and staff reports that are distributed for consideration during the in-camera meeting to anyone, unless specifically authorized by Town Council resolution or required by-law.
- 9.7 Examples of the types of information that a member of Council must keep confidential include, but are not limited to, the following:
- (a) items under litigation, negotiation, or personnel matters;
 - (b) information that infringes on the rights of others (e.g., sources of complaints);
 - (c) price schedules in contract tender or Request for Proposal submissions if so specified;
 - (d) information deemed to be “personal information” under Part 8 of the *Local Governance Act*; and
 - (e) statistical data required by law not to be released (e.g. certain census or assessment data).
- 9.8 Members of Council shall not access or attempt to gain access to confidential information in the custody of the Town unless it is necessary for the performance of their duties and not prohibited by Council policy.
- 9.9 Members are only entitled to information in the possession of the Town that is relevant to matters before the Council or a committee. Otherwise, they enjoy the same level of access rights to information as any other member of the community and must follow the same processes as any private citizen. As one example, no member should have access to documents or receive any information related to a particular procurement process while the process is ongoing.

Section 10: Use of Town Property, Services and other Resources

- 10.1 No Member of Council shall use, or permit the use of Town property, including land, facilities, equipment, supplies, services, staff or other resources (for example, Town-owned materials, computers, networks, websites, Corporate transportation) for activities other than the business of the Corporation. Nor should any Member obtain personal benefit or financial gain from the use or sale of Town property, including Town-developed intellectual property (for example, inventions, creative writings, computer programs and drawings), technical innovations, Town owned images, logos, coat of arms, or other items capable of being patented, since all such property remains exclusively that of the Town.
- 10.2 Members shall conduct themselves in accordance with the provisions of the Town of St. Stephen Technology Use Policy. The Town of St. Stephen licenses the use of computer software from a variety of vendors. The Town of St. Stephen does not own the software or its documentation. Software is normally copyrighted, and no individual may copy or distribute the software unless expressly permitted to do so under the applicable licence. This policy applies to the use cell phones, tablets, personal computers, fax machines, printers, etc.

Section 11: Election Campaign

- 11.1 No Member shall use the facilities, equipment, supplies, services or other resources of the Town (including Councillor newsletters and Councillor websites linked through the Town's website) for any election campaign or campaign-related activities. No Member shall undertake campaign-related activities on Town property. No Member shall use the services of persons during hours in which those persons receive any compensation from the Town.

Section 12: Improper Use of Influence

- 12.1 No Member shall use the influence of her or his office for any purpose other than for the exercise of her or his official duties.
- 12.2 Examples of prohibited conduct are the use of one's status as a Member to improperly influence the decision of another person to the private advantage of oneself, or one's parents, children or spouse, staff members, friends, or associates (business or otherwise). This would include attempts to secure preferential treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of future advantage through a member's supposed influence within Council in return for present actions or inaction.

12.3 For the purposes of this provision “private advantage” does not include a matter:

- (a) that is of general application;
- (b) that affects a Member of Council, his or her parents, children or spouse, staff members, friends, or associates, business or otherwise as one of a broad class of persons; or
- (c) that concerns the remuneration or benefits of a Member of Council as authorized by Council.

Section 13: Business Relations

13.1 No Member shall act as a paid agent before Council, its committees, or an agency, board or commission of the Town except in compliance with the terms of Part 8 of the *Local Governance Act* as amended from time to time.

13.2 A Member shall not refer a third party to a person, partnership, or corporation in exchange for payment or other personal benefit.

Section 14: Expenses

14.1 Members shall comply with the provisions of the Council Reimbursement of Expenses Policy as amended from time to time.

Section 15: Conduct Respecting Current and Prospective Employment

15.1 No Member shall allow the prospect of his or her future employment by a person or entity to detrimentally affect the performance of his or her duties to the Town.

Section 16: Conduct at Meetings of Council

16.1 Members shall conduct themselves with decorum at Council and Committee meetings in accordance with the provisions of the Town of St. Stephen's Procedural By-law as amended from time to time.

Section 17: Conduct Respecting Staff

17.1 Mutual respect and cooperation are required to achieve the Council's corporate goals and implement the Council's strategic priorities through the work of staff.

- 17.2 Employees have an obligation to recognize that members of Council have been duly elected to serve the residents of St. Stephen and respect the role of Council in directing the actions of the Town.
- 17.3 Employees serve Council and work for the municipal corporation under the direction of the Chief Administrative Officer. Council directs staff through its decisions as recorded in the minutes and resolutions of Council. Members have no individual capacity to direct members of staff to carry out particular functions.
- 17.4 Inquiries of staff from Members should be directed to the Chief Administrative Officer or the appropriate senior staff as directed by the Chief Administrative Officer.
- 17.5 Only Council as a whole and no single Member, including the Mayor, has the authority to direct staff, approve budget, policy, committee processes and other such matters, unless specifically authorized by Council.
- 17.6 Members shall be respectful of the role of staff to advise based on political neutrality and objectivity and without undue influence from any individual Member or faction of the Council. Accordingly, no Member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff, and all members shall show respect for the professional capacities of the staff of the Town.
- 17.7 Employees have a duty and obligation to act impartially, and in accordance with prescribed regulations or standards of conduct. 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.
- 17.8 No Member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities. No shall any Member use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering with that person's duties, including the duty to disclose improper activity.
- 17.9 In practical terms, there are distinct and specialized roles carried out by Council as a whole and by Councillors when performing their other roles. The key requirements of these roles are captured in the Code of Conduct and include dealing with constituents and the general public, participating as Committee members, participating as Chairs of Committees, and participating as Council

representatives on agencies, boards, commissions and other bodies. Similarly, there are distinct and specialized roles expected of Town staff in both the carrying out of their responsibilities and in dealing with the Council.

Section 18: Discreditable Conduct (Interpersonal Behaviours)

- 18.1 All Members of Council have a duty to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation. All Members of Council shall ensure that their work environment is free from discrimination and of personal and sexual harassment.
- 18.2 Members shall abide by the provisions of the Human Rights Code as amended, and, in doing so, shall treat every person, including other Members, employees, individuals providing services on a contract for service, students on placements, and the public, with dignity, understanding and respect.
- 18.3 In accordance with the Human Rights Code, as amended, Members shall not discriminate against anyone on the basis of their race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, family status, or disability.
- 18.4 In accordance with the Human Rights Code, as amended, harassment means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.
- 18.5 Without limiting the generality of the foregoing, Members shall not:
 - (a) make inappropriate comments or gestures to or about an individual where such conduct is known or ought reasonably to be known to be offensive to the person(s) to whom they are directed or are about;
 - (b) display materials or transmit communications that are inappropriate, offensive, insulting or derogatory;
 - (c) make threats or engage in any abusive activity or course of conduct towards others;
 - (d) vandalize the personal property of others;
 - (e) commit assault of any kind, including making unwanted physical contact, including touching, patting, or pinching; or
 - (f) refuse to converse or interact with anyone based on any ground listed in

the Human Rights code, as amended.

- 18.6 Harassment which occurs in the course of, or is related to, the performance of Official Duties by Members is subject to this Code. If an employee or a member of the public brings forward a harassment complaint against a Member, the complaint procedure under the Town's (or Local Board's, where applicable) Human Rights Program/Harassment Policy will apply. In all other cases involving a Member, complaints will be addressed in accordance with sections below.

Section 19: Failure to Adhere to Council Policies and Procedures

- 19.1 A number of the provisions of this Code of Conduct incorporate policies and procedures adopted by Council. More generally, Members are required to observe the terms of all policies and procedures established by Town Council.
- 19.2 This provision does not prevent a Member from requesting that Council grant an exemption from a policy.

Section 20: Corrective Measures

- 20.1 The Town Council is responsible for enforcing this Code and taking any corrective measures.
- 20.2 Any Councillor may request that Council discuss a breach of this Code during a closed session.
- 20.3 Council may impose, by majority vote, one or more sanctions on Councillors or who fail to abide by this Code.
- 20.4 Councillors may contest the corrective measure set by Council and request that a lesser or more lenient measure be set, as the case may be.
- 20.5 Depending on the nature and severity of the Code of Conduct and conduct violation, Council may impose the following measures:
- (a) a verbal apology
 - (b) a written apology;
 - (c) a verbal retraction of what was said;
 - (d) a written retraction of what was said;

- (e) a public or private reprimand by Council;
- (f) expulsion from the meeting room for the remainder of the meeting;
- (g) suspension of Councillor honorariums for a specified period of time; and
- (h) any other action deemed necessary by the Council through a majority vote by the Members present.