

BY-LAW NO. 068
A BYLAW OF THE MUNICIPALITY OF QUISPAMISIS
RESPECTING COUNCIL CODE OF CONDUCT

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

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

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

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

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

1. TITLE

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

2. DEFINITIONS

- a. “CAO” means the Chief Administrative Officer for Quispamsis.
- b. “Confidential or “Confidential Information” means any aspect of in-camera deliberations; information identified as confidential within the provisions of the Right to Information and Protection of Privacy Act; and information subject to solicitor-client privilege;
- c. “Council” means all members of Council duly elected and holding office;
- d. “Member” means any member of Council including the Mayor and Deputy Mayor;
- e. “Family Associate” means a member’s
 - i. spouse or common law partner,
 - ii. child,
 - iii. parent, or mother/father-in-law,
 - iv. sibling.
- f. “Officer” means an employee of the Town that reports directly to the CAO and may carry some delegated or designated duties of the CAO.
- g. “Town” means Quispamsis;

- h. "Town Property" means the Town's financial and non-financial assets including but not limited to land, vehicles, equipment, electronic devices and documents.

3. CODE OF CONDUCT

a. Representing the Town

- i. All Members shall:

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

b. Communicating on Behalf of the Town

- i. The Mayor, or in his/her absence the Deputy Mayor, is the official spokesperson for the Town;
- ii. All-Members acknowledge that official information related to the decisions of Council will be communicated to the community and the media on behalf of the Council as a whole.

c. Respecting the Decision-Making Process

- i. Members shall:

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

d. Adherence to Policies, Procedures and Bylaws

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

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

- i. All Members shall:

1. Treat fellow Members, the CAO, Officers, staff and the public with respect, concern and courtesy and not engage in discrimination, bullying, harassment or use of derogatory language towards others;
2. Demonstrate the highest standards of personal integrity, honesty, objectivity, impartiality, and accountability.
3. Communicate and work in an open and honest manner promoting a spirit of cooperation by listening to and respecting those opinions that may differ;
4. Avoid forming “cliques” with other Members for the purpose of controlling Council meetings, agendas or outcomes; and
5. 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 Members or Town Staff. Derogatory, defamatory, discriminatory, indecent, obscene or false comments shall not be posted.
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.
7. Be required to be familiar with and to comply with applicable federal, and provincial laws and Quispamsis by-laws, policies and procedures, including, without limitation, the *Right to Information and Protection of Privacy Act* (attached as Appendix B).
8. Be prohibited against:
 - i. making a statement that the member knows or reasonably ought to know
 - a. is false or misleading with respect to a material fact or omits to state a material fact, the omission of which makes that statement false or misleading, or
 - b. is defamatory to a Member, an officer or employee of the local government or a member of the public.

f. Confidential Information

- i. Members shall hold in strict confidence all information concerning matters deemed confidential and shall not, release, make public or in any way divulge any information concerning the

1. Property, personnel or legal affairs of the local government, or
2. A Member, an officer or employee of the local government or a public citizen, or which is deemed to be confidential unless expressly authorized by Council or required by law to do so.

g. Conflict of Interest

- i. Members shall be familiar with the conflict-of-interest provisions under Part 8 of the *Local Governance Act* (attached as Appendix A) and shall comply with those provisions, including but not limited to provisions that ensure that:
 1. Use any influence of the office for any purpose other than official duties;
 2. Use any information gained in the execution of the office that is not available to the general public for any purpose other than for official duties;
 3. Place themselves in a position of obligation to any person or organization who might reasonably benefit from special consideration or may seek preferential treatment; and
 4. Influence any Council decision or decision-making process involving or affecting any person or organization in which a Member or Members have a financial interest.
- iii. In general terms, a Member has a conflict of interest, outlined as follows:
 1. The Member or family associate
 - i. Has or proposes to have an interest in a contract in which the council, local board or committee of which he or she is a member has an interest, or
 - ii. Has an interest in any other matter in which the council, local board or committee is concerned that would be of financial benefit to the member or family associate.
 2. The Member or family associate is a shareholder in or is a director or an officer of a private corporation that
 - i. Has or proposes to have an interest in a contract with the Council, local board or committee, or,

- ii. Has an interest in any other matter in which the Council, local board or committee is concerned that would be of financial benefit to the corporation.
- 3. The Member or family associate has a controlling interest in or is a director of an officer of a public corporation that
 - i. Has or proposes to have an interest in a contract with the Council, local board or Committee, or
 - ii. Has an interest in any other matter in which the Council, local board or committee is concerned that would be of financial benefit to the corporation, or
- 4. The Member 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 Member 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.
- iv. Disclosure of Conflict of Interest
 - 1. On assuming office, each Member shall file a statement with the clerk disclosing any actual or potential conflict of interest of which he or she has knowledge.
 - 2. If a conflict of interest arises while a member is in office, the shall immediately file a statement disclosing the conflict of interest with the clerk.
 - 3. A member is not required, in a statement filed under subsection (1) or (2), to disclose particulars of his or her financial interest or the extent of any interest in the matter giving rise to the conflict.
 - 4. A statement disclosing a conflict of interest shall be made in the form prescribed by regulation.
 - 5. If a member has a conflict of interest with respect to any matter

in which the Council, local board or committee is concerned and the Member is present at a meeting of council or the local board, a meeting of a committee, or any other meeting at which business of the council, local board or committee is conducted, at which the matter is a subject of consideration the member shall

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

v. Prohibited Conflict

1. A Member shall not

- i. Accept any fees, gifts, gratuities or other benefit that could reasonably be seen to influence any decision made by him or her in the carrying out of his or her functions as a Member;
- ii. 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.

h. Improper Use of Influence

i. 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 municipal employee or contracted resource, except through the CAO;
- 2. Convey all concerns or requests for action or information directly to the CAO or, where appropriate, and as agreed by the CAO, communicate with an officer without committing the Town to any specific course of action, expenditure, or use of municipal resources outside of the Town's established policies, procedures, or budget, or otherwise;
- 3. Not solicit, demand or accept the services of any municipal employee;
- 4. Avoid any situation in which a social relationship or social interaction with a member of staff may be seen to create undue influence, access to information, conflict of interest, or to undermine the authority of the CAO; and

5. Not express any opinion on the performance of any municipal employee with exception of the formal CAO performance evaluation as specifically required by Town policy, or in good faith, as may be deemed necessary;
6. Not advocate for the promotion, sanction, or termination of any municipal employee.
7. Notwithstanding the above, Members can expect the same level of responsiveness to general questions and concerns asked of the CAO or staff as is offered to members of the public. In return, Members accept that no special consideration, beyond that which is extended to members of the public, is extended to Members by the CAO or staff.

i. Use of Municipal Assets and Services

- i. No Member shall use or attempt to use the Town's property, resources, funds, services, or information for personal benefit or the benefit of any other individual.
- ii. No Member shall use Town assets including Town cell phones or Town email accounts for municipal, provincial or federal campaign activity, or in support of a candidate in any local, provincial or federal government election or byelection or elections to agencies, boards and commissions.
- iii. 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*.
- iv. Members are also subject to the terms and conditions of all Town of Quispamsis policies governing the use of information technology assets and accounts.

j. Orientation and Other Training Attendance

- i. All Members shall attend the local orientation sessions. Members are expected to attend training opportunities that may be provided during their term.⁶

4. COMPLAINTS

4.1 Informal Complaint Process

- a. Any person who has identified or witnessed conduct by a Member that the person reasonably believes, in good faith, is in contravention of this bylaw may address the matter of concern by:
 - i. Advising the Member that their behaviour or activity appears to be in

violation of the code of conduct and encourage the Member to acknowledge and agree to stop the behaviour or end the activity; or

- ii. Requesting the Mayor (or Deputy Mayor, in the event that the Mayor is the subject of the concern) to facilitate an informal discussion of the concern to resolve the issue with both parties, the complainant and the Member.

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

4.2 Formal Complaint Process

- a. Any person, in good faith, may report a perceived wrongdoing or make a complaint alleging a breach of the Council Code of Conduct by a Member. All reasonable attempts shall be made to keep the reports and complaints confidential until a full investigation is completed in order to protect the Member and complainant.
- b. The report or complaint shall be in writing outlining the nature and specifics, be dated, include the name of the complainant, signed, addressed to the Mayor, (or in the case of perceived wrongdoing of the Mayor, to the Deputy Mayor), and marked “confidential”. The complaint may be mailed, emailed, or hand-delivered to the Town office to the attention of the Clerk.
 - i. The complaint must be received no later than 45 calendar days after the alleged violation occurred.
 - ii. Notice of a complaint shall be provided in writing to the affected Member within five calendar days of its receipt.
- c. All received complaints shall then be read to Council by the Mayor, (or in the case of the Mayor, the Deputy Mayor), in a closed Committee of the Whole, and the Member 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. The member shall not participate in any vote on the matter.
- d. A complaint received after the start of the nomination period preceding a general municipal election in Quispamsis will not be considered until after the election.
- e. Depending on the nature of the complaint, Council may, after its initial review:
 - i. Dismiss the complaint as invalid, frivolous, vexatious or filed outside of required timeframes, and provide the reason(s) for such dismissal to the complainant and the affected Member.
 - ii. Determine that the complaint is best referred to informal resolution in accordance with section 4.1. above, provided informal resolution has not already been attempted.

iii. Determine that an investigation is warranted. The two (2) options for conducting investigations are:

1. *Internal Investigation Panel* - If there is unanimous consent of the quorum present, Council can authorize further review and investigation of the complaint by an *Internal Investigation Panel* consisting of the Mayor, and Deputy Mayor and one Member (or in the case of perceived wrongdoing by the Mayor, the Deputy Mayor and two Member of Council), and report to Council. Any such review or investigation shall include a review of related documentation discussion with the complainant (if he/she is willing); and a discussion with the Member (if he/she is willing);
2. *External Third-Party* - In the absence of unanimous consent of the quorum present, Council must authorize further review and investigation of the complaint by an approved external 3rd Party to investigate and provide a fair and impartial opinion related to the complaint.

5. Results of the Investigation (the Report):

- a. The *External Third-Party or Internal Investigation Panel* results of the investigation shall be made, in writing to the Council in care of the Clerk. A copy of the report shall be provided to the affected member.
- b. Council, after receiving the report referenced under Section 4.2.e.iii. shall-
 - i. Review the report at its next meeting, If the report deals with any of the matters referred to in Subsection 68(1) of the *Local Governance Act*, the public may be excluded from the meeting for the duration of the review.
 - ii. A member who is the subject of an investigation shall be given the opportunity to respond to the allegations and report before council makes a decision including the right to have legal counsel make representations at the members' own personal expenses.
 - iii. Following the members' response to the report or lack of response the member shall leave the meeting room during the discussion by council and shall not participate in any vote on the matter.
 - iv. When the review is finished, by a majority vote –
 1. Determine whether the member of Council breached the code of conduct, and
 2. If it has been determined by a majority vote, that a valid complaint has been made where corrective actions, (sanctions), are warranted, Council is then required to determine the specific corrective actions to apply. Where a valid complaint has been made where corrective actions (sanctions) are warranted, Council will apply the principle of progressive discipline, escalating the level of sanction if the

same member commits similar offenses within an 18-month period.

6. a. Options for corrective actions, funded out of council members' remuneration, include:
- i. a written confirmation that the Member has been counseled on the matter.
 - ii. a written warning to the Member;
 - iii. a written reprimand to the Member, which may include:
 - a. requiring that the Member issue a letter of apology, and/or;
 - b. requiring that the Member attend training or counselling as directed by Council and/or;
 - c. suspending the Member from exercising the powers or performing the duties conferred under Section 48 of the *Act* and/or;
 - d. reducing or suspending the Member's compensation for the duration of any suspension imposed under paragraph (e), and/or;
 - e. reducing or suspending the Member's privileges, including travel or the use of resources, services or property of the local government and/or;
 - f. Suspension or removal of the Mayor or Deputy Mayor as official spokesperson for the Council, if the Mayor or Deputy Mayor is the affected member
- b. A corrective action 6 a iii (c) or (d) shall not be imposed for a period longer than the maximum period prescribed for a suspension under the Local Governance Commission Act.
- c. 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 corrective actions to be imposed upon the Member will be made public in an open session of Council by resolutions made to that effect.

- d. "Any finding of Council on whether a violation has occurred, and the imposition of any resulting corrective action is final and not subject to reconsideration or appeal."
- e. A complaint under this bylaw shall be processed within a period of ninety (90) days of its receipt. Notwithstanding, the forgoing council may by majority vote extend that time period if in their opinion there are valid reasons making an extension necessary.

7. REVIEW

- a. The Council Code of Conduct Bylaw must at a minimum be reviewed within the first twelve months following the general municipal election.

8. REPEAL

Bylaw No 056 a Bylaw of the municipality of Quispamsis respecting Council Code of Conduct is hereby repealed

9. ENACTMENT

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

READ FIRST TIME: May 20, 2025

READ SECOND TIME: May 20, 2025

READ THIRD TIME AND ENACTED: August 19, 2025

SEAL

X

Elizabeth (Libby) O'Hara
Mayor

X

Lisa MacInnis
Town Clerk

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 this ____ day of _____, 20__

Before me:

Town Clerk