

BY - LAW NO. HAM-2022-02
A BY-LAW RESPECTING THE CODE OF CONDUCT
OF THE COUNCIL OF HAMPTON

WHEREAS: the Section 10(2)(b) of the *Local Governance Act*, authorizes and requires local governments to establish a *Code of Conduct By-law*;

WHEREAS: a *Code of Conduct* ensures that Members of Council share a common basis and understanding for acceptable conduct extending beyond the legislative provisions governing the conduct of Members of Council, as set out in the *Local Governance Act*;
and

WHEREAS: The actions of members of council have an impact on the lives of all residents and property owners in the community; and

WHEREAS: the establishment of a *Code of Conduct By-law* is consistent with the principles of transparent and accountable government, reflecting the values of the town of Hampton, its commitment to professional, accountable, and lawful conduct, and its desire to provide strong local governance and leadership;

WHEREAS: The Minister of Local Government and Local Governance Reform may make or amend by-laws of a restructured local government as per *An Act Respecting Local Governance Reform*, section 11(2);

BE IT ENACTED: by the Minister of Local Government and Local Governance Reform as follows:

1. PURPOSE

The purpose of this by-law is to provide members of council with standards of conduct regarding their role and responsibilities as elected representatives on the Council of the town of Hampton.

The masculine form is used in this by-law to designate both women and men. The masculine gender is used without any discrimination to lighten the text.

2. DEFINITIONS

“*Act*” means the *Local Governance Act*, S.N.B. 2017, Chapter 18.

“clerk” means a clerk of the town of Hampton appointed under section 71(1) of the *Local Governance Act*.

“Confidential” or “Confidential Information” means any aspect of Closed session of Council 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.

“council” or “council member” designates the mayor and the councillors of the town of Hampton.

“Councillor” designates a member of the council of the town of Hampton other than the mayor.

“electronic communication device” means a tool such as a computer, digital tablet, cell phone or other provided to a Council member for the purpose of performing his/her duties as Councillor.

“mayor” designates the elected mayor of the town of Hampton.

“municipality or community” means the town of Hampton

“Hampton Property” means the town of Hampton’s financial and non-financial assets including but not limited to land, vehicles, equipment, electronic devices and documents;

“Officer or staff” means an employee of town of Hampton that reports directly to the CAO and may carry some delegated or designated duties of the CAO.

"social media" means web applications and online forums that allow users to interact, share and publish content such as text, links, photos, audios and videos.

3. CODE OF CONDUCT

Rules of ethics to guide and supervise elected officials, municipal organizations, and the public during council deliberations and during their duties on behalf of local government.

(1) Target objective

- a) To give elected officials and people who represent the municipality within municipal bodies a tool to facilitate the exercise of their roles and responsibilities, by adhering to rigorous values and moral principles as well as to rigorous ethical standards.
- b) To allow council deliberations to take place with respect and decorum for all people who are present during meetings, assignments and gatherings that involve the business of the town of Hampton.

(2) Compliance and Enforcement

- a) Members must abide by the letter, spirit and intent of this by-law.
- b) Members shall cooperate in every way possible to ensure compliance with the application and enforcement of these Rules.

- c) Each council member will be provided with a copy of this by-law and will be required to sign the declaration of commitment after each municipal election as an acknowledgment that they have read and support it.

(3) Guiding Principle

Council members and persons representing the municipality with organizations related to the town of Hampton, whether on a voluntary or professional basis, must:

- a) execute their functions and organize their business relations in such a way as to preserve and maintain the bond of trust of the citizens with integrity, objectivity, impartiality and transparency of the decisions of the municipality or the bodies to which they are associated.
- b) adopt a prudent and transparent behavior so as to preserve and maintain the bond of trust of citizens with integrity, objectivity, impartiality and transparency of the institutions as well as of the persons who administer them.
- c) To avoid being placed in situations of conflict of interest, they:
 - i. must avoid being or knowingly placing themselves in situations that puts their personal interests and/or those of their family members in conflict, in the healthy executions of their duties, assignments, and functions, on the other.
 - ii. refrain from directly or indirectly holding an interest in a contract with town of Hampton or one of the affiliated organizations.
 - iii. make public the facts or situations likely to put their personal interest or that of their relatives in conflict because of their duties, assignments, and responsibilities during their term of office; and
 - iv. avoid any situation that could harm their reputation or that of the municipality or a related organization.
- d) To act with honor and integrity, they:
 - i. consider that using confidential information, which their position has allowed them to obtain, for their personal interest or that of their relatives, constitutes a dishonest and reprehensible practice.
 - ii. adopt an attitude of restraint regarding facts or information likely to harm the interests of the municipality or one of its organizations.
 - iii. refrain from soliciting, accepting, or receiving a benefit for themselves or their relatives in exchange for a position, an intervention, or a service.

- iv. refrain from using or allowing the use of the resources, goods or services of the municipality or its organizations for purposes other than those for which they are intended (operational or administrative purposes and not to serve particular interests).
 - v. refrain from using the authority of their office for their personal interest or that of their relatives to the detriment of the interests of the municipality or its organizations; and
 - vi. will have access only to information that the municipality has in its possession and that is relevant to the matters before the council or a committee or that is relevant to his role as a member of council. Otherwise, they have the same right to information as a member of the public.
- e) Out of respect for the democratic and effective local government that council members constitute, they:
- i. comply with the legislative and administrative prescriptions that govern the decision-making mechanisms of the municipality and its agencies.
 - ii. refuse partisan work relating to the election of a member of council and abstain from any political bias likely to harm the exercise of their functions with complete integrity, objectivity, and impartiality; and
 - iii. respect the line of authority established within the organization as well as the hierarchical status within the decision-making process.
- f) For sound and effective management and a deep sense of social responsibility, they:
- i. know and comply with this Code of Conduct.
 - ii. refrain from any derogatory comments regarding the issues facing the municipality and its organizations through any means of communication (including social media).
 - iii. are committed to serving the best interests of their municipality and put their efforts to the betterment and service of the organization.
 - iv. invest in keeping their professional knowledge up to date and strengthening their skills, as well as those of their staff.

- v. develop a constructive spirit by refraining from denigrating and making false judgments, with the aim of baselessly discrediting a member of an organization of the municipality and its agencies.
 - vi. refrain from making derogatory remarks about another member of the council, staff or the public, or using abusive or profane language.
 - vii. refrain from using or attempting to use their authority or influence for the purpose of intimidating, threatening, coercing, ordering, or influencing any employee of the municipality with the intention of interfering in the duties of the employee.
 - viii. refrain from harming the professional or ethical reputation or outlook or practices of employees of the municipality; and
 - ix. refrain from any form of intimidation, discrimination, and harassment towards members of council, staff, persons representing the municipality with organizations related to the town of Hampton or any other individual during his term of office.
- g) For quality services, they:
- i. provide services in accordance with the mission, vision, values and orientations of the town of Hampton.
 - ii. undertake to offer services that meet the needs of their citizens, without any form of discrimination, and that take into account the collective interest.
 - iii. ensure that staff know and respect the policies, rules and practices of their employer;
 - iv. develop attitudes and behaviors that promote transparent, frank, honest, courteous, respectful, polite communication between the population, council, staff and organizations; and
 - v. act with discretion with the same concern for justice and equity for all.

(4) Communications

- a) A member shall not claim to speak on behalf of the council unless authorized to do so.

- b) Unless the council orders otherwise, the mayor is the official spokesperson of Council and in his absence, the deputy mayor. Any inquiries from the media regarding the Council's official position on an issue will be referred to Council's official spokesperson by the Director of Communications.
- c) A member authorized to act as a spokesperson for Council must ensure that their comments accurately reflect the official position and will of the Council as a whole, even if the member personally disagrees.
- d) Members must take into consideration that they are, always, representatives of the town of Hampton, including when they use social media. Members are encouraged to identify when the opinions expressed are their own and not an official communication from the municipality.
- e) No member shall make statements knowing that they are false.
- f) No member will make any statement with the intent to mislead Council or the public.
- g) The electronic communication devices provided by the town of Hampton belong to it and are always treated as belonging to it. Council members are advised of the lack of expectation of privacy when using these devices and further of the following:
 - i) emails or other messages sent or received using municipal devices, and all emails or other messages concerning public business of the municipality sent using private devices, are subject to the Right to Information and Protection of Privacy Act (RTIPPA).
 - ii) access to electronic communication devices is granted for the purpose of achieving municipal goals and performing its administrative functions and must not be used for commercial, personal or any other unauthorized purpose.
 - iii) Council members must protect confidential or sensitive information stored on their electronic communication devices.
 - iv) members of council are prohibited from using any property, equipment, services or supplies of the municipality, including e-mail, internet services or other electronic communication devices, if the use which is made may be deemed offensive, inappropriate, or otherwise contrary to this Code; and
 - v) in the event of a complaint under this Code, Council may require that electronic communication devices provided by the municipality to members of council be confiscated and inspected as part of the investigation, which includes the uploading information deemed

relevant to the investigation. All emails or internet connections can be recovered.

(5) Use of social media

- a) As representatives of the municipality, council members must act with discretion and judiciously in choosing what they post on social media. As with other types of communication, members are responsible for content and confidentiality. Care should be taken when participating in debates on controversial topics.
- b) Council members are prohibited from attempting to mislead anyone as to their identity or their capacity as elected representatives of the municipality or to conceal these when they use social media.
- c) Council members are prohibited from using social media to post anything that is dishonest, false, unfounded, offensive, or disrespectful, constitutes harassment, or is defamatory or misleading in any way.
- d) Council members who give a personal opinion on social media ensure that their opinion is not taken as that of the municipality or council as a whole.

(6) Remuneration and expenses

- a) Members are custodians of public resources and shall avoid waste, abuse, and extravagance in the use of public resources.
- b) Members must be transparent and accountable with respect to all their expenses and strictly adhere to all municipal regulations, policies and procedures regarding compensation and expense claims.

(7) Acceptance of Gifts and Hospitality

- a) Members shall not solicit, accept, agree to accept gifts, hospitality, rewards, aid, or other benefits which might reasonably appear to a member of the public to be in gratitude for influencing, persuading, or otherwise exceeding that that is appropriate and necessary for the public functions involved.
- b) Council members are not excluded from accepting:
 - i. compensation, gifts, or benefits that are unrelated to the performance of their duties.
 - ii. political contributions that are accepted under applicable laws.

- iii. reasonable quantities of food and beverages at a banquet, reception, ceremony, or similar event.
 - iv. services provided without compensation by people giving their time voluntarily.
 - v. food, lodging, transportation, and entertainment provided by other levels of government or by other local governments, boards of directors or commissions.
 - vi. reimbursement of reasonable expenses incurred in the performance of their responsibilities or duties.
 - vii. symbolic gifts such as souvenirs and commemorative gifts given in recognition of service or for participation in an event; and
 - viii. gifts received as a matter of protocol or social obligation that normally and reasonably accompany the responsibility of their duties.
- c) Gifts received by a member from the municipality in matters of official protocol that have historical significance or value for the municipality will be left with the town of Hampton when the member ceases to be on duty.
 - d) When it is not possible to refuse gifts, hospitality or other unauthorized advantages, members must inform the Council. The Council may require that the gift be returned to the sender with a confirmation of the return and refer to this code or be kept by town of Hampton or be disposed of for charitable purposes.
 - e) No member shall accept invitations from contractors or potential contractors to the municipality to attend special events which may be considered to create an unreasonable level of access or indebtedness:
 - i. **Access** can be defined as a period of contact with the member individually.
 - ii. **Indebtedness** is based on the value of the event.

(8) Election campaigns

No member shall use the facilities, equipment, supplies, municipal logo or other resource of the town of Hampton for an election campaign, or an activity related to an election.

(9) Complaint process (informal or formal)

- a) Any individual who identifies or witnesses' behavior by a member that the individual believes is in violation of this By-law may address the behaviour by:

- i. advising the member that the behavior violates this by-law and encouraging the Member to cease;
 - ii. asking the mayor to take part in an informal discussion with the member regarding the alleged complaint to resolve the case. If the mayor is the subject of, or is involved in a complaint, the individual may seek the assistance of the deputy mayor.
- b) Individuals are encouraged to follow these informal complaints procedure as the first avenue to remedy conduct that they believe violates this by-law. However, a person is not required to follow these informal complaints procedure before pursuing the formal complaints procedure described below.
- c) Any individual who identifies or testifies to conduct by a member that the individual reasonably believes to be in contravention of this by-law may submit a formal complaint under the following procedure:
- i. any complaint must be made in writing to council and must be dated and signed by an identifiable individual.
 - ii. council may appoint an investigator by council resolution to investigate the formal complaint.
 - iii. the Complaint must set out reasonable and probable grounds to allege that the Member has breached these Rules, including a detailed description of the facts giving rise to the allegation, as known.
 - iv. if council appoints an investigator:
 - (1) any complaints should be directed to the investigator.
 - (2) if the facts, as reported, include the name of a member or members alleged to have violated the bylaw, the member or members involved shall be provided with a copy of the complaint submitted to the investigator, according to the RTIPPA.
 - (3) Upon receipt of a complaint under these Rules, the Investigator shall review the complaint and decide whether to investigate the complaint. If the investigator is of the opinion that a complaint is frivolous or vexatious or is not made in good faith or that there are no grounds or that the grounds are insufficient to investigate, the investigator may choose not to investigate or, if he has already begun an investigation, may terminate the investigation or may dispose of the complaint summarily. In this case, the complainant and council, if council is not the investigator, must be informed of the investigator's decision.
 - (4) If the Investigator decides to investigate the Complaint, the Investigator shall take such action as he deems appropriate, including seeking legal

advice. All proceedings of the Investigator regarding the investigation must be confidential.

- (5) the investigator must, at the end of the investigation, provide the council and the member who is the subject of the complaint with the result of the investigation by the investigator.

v. When the council acts as an investigator:

- (1) the clerk shall bring the matter before council at a closed council meeting.
- (2) once the case has been raised, the complainant party may request the filing of the case in order to allow the said party to obtain the assistance of counsel. In such event, a second Closed Council meeting shall be convened no earlier than seven (7) days from the date of the first meeting.
- (3) if Council determines that a member has potentially violated this Code, it shall report that such determination has been made and pass a resolution regarding the outcome and consequences of such violation.
- (4) the violation must be ratified by resolution in open session of Council.
- d) A member who is under investigation shall be afforded procedural fairness, including the opportunity to respond to the allegations before the council deliberates and makes a decision or imposes a sanction;
- e) A member under investigation has the right to be represented by legal counsel, at his own expense.

f) No member shall:

- (1) retaliate or threaten to retaliate against a Complainant or any other individual for providing material information to council or any other person.
- (2) interfere with Council, or any other person, in achieving the objectives or requirements of this By-law.

(10) Corrective Measures

- a) It is up to council and specifically to the president of deliberative assemblies to apply this code and to impose corrective measures.
- b) Any member has the right to complain to the presiding officer of insulting, abusive or indecent language.

- c) The mayor or the council may impose one or more penalties on members and attendees who do not comply with this regulation.
- d) Council, on a majority vote, may contest the corrective measure indicated by the mayor and request that a more or less severe measure be imposed as the case may be.
- e) Depending on the nature and seriousness of the violation of the Code of Conduct and, the chairman of the meeting (or the council) may impose the following measures:
 - i. verbal apologies.
 - ii. a written apology;
 - iii. the condemnation to withdraw (verbally) his words.
 - iv. the order to withdraw (in writing) his words.
 - v. public or private reprimand by the mayor or the person designated by council.
 - vi. expulsion from the meeting room for the remainder of the meeting.
 - vii. the permanent expulsion of a person other than a member of council or the clerk; or
 - viii. any other actions deemed necessary by majority vote of the council members present.

4. CONFLICT OF INTEREST

- a) Conflicts of interest are governed by Part 8 of the *Local Governance Act*.
- b) As soon as he takes office, a member of council must file with the clerk a declaration disclosing any real or potential conflict of interest of which he is aware.
- c) When a member is in a conflict of interest with respect to any matter affecting Council and when he attends a meeting of council, of a committee or any other meeting dealing with the business of council where the matter is being studied, it must:
 - i. disclose that he has a conflict of interest in the matter as soon as it arises; and
 - ii. immediately withdraw from the meeting room while the matter is being considered or voted on.

- iii. Any member who finds himself in a conflict of interest while in office must promptly disclose it in a manner like that mentioned in 4. b).
- iv. Any verbal statement made pursuant to paragraph 4. c) must be noted in the minutes of the meeting by the person responsible for making it.

5. EFFECTIVE DATE

Given under the hands of the Transition Facilitator, on behalf of the Minister of Local Government and Local Governance Reform, on this _____ day of December, 2022 and effective the 1st day of January, 2023.

Transition Facilitator

