

Yellow = changes from original bylaw

Green = Marsha's comments (to be deleted)

Rural Municipality of Victoria, Prince Edward Island
A Bylaw to Provide for a Code of Conduct for Members of Council
Bylaw # 2023-XX

BE IT ENACTED by the Council of the Rural Municipality of Victoria as follows:

PART I – INTERPRETATION AND APPLICATION

1. Title

- 1.1. This bylaw shall be known and cited as the “Code of Conduct Bylaw.”

2. Purpose

- 2.1. The purpose of this bylaw is to set minimum expectations for the behaviour of members of Council **and Council Committees** in carrying out their functions and making decisions that benefit the Rural Municipality of Victoria.

3. Authority

- 3.1. Section 107 of the *Municipal Government Act* R.S.P.E.I. 1988, Cap. M-12.1., **requires** that a Council must establish a Code of Conduct bylaw to govern the conduct of members of Council.

4. Application

- 4.1. This bylaw applies to the Mayor and all members of Council. It operates together with, and as a supplement to, the applicable common law and the following statutes, any regulations or other delegated legislation made pursuant to them:

(a) the *Municipal Government Act* **and Code of Conduct Regulations**

(b) the *Occupational Health and Safety Act Workplace Harassment Regulations*

(c) the *Criminal Code of Canada*

- 4.2. **The bylaw, pursuant to Section 3 of the Regulations applies, as nearly as practicable, to Council Committee members and Directors of controlled corporations established by Council.**

5. Definitions

- 5.1. In this bylaw, any word and term that is defined in the *Municipal Government Act* has the same meaning as in the Act.
- 5.2. In this bylaw,
- (a) “Act” means the *Municipal Government Act*.
- (b) **“Chief Administrative Officer” or “CAO” means the administrative head of the municipality.**

- (c) "Confidential Information" means information that could reasonably harm the interests of individuals or organizations, including the municipality if disclosed to persons who are not authorized to access the information.
- (d) "Council" means the Mayor and other members of the Council of the municipality.
- (e) "Councillor" means a member of Council other than the mayor.
- (f) "Family Member" means in relation to a person, a spouse, parent, child, brother, sister, aunt, uncle, grandchild, grandparent, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law of the person.
- (g) "Municipality" means the Rural Municipality of Victoria
- (h) "Person Closely Connected" means, in relation to a member of Council, a family member, an agent, a business partner or an employer of the member.
- (i) "Regulations" means the Code of Conduct Regulations enacted pursuant to the Act.
- (j) "Staff" means the Chief Administrative Officer (CAO) and all staff of the municipality, whether full-time, part-time, contract, seasonal or volunteers.

6. Interpretation

- 6.1. This bylaw is to be given a broad, liberal interpretation in accordance with applicable legislation and the definitions set out.

7. Periodic Review

- 7.1. Council shall, in accordance with Section 6 of the Regulations, review and update this bylaw at least once every five years from the effective date of this bylaw.

8. Training

- 8.1. In accordance with Section 4 of the Regulations:
 - (a) the CAO shall arrange for training on the Code of Conduct for a council member elected, re-elected, or appointed to Council; and
 - (b) the member shall complete the training; and
 - (c) the CAO shall report to Council if a member fails or refuses to complete the training.
- 8.2. The training provided shall consist of the training course specified by the Regulations.
- 8.3. A member of Council who fails or refuses to complete the Code of Conduct training within the time specified shall not:
 - (a) carry out a power, duty, or function as a member of Council;
 - (b) receive any remuneration; and
 - (c) be considered present at a meeting even if the member is physically present.

PART II – PRINCIPLES

2. Guiding Principles and Expectations

- 2.1. Members of Council are keepers of the public trust and must uphold the highest standards of ethical behaviour.
- 2.2. Members of Council have a duty to make decisions based on the best interests of the municipality.
- 2.3. Members of Council are expected to act lawfully and be free from undue influence and not act, or appear to act, to gain financial or other benefits for themselves, family, friends, or business interests as a result of the member holding municipal office.
- 2.4. Members of Council must demonstrate and promote the principles of the Code of Conduct through their decisions, actions, and behaviour. Behaviour must build and inspire the public's trust and confidence in municipal government.
- 2.5. Members of Council must conduct public business efficiently and with decorum. They must always treat each other and others with respect.
- 2.6. Members of Council have a duty to be as open as possible about their decisions and actions. This means communicating appropriate information openly to the public about decision-making processes and issues being considered, encouraging appropriate public participation, communicating clearly, and providing appropriate means for recourse and feedback.
- 2.7. Members of Council must adhere to the following principles and provisions: ME: this section (9 in old bylaws) has less items listed.
 - (a) Members of Council must serve, and be seen to serve, their constituents in a conscientious and diligent manner;
 - (b) Members of Council must be committed to performing their functions with integrity and to avoid and/or disclose conflicts of interest, and the improper use of the influence of their office;
 - (c) Members of Council are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence;
 - (d) Members of Council are obliged to question any request to act or make a decision that they think may be unethical or unlawful; and
 - (e) Members of Council must avoid behaviour that could constitute an act of disorder or misbehaviour. Specifically, Council members must avoid conduct that is an abuse of power or otherwise amounts to discrimination, intimidation, harassment, verbal abuse including derogatory language, or the adverse treatment of others.

3. Confidential Information

- 3.1. Members of Council must respect rules regarding confidentiality, disclosure, and access to all personal information in the control of the Rural Municipality of Victoria pursuant to the [Protection of Personal Information] Bylaw.
- 3.2. No member of Council will: ME: this section condensed from 10.2-10.4 in old bylaws, 10.5 removed.

- (a) disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except where required by policy or law or authorized by the Council to do so.
- (b) use confidential information for personal or for the gain of any person closely connected as defined in the Act.
- (c) access or attempt to gain access to confidential information in the custody of the municipality unless it is necessary for the performance of their duties and is not prohibited by legislation, regulations, and Council policy.

4. Public Disclosure Statements ME: 11.4 in old bylaws removed from this section

Note from Municipal Affairs: Council Member Disclosure Statements are Forms approved by the Minister. They are available online from the government of PEI website. It is best practice to provide to members of Council the link to the Government of PEI website. **Please do not attach disclosure form to this bylaw as it is subject to change.**

Please remove this box when finalizing your bylaw.

- 4.1. Pursuant to clause 107(2)(d) of the Act, all members of Council are required to file a Council Member Disclosure Statement with the CAO within thirty (30) days of being elected or appointed and update the Disclosure Statement annually by in accordance with clause 107(2)(e) of the Act.
- 4.2. The CAO shall post all Disclosure Statements on the municipality's website within 30 days of receipt from each member. The Disclosure Statement shall remain on the site until such time as an updated Disclosure Statement is filed or the individual is no longer a member of Council.
- 4.3. A Public Disclosure Statement shall not include specific details about a member of Council's personal financial matters such as salary, the value of holdings or other specific personal financial information.

5. Gifts and Benefits ME: There are 2 different items listed as 12.3 in old bylaws, second instance has been removed from this section.

- 5.1. No member of Council shall accept a fee, advance, cash, gift, gift certificate or personal benefit that is connected directly or indirectly with the performance of their duties of office, except for the following:
 - (a) compensation authorized under the [Council Remuneration and Compensation] Bylaw;
 - (b) gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
 - (c) a suitable memento of a function honouring the member of Council;
 - (d) food, lodging, transportation, and entertainment provided by another government or by a conference, seminar, or event organizer where the member of Council is either speaking or attending in an official capacity at an official event;

- (e) food and beverages consumed at banquets, receptions, or similar events;
- (f) communication to the offices of a member of Council, including subscriptions to newspapers, and periodicals; and
- (g) sponsorships and donations for community events organized or run by a member of Council or by a third party on behalf of a member of Council.

5.2. No member of Council shall accept the use of property or facilities at less than fair market value.

5.3. No member of Council shall provide property, goods, and services to the municipality at higher than fair market value.

6. Use of Municipal Property, Equipment and Services ME: 13.1 and 13.2 in old bylaws condensed into 13.1 here.

6.1. No member of Council shall use, or request the use of, municipal staff services, municipal equipment, services, supplies or other municipally owned materials or any municipal property unless item or service is:

- (a) available for such use by the public generally and the member of Council is receiving no special preference in its use; or,
- (b) made available to the member of Council in the course of carrying out council activities and duties.

6.2. No member of Council shall obtain, or attempt to obtain, personal financial gain from the use or sale of municipally developed intellectual property.

6.3. No member of Council shall use information, or attempt to use information, gained in the execution of their duties that is not available to the public for any purposes other than carrying out their official duties.

6.4. No member of Council shall obtain, or attempt to obtain, personal financial gain from the use or sale of personal property to the municipality, except in compliance with the Act and the Conflict of Interest Bylaw.

7. Improper Use of Influence ME: this is section 18 in old bylaw, 18.3 removed from new bylaw

7.1. No member of Council shall use the influence of their office for any purpose other than for the exercise of their official duties.

7.2. When a matter pertaining to the municipality is before any tribunal, members of Council shall not contact any tribunal members.

8. Respectful Workplace ME: this is section 21 in old bylaw, split into 15.1 and 15.2 in this bylaw

8.1. All members of Council have a duty to treat other Council members, municipal employees, and the public appropriately and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment.

8.2. All members of Council shall encourage public respect for the municipality and its bylaws.

8.3. All members of Council must respect the decision(s) of Council when a decision has been made.

8.4. While respecting the right to have contradictory positions and opinions, all members of Council shall avoid any words or actions that are unduly critical or derogatory to other members of Council, staff, or the municipality's official position on any topic.

9. **Interactions of Council with Staff and Service Providers** ME: this is section 22 & 23 in old bylaw, 22.1, 22.2, 23.2 and 23.3 removed from this bylaw, 22.5 edited.

9.1. No member of Council shall attempt to influence any municipal employee to hire or promote a person closely connected to the member.

9.2. Members of Council 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.

9.3. Members of Council must not direct or influence, or attempt to direct or influence any municipal staff, except the CAO, in the exercise of their duties or functions.

9.4. Pursuant to subsection 93(7) of the Act, members of Council or a Council Committee may communicate directly with an employee to obtain or provide information.

9.5. Members of Council must not make public statements attacking or reflecting negatively on the Rural Municipality of Victoria staff or invoke staff matters for political purposes.

PART III – COMPLAINTS

10. **Breaches, Complaint Handling, and Internal Resolution** ME: this is section 24 in old bylaw

10.1. Any person who is, in the opinion of the CAO, an affected person may file a complaint concerning an alleged breach of the Code of Conduct bylaw.

10.2. (24.1) Members of Council are to abide by the requirements of this Code of Conduct bylaw and shall endeavour to resolve disputes in good faith.

10.3. Alleged breaches of this Code of Conduct bylaw by a member of Council shall be submitted in a written complaint addressed to the Mayor and/or the CAO within three (3) months of the complainant becoming aware of the last alleged breach.

10.4. The written complaint shall be delivered to the CAO using Schedule A, who, upon receiving the complaint, will report to the Mayor.

10.5. If the Mayor is the subject of, or is implicated in a complaint, the complaint shall be addressed to the Deputy Mayor and CAO.

10.6. In the event both the Mayor and Deputy Mayor are the subject of, or are implicated in a complaint, or a majority of Council is the subject of or implicated in the complaint, Council shall commence the formal resolution process.

10.7. In the event both a member of Council and the CAO are the subject of, or are implicated in a complaint, Council shall commence the formal resolution process.

10.8. In the following cases, the CAO shall report to Council and the Council shall commence the formal resolution process:

- (a) If, in the opinion of the CAO, the nature of the complaint makes it unsuitable for the informal resolution process,
- (b) The CAO is unable to determine the validity of the complaint,
- (c) The CAO is unable to determine if an individual could be considered an affected person.

10.9. Before commencing the formal internal resolution procedure specified below, the member(s) of Council who allegedly breached this Code of Conduct bylaw will endeavour to resolve the matter informally in a courteous and respectful manner, recognizing that they have been elected to represent the best interests of the municipality.

10.10. If the alleged breach cannot be informally resolved, the Mayor will facilitate discussion between the parties.

10.11. If the matter is not satisfactorily resolved after mayoral facilitation, Council will commence the formal internal resolution process by having Council appoint an independent third-party investigator who has the necessary professional skills, knowledge, and experience to carry out the role and investigate the complaint in a fair and objective manner.

10.12. If the Mayor is involved in the alleged breach of the Code of Conduct bylaw, the Deputy Mayor shall assume the role of the Mayor in the facilitation process and the appointment of any third-party investigator.

10.13. All deliberations regarding alleged breaches of the Code of Conduct bylaw shall be conducted in confidence.

11. Investigations **ME: this is part of section 24 in old bylaw**

11.1. (24.8) If a third-party investigator is appointed, the parties:

- (a) Shall provide reasonable assistance to the investigator if requested; and
- (b) Must participate in good faith in the investigation.

11.2. The role of the investigator is to:

- (a) Consider the alleged breach of the Code of Conduct and any accompanying evidence;
- (b) Determine whether the complaint is frivolous or vexatious and dismiss the complaint on that basis;
- (c) Ensure that the parties involved are given an opportunity to be heard by the investigator;

- (d) Explore if the alleged **breach** can be resolved between the parties without making any findings; and
- (e) Failing resolution between the parties, the third-party investigator will provide an investigation update within ninety (90) days of their appointment **to Council**, and to the complainant and the respondent.

11.3. The third-party investigator will provide a written, confidential report of the findings of the investigation, including whether there has been a breach of this Code of Conduct bylaw, **to the Council**, the complainant, and the respondent. The CAO will receive and retain all reports prepared in relation to breaches of the Code of Conduct.

11.4. Upon receipt of the investigation report, Council will, in accordance with the Regulations do the following at its next meeting of Council:

- (a) Close the meeting to the public and review the report;
- (b) When the review is finished, re-open the meeting to the public and hold a vote for the following purposes:
 - i. To determine if the member breached the code of conduct, and if no breach has occurred, to dismiss the complaint by resolution; or
 - ii. To determine the appropriate sanction if any.

12. Sanctions **ME: this is part of section 24 in old bylaw**

12.1. **(24.13)** The principles of natural justice must be observed during the **independent investigation**. The member of Council who is the subject of an alleged breach must be given all relevant information regarding the allegation and an opportunity to respond and be supported if the member so desires.

12.2. Any member of Council who alleges a breach of the Code of Conduct must not be disadvantaged because of such action.

12.3. Council shall consider the following when deciding whether to impose a sanction for a breach of the Code of Conduct bylaw:

- (a) Whether the breach was intentional or inadvertent;
- (b) The nature of the breach, including the number of occasions the breach occurred and the length of time the activity or conduct that constituted the breach lasted;
- (c) Whether the member took any steps to remedy the breach or mitigate the consequences of the breach;
- (d) Whether the member previously breached the Code and the circumstances of that breach;
- (e) Whether the member has previously refused to comply with a sanction for a breach of the Code of Conduct bylaw; and
- (f) The recommendation(s) of the investigator.

12.4. **(24.12)** Council may, in accordance with subsections 107(3) and (4) of the Act and Section 5 of the Regulations:

- (a) Reprimand the member of Council for a breach of this Code of Conduct Bylaw;
- (b) Suspend the member in respect of their services as a member of Council for a period not to exceed:
 - i. Six months, or
 - ii. the expiry of the member's term of office, whichever occurs first.
- (c) Request a written apology to Council, the complainant, or both;
- (d) A requirement that the council member attend training as recommended by Council;
- (e) Impose a fine of not more than \$500;
- (f) Reduce or suspend the Council member's compensation as provided for under subsection 82(2) of the Act;
- (g) Impose any other sanction that is recommended by the third-party investigator, other than sanctions prohibited by the Act;
- (h) Any other sanction that may be provided for in the Regulations as they are amended from time to time.

12.5. In accordance with subsection 2(6) of the Regulations, a majority of members present and voting at the meeting must affirm a resolution to sanction the member.

12.6. A member who is sanctioned by Council for a breach of the Code of Conduct bylaw shall comply with the terms of the sanction within the time specified by Council.

12.7. All sanctions by Council shall be made by resolution at a public meeting of Council.

12.8. The CAO shall, where a member has been sanctioned by Council under clause 2.1.a of the Regulations, post notice of the sanction on the municipality's website within seven (7) days of the sanction being announced and ensure the notice remains on the website for the term of the sanction or thirty (30) days, whichever is greater.

12.9. In accordance with subsection 5(4) of the Regulations, a Council member suspended pursuant to 26(1)(d) shall not, during the period of the suspension:

- (a) Sit on Council, a Council Committee or the Board of Directors of a controlled corporation or other entity established by the municipality; or
- (b) Receive any remuneration, allowance or other sum from the municipality or controlled corporation or other entity referred to in clause 9(a).

12.10. A member or members of Council who are the subject of the complaint shall not take retaliatory actions or attempt to influence others to act against the complainant.

13. Repeal of Existing Bylaw

13.1. On adoption, this bylaw replaces Code of Conduct Bylaw #2018-07 and all amendments heretofore.

14. Effective Date

- 14.1. This Code of Conduct Bylaw, Bylaw# 20XX-XX, shall be effective on the date of approval and adoption below. Alternately, could set a future date if desired.

Sections in old bylaw not in this bylaw:

Section 14. Reimbursable Expenses

Section 15. Support for Charities

Section 16. Election Campaigns

Section 17. Planning or Procurement Proposals before Council

Section 19. Business Relations

Section 20. Conduct at Council Meetings

Section 24.12 (a)

First Reading:

This Code of Conduct Bylaw, Bylaw# 20XX-XX, was read a first time at the Council meeting held on the _____ day of _____, 20XX.

This Code of Conduct Bylaw, Bylaw# 20XX-XX, was approved by a majority of Council members present at the Council meeting held on the _____ day of _____, 20XX.

Second Reading:

This Code of Conduct Bylaw, Bylaw# 20XX-XX, was read a second time at the Council meeting held on the _____ day of _____, 20XX.

This Code of Conduct Bylaw, Bylaw# 20XX-XX, was approved by a majority of Council members present at the Council meeting held on the _____ day of _____, 20XX.

Approval and Adoption by Council:

This Code of Conduct Bylaw, Bylaw# 20XX-XX, was adopted by a majority of Council members present at the Council meeting held on the _____ day of _____, 20XX.

Signatures

Mayor (signature sealed)

Chief Administrative Officer (signature sealed)

This Code of Conduct Bylaw adopted by the Council of the Rural Municipality of Victoria on ____ (date) _____ is certified to be a true copy.

Chief Administrative Officer Signature

Date

Schedule A – Code of Conduct Complaint Form

This form shall be filed within **3 months** of the complainant becoming aware of the alleged breach. Complainants are encouraged to report incidents as soon as possible.

If an informal resolution was not attempted as you feel it is inappropriate for your complaint, please be sure to indicate this below.

Alleged violations should be reported in good faith, where the person making the complaint reasonably believes they have information that can show a violation has been committed.

The following sections must be completed to enable review:

- **Complainant Information**
- **Incident Report**
- **Informal Resolution Report** (may not be appropriate for all complaints)

If additional information needs to be included under any section of this form, this information can be completed on a separate document and attached to the form.

This document, once completed, must be submitted to the Chief Administrative Officer (CAO). The CAO will process all complaints and may recommend dismissal, informal resolution process, mayoral mediation, or formal resolution process.

This document, once completed, must be stored in such a manner to protect the confidential nature of the contents.

COMPLAINANT INFORMATION
(Required Section)

Full Name:

Last Name

First Name

Position (if any):

Phone Number:

Address:

Address

Community

Postal Code

Email (Optional)

Signature:

INCIDENT REPORT

(Required Section)

Who Committed the Alleged Violation?

Full Name:

Last Name

First Name

Position:

(Mayor/Deputy Mayor/Council/Council Member/Committee Member)

Witness Information

Include the names, position titles, and contact information, if applicable/available, for anyone who may have observed or have information regarding the alleged violation.

Details of the Alleged Violation

Provide as much detail as possible regarding the facts of the situation.

Description of the violation (section of municipal by-law violated, what was observed, who was involved, what was said or happened), including any background/context:

When and where did this situation happen (dates, times, and locations)?

Date of Violation:

**Additional
Details:**

Identify any evidence, if applicable, such as documentation, emails, and photos (please attach copies of any evidence):

--

DISCLOSURE DETAILS (Optional Section)
What was happening before the situation occurred?
Did anyone respond or react to the situation (who responded, what did they say or do)?

INFORMAL RESOLUTION REPORT (Required Section)
<i>An informal resolution attempt includes a conversation between the individuals involved in the complaint, and, if necessary, the Mayor.</i>
<i>If your complaint is unsuitable for an informal resolution attempt, please indicate that here.</i>
Describe the steps taken to resolve the conflict:
How did the respondent react?

FOR COMPLETION BY THE CAO

Respondent Information (for intake reviewer's reference only):

Date Received: _____

CAO Signature: _____

Identify any evidence, if applicable, such as documentation, emails, and photos (please attach copies of any evidence):