

## **Village of New Maryland By-law No. 13**

### **A By-law Establishing a Code of Conduct for Elected Officials**

The Council of the Village of New Maryland, under authority vested in it by the *Local Governance Act* (S.N.B. 2017, Chapter 18) and regulations thereunder, hereby enacts as follows:

#### **1. TITLE**

This by-law may be cited as the “*Code of Conduct for Elected Officials*”.

#### **2. DEFINITIONS**

In this by-law:

“Act” means the *Local Governance Act* (S.N.B. 2017, Chapter 18), amendments thereto and regulations adopted thereunder;

“Administration” means the Chief Administrative Officer (CAO) and senior staff of the Municipality;

“CAO” means the Chief Administrative Officer of the Municipality as appointed by Council in accordance with Sections 71 and 81 of the Act;

“Confidential Information” includes information in the possession of, or received in confidence by, the Municipality that the Municipality and its elected officials and employees are prohibited from disclosing pursuant to legislation, court order or by contract, or is required to refuse to disclose under RTIPPA or any other legislation, or any other information that pertains to the business of the Municipality that is generally considered to be of a confidential nature, including but not limited to the information concerning:

- (i) the security of municipal property;
- (ii) a proposed or pending acquisition or disposition of land or other property;
- (iii) a tender that has or will be issued but has not been awarded;
- (iv) contract negotiations;
- (v) employment and labor relations;
- (vi) draft documents and legal instruments (including reports, policies, by-laws and resolutions) that have not been the subject matter of deliberation in a meeting open to the public;
- (vii) law enforcement matters;
- (viii) litigation or potential litigation, including matters before administrative tribunals;
- (ix) advice that is subject to solicitor-client privilege; and
- (x) matters discussed in a Closed Meeting in accordance with the *Local Governance Act*.

“Council” means the Mayor and Councillors of the Village of New Maryland;

“Formal Meeting” means a meeting of Council regulated by the Act and as set out in Procedural By-law No. 50;

“Member” or “Member of Council” means any person elected to Council;

“Municipality” and/or “Village” means the Village of New Maryland, a municipal body corporate located in York County and established under the Laws and Regulations of the Province of New Brunswick;

“RTIPPA” means the *Right to Information and Protection of Privacy Act S.N.B 2009, c.R-10.6*;

“Social Media” means web-based applications and on-line forums that allow users to interact, share and publish content such as texts, links, photos, audio and video;

“Village Resources” includes, but is not limited to, all real and personal property, facilities, vehicles, equipment, supplies, services, staff, documents, intellectual property, computer programs or technological innovations belonging to the municipality; and

“Undue Influence” is characterized by one person taking advantage of a position of power over another person or influence by which a person is induced to act otherwise than by his or her own free will.

### **3. PURPOSE**

The purpose of this *Code of Conduct* (Code) is to provide standards for the conduct of Members relating to their roles and responsibilities as elected officials of the Municipality and a procedure for the investigation and enforcement of those standards.

### **4. APPLICATION**

This by-law applies to all Members of the Village of New Maryland Council (“Members”).

### **5. FRAMEWORK**

- 5.01** This Code provides a framework to guide ethical conduct in a way that upholds the integrity of the Municipality and the high standards of professional conduct the public expects of its local government elected officials. Along with the by-laws and policies of the Municipality, Members’ conduct is also governed by applicable provincial and federal legislation, including but not limited to:
- (a) the *Local Governance Act*;
  - (b) the *Right to Information and Protection of Privacy Act*;
  - (c) the *Elections Act*;
  - (d) the *New Brunswick Human Rights Act*;

- (e) the *Occupational Health and Safety Act*; and
- (f) the *Criminal Code of Canada*.

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

**5.02** This Code is to be given broad and liberal interpretation in accordance with applicable legislation. It is not possible to write a Code of Conduct that covers every scenario and, accordingly, Members are to be guided by and conduct themselves in a manner that reflects the spirit and intent of this Code and the high standards of professional conduct expected by the public.

## **6. VALUES OF MEMBERS OF COUNCIL**

**6.01** Members are expected to perform their functions of office with integrity, accountability and transparency and conduct themselves in a professional manner at all times.

**6.02** Members shall:

- (a) act honestly and in good faith in their roles as Council Members and as members of the community they serve;
- (b) treat every person, including other Members, Village employees, and the public with dignity and respect;
- (c) perform their functions and duties in a conscientious and diligent manner with integrity, accountability and transparency;
- (d) refrain from disclosing or releasing any confidential information acquired by virtue of their office except when required by law or authorized by Council to do so;
- (e) refrain from taking advantage of or obtaining private benefit from information that is obtained in the course of or as a result of their official duties or position that is not in the public domain;
- (f) serve their constituents in a conscientious and diligent manner and act in the best interests of the Municipality; and
- (g) conduct themselves at all times with decorum and in accordance with this by-law and other applicable legislation.

## **7. CONDUCT AT MEETINGS**

**7.01** Members shall make every effort to participate diligently in the meetings of Council, committees of Council and other bodies to which they are appointed by Council.

- 7.02** Members shall listen courteously and attentively to all public discussions before Council and focus on the business at hand. They shall not interrupt other speakers, make personal comments not relevant to the business of the meeting, or otherwise disturb a meeting.
- 7.03** Members shall not impugn or malign a debate or decision or otherwise erode the authority of Council. Members have the right to express disagreement with positions put forward by other Members provided such disagreement remains focused on the issue. Once Council has adopted a resolution, Members are expected to support the resolution and the work associated with carrying out this resolution.
- 7.04** Members shall conduct their business with integrity, recognizing that the Village seeks to maintain and enhance the quality of life for all New Maryland residents through effective, responsive, and responsible government.

## **8. COMMUNICATING ON BEHALF OF THE MUNICIPALITY**

- 8.01** A Member must not claim to speak on behalf of Council unless authorized to do so by the Mayor.
- 8.02** The Mayor is Council's official spokesperson and in the absence of the Mayor, it is the Deputy Mayor. In the absence of the Mayor and Deputy Mayor, Members shall elect an official spokesperson. All inquiries from the media regarding the official Council position on an issue shall be referred to Council's official spokesperson.
- 8.03** A Member who is authorized to act as Council's official spokesperson must ensure that his or her comments accurately reflect the official position and will of Council as a whole, even if the Member personally disagrees with Council's position.
- 8.04** Members must keep in mind they are always representatives of the Municipality, including when engaging in social media activities, and are encouraged to identify when views expressed are theirs alone and not official Village of New Maryland communication.
- 8.05** No Member shall make a statement they know to be false.
- 8.06** No Member shall make a statement with the intent to mislead Council, staff or members of the public.

## **9. RESPECT FOR THE DECISION-MAKING PROCESS**

- 9.01** Decision-making authority lies with Council, not with any individual Member.
- 9.02** Members shall make decisions based on the merits and substance of the matter at hand, acting in the interest of the citizens of New Maryland as a whole.
- 9.03** Members shall make decisions based on careful and objective consideration and review of the facts.

- 9.04** No Member shall, unless authorized by Council, attempt to bind the Municipality or give direction to employees, agents, contractors, consultants or other service providers or prospective vendors to the Municipality.
- 9.05** Members shall ensure decisions are free from personal bias, including:
- (a) conflict of interest;
  - (b) personal animosity or loyalty to an applicant or proponent of a position;
  - (c) personal ideology; and
  - (d) preconceived beliefs in a given fact situation that precludes consideration of other evidence.
- 9.06** Members shall strive for impartiality in all decision-making and shall accurately communicate the decisions of Council, even if they disagree with Council's decision, such that respect for the decision-making process of Council is fostered.

**10. RESPECTFUL INTERACTIONS WITH COUNCIL MEMBERS, STAFF, THE PUBLIC AND OTHERS**

- 10.01** Members shall act in a manner that demonstrates fairness, respect for individual differences and opinions, and an intention to work together, for the common good of the Municipality and its residents.
- 10.02** Members shall treat one another, employees of the Municipality and members of the public with courtesy, dignity and respect and without abuse, bullying, intimidation or undue influence.
- 10.03** No Member shall use indecent, abusive or insulting words or expressions toward another Member, any employee of the Municipality or any member of the public, and shall not speak in a manner that is discriminatory to any individual based on the person's race, religious beliefs, color, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation.

**11. CONDUCT RESPECTING ADMINISTRATION**

- 11.01** Administration serves the Council as a whole under the direction of the CAO. No individual Member has authority over Village Administration.
- 11.02** Members shall respect the fact that Administration members work for the Village as a body corporate and are charged with making recommendations that reflect their professional expertise and a corporate perspective, and carrying out directions of Council and administering the policies and programs of the Municipality, and that they are required to do so without undue influence from any Member or group of Members.
- 11.03** A Member must not:
- (a) involve themselves in matters of Administration, which falls within the jurisdiction of the CAO;

- (b) use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any employee of the Municipality with the intent of interfering in the employee's duties;
- (c) maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of employees of the Municipality;
- (d) cause persistent, excessive fault-finding, unjustified criticism and constant scrutiny of any employee;
- (e) exclude or ignore an employee, refuse to acknowledge his or her contributions, undermine his or her efforts, or impede on an employee's efforts in advancement, promotions or transfers; or
- (f) compel employees to engage in partisan political activities, or subject employees to threat or discrimination for refusing to engage in such activities.

## **12. CONFIDENTIAL INFORMATION**

- 12.01** Members shall only be entitled to have access to information in the possession of the Municipality that is relevant to matters before Council or a Committee, or that is relevant to their role as Members of Council. Otherwise, they have the same access rights to information as any member of the public.
- 12.02** No Member shall use confidential information for personal benefit or for the benefit of any other individual or organization.
- 12.03** In the course of their duties, Members may also become privy to confidential information received outside of a Closed Meeting. Members must not:
- (a) disclose, release or publish by any means, including social media, to any member of the public, including the media, any confidential information acquired by virtue of their office, unless the disclosure is required by law or authorized by Council; or
  - (b) access or attempt to gain access to confidential information in the custody or control of the Municipality unless it is necessary for the performance of the Member's duties and is not otherwise prohibited by Council, and only then if the information is acquired through appropriate channels in accordance with applicable Council by-laws and policies.

## **13. CONFLICT OF INTEREST**

- 13.01** Members of Council have a statutory duty to comply with the Conflict of Interest provisions set out in the *Local Governance Act*.

- 13.02** Members are committed to making decisions impartially and in the best interests of the Municipality and recognize the importance of fully observing the requirements of the *Local Governance Act* with regard to the disclosure and avoidance of conflicts of interest.
- 13.03** Members of Council are to be free from undue influence and not act or appear to act in order to gain financial or other benefit for themselves, family, friends or associates, business or otherwise.

**14. USE OF MUNICIPAL PROPERTY, RESOURCES AND SERVICES**

- 14.01** No Member shall make use of, or permit the use of, any Village property (land, facilities, equipment, supplies, etc.), staff or other resources (computers, networks, websites, social media) other than for carrying out the business of the local government.
- 14.02** No Member shall use the facilities, equipment, supplies, services or other resources of the Municipality for any election campaign or campaign-related activities. No Member shall undertake election campaign-related activities on Municipal property. No Member shall use the services of Village employees during working hours in which they receive compensation from the Municipality.

**15. USE OF COMMUNICATION TOOLS**

- 15.01** Electronic communication devices provided by the Village are the property of the Village, and shall, at all times, be treated as the Village's property. Members are advised there is no expectation of privacy in the use of these devices and further that:
- (a) all emails or messages sent or received on municipal devices, as well as emails or messages relating to the public business of the Village sent on private devices, are subject to the *Right to Information and Protection of Privacy Act*;
  - (b) all files stored on municipal devices, all use of internal email and all use of the Internet through the Village's firewall may be inspected, traced, or logged by the Village;
  - (c) in the event of a complaint pursuant to this Code, Council may require that any or all of the electronic communication devices provided by the Village to Members be confiscated and inspected as part of the investigation including copying information which is considered relevant to the investigation. All email messages or Internet search history may be retrieved; and
  - (d) no Member shall use any property, equipment, services or supplies of the Village, including email, Internet services, or any other electronic communication device, if the use could be considered offensive, inappropriate, or otherwise contrary to this Code.

## **16. USE OF SOCIAL MEDIA**

- 16.01** Once posted on social media, any material or comment is accessible to anyone with an Internet connection. Furthermore, the content can never be effectively removed. As public figures and representatives of the Village, Members should act with discretion and be judicious in what material they post on social media. As with any other communications, Members are accountable for content and confidentiality. Care should be exercised in debates or comments on contentious matters, as feelings and emotions can become inflamed very quickly.
- 16.02** No Member shall attempt to disguise or mislead as to their identity or status as an elected representative of the Village when using social media.
- 16.03** No Member shall use social media to publish anything that is dishonest, untrue, unsubstantiated, offensive, disrespectful, constitutes harassment, is defamatory or misleading in any way.
- 16.04** 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 Village or Council as a whole.

## **17. ACCEPTANCE OF GIFTS AND BENEFITS**

- 17.01** Members are prohibited from accepting 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.
- 17.02** Members shall not, 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.
- 17.03** Members of Council are not precluded from accepting:
- (a) compensation or benefits authorized by Council;
  - (b) rewards, gifts or benefits not connected with the performance or duties of office;
  - (c) services provided without compensation by persons volunteering their time;
  - (d) food, lodging, transportation and entertainment provided by other levels of government or by other local governments, boards and commissions;
  - (e) reasonable quantities of food and beverages consumed at banquets, receptions, ceremonies and similar events;
  - (f) token gifts such as souvenirs and commemorative gifts that are given in recognition of service for attending an event; and



(g) gifts received as an incident of protocol or social obligations that normally and reasonably accompany the responsibility of the office.

- 17.04** Gifts received by a Member on behalf of the Municipality as a matter of official protocol which have significant or historical value for the Municipality shall be left with the Municipality when the Member ceases to hold office.
- 17.05** Where it is not possible to decline unauthorized gifts, hospitality or other benefit, Members shall report the matter to Council. The Council may require that the gift be returned to the sender with an acknowledgement of the return and reference this Code or be retained by the Municipality or be disposed for charitable purposes.
- 17.06** Members of Council shall not accept invitations from contractors, or potential contractors to the Municipality to attend special events that may be viewed as creating an unreasonable level of access or indebtedness; where “*access*” may be defined as a prolonged period of contact with the Member(s) individually and “*indebtedness*” is based on the value of the event.

## **18. INFORMAL COMPLAINT PROCESS**

- 18.01** Any person who has identified or witnessed conduct by a Member that the person reasonably believes, in good faith, is in contravention of this by-law may address the prohibited conduct by:
- (a) advising the Member that the conduct violates this by-law and encouraging the Member to stop; and/or
  - (b) requesting the Mayor to assist in informal discussion of the alleged complaint with the Member in an attempt to resolve the issue. In the event that the Mayor is the subject of, or is implicated in a complaint, the person may request the assistance of the Deputy Mayor.
- 18.02** Individuals are encouraged to pursue this informal complaint procedure as the first means of remedying conduct that they believe violates this by-law. However, an individual is not required to complete this informal complaint procedure prior to pursuing the formal complaint process outlined below.

## **19. FORMAL COMPLAINT PROCESS**

- 19.01** Any reported violations of this by-law will be subject to investigation in the manner outlined below.
- 19.02** Any person who has identified or witnessed conduct by a Member that the person reasonably believes, in good faith, is in contravention of this by-law may make a formal complaint in accordance with the following procedure:
- (a) all complaints shall be made in writing to Council and shall be dated and signed by an identifiable individual;

- (b) Council may appoint an investigator by resolution of Council to investigate a formal complaint;
- (c) the complaint must set out reasonable and probable grounds for the allegation that the Member(s) has contravened this by-law, including a detailed description of the facts, as they are known, giving rise to the allegation;
- (d) in the case where Council appoints an investigator:
  - (i) all complaints shall be addressed to the investigator;
  - (ii) if the facts, as reported, include the name of one or more Members who are alleged to be responsible for the breach of this by-law, the Member or Members concerned shall receive a copy of the complaint submitted to the investigator, subject to RTIPPA;
  - (iii) upon receipt of a complaint under this by-law, the investigator shall review the complaint and decide whether to proceed to investigate the complaint or not. 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 insufficient grounds for conducting an investigation, the investigator may choose not to investigate or, if already commenced, may terminate the investigation or may dispose of the complaint in a summary manner. In that event, the complainant and Council shall be notified of the investigator's decision;
  - (iv) if the investigator decides to investigate the complaint, the investigator shall take such steps as he/she may consider appropriate, which may include seeking legal advice. All proceedings of the investigation shall be confidential; and
  - (v) the investigator shall, upon conclusion of the investigation, provide the Council and the Member who is the subject of the complaint, the result of the investigation.
- (e) in the case where Council is the investigator:
  - (i) the Clerk shall place the matter on the agenda of the next Closed Meeting of Council;
  - (ii) when the matter is addressed, the party that is the subject of the allegation may ask to have the matter tabled to allow said party to obtain legal counsel. In such a case, a second Closed Meeting will be called no sooner than seven (7) calendar days from the date of the first meeting; and
  - (iii) should Council determine that a Member has potentially breached this Code, Council shall report that such a determination has been made and pass a resolution as to the outcome and the consequences of such breach. The breach shall be ratified by resolution passed in a Formal Meeting of Council.

**19.03** A Member who is the subject of an investigation shall be afforded procedural fairness, including an opportunity to respond to the allegations before Council deliberates and makes any decision or any sanction imposed.

**19.04** If an investigation finds a Members has breached a provision of this Code, Council may take corrective actions which may include, but are not limited to, any of the following:

- (a) letter of reprimand addressed to the Member;
- (b) demand for a public apology;
- (c) public reprimand through a motion of censure;

- (d) removal from membership of a committee;
- (e) a requirement to attend training;
- (f) removal as chairperson of a committee;
- (g) reduction or suspension of remuneration paid to the Member in respect of the Member's services;
- (h) required return of Village property or reimbursement of its value;
- (i) restrictions on access to Village facilities, property, equipment, services and supplies;
- (j) restrictions on contact with Village Administration;
- (k) restriction on travel and representation on behalf of Council; and
- (l) restrictions on how documents are provided to the Member (e.g.: no electronic copies, and only watermarked paper copies for tracking purposes).

## **20. COMPLIANCE WITH THIS CODE OF CONDUCT**

- 20.01** Members are expected to adhere to the provisions of this Code. Council does not have the authority to disqualify or remove a Member from office; only a court of competent jurisdiction or the Minister of Environment and Local Government can do so. Council does, however, have the right to sanction a Member provided that the Member continues to have sufficient access to information and services so as to be able to carry out their duties as a Member.
- 20.02** Any person who has reason to believe this by-law has been breached in any way is encouraged to bring their concerns forward. No Member shall undertake any act of reprisal or threaten reprisal against a complainant or any other person who, in good faith, provides relevant information in relation to a possible violation of this Code.
- 20.03** Members are expected to cooperate in every way possible in securing compliance with the application and enforcement of this Code and shall not obstruct any person in carrying out the objectives or requirement of this Code or investigating a possible breach of this by-law.
- 20.04** A violation of this by-law shall not be considered a basis for challenging the validity of a decision of Council.

## **21. REVIEW**

This by-law shall be brought forward for review at the beginning of each term of Council, when relevant legislation is amended, and at any other time that Council considers appropriate to ensure that it remains current and continues to accurately reflect the standards of ethical conduct of Members.

## **22. STATEMENT OF COMMITMENT**

- 22.01** Members acknowledge the importance of the principles contained in this Code which will be self-regulated by Council.
- 22.02** Members are required to sign a “*Statement of Commitment to the Code of Conduct for Elected Officials*” (Attachment “A”) within seven (7) calendar days of this by-law coming into force and then within seven (7) calendar days of taking the Oath of Office pursuant to section 58 of the *Local Governance Act*.

## **23. SEVERABILITY**

If any part of this by-law shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this by-law.

## **24. EFFECTIVE DATE**

This by-law comes into effect on the date of final reading and enactment thereof.

Read First Time: ( <i>By Title Only</i> )	16 October 2019
Read Second Time: ( <i>By Title Only</i> )	16 October 2019
Read Third Time: ( <i>In its Entirety</i> )	20 November 2019
Read Final Time: ( <i>By Title Only</i> ) and ENACTED:	20 November 2019

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MAYOR  
 Judy Wilson-Shee

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CAO/CLERK  
 Cynthia Geldart

SEAL:

**ATTACHMENT "A"**

**STATEMENT OF COMMITMENT TO THE  
CODE OF CONDUCT FOR ELECTED OFFICIALS**

I, (Full Name please print) \_\_\_\_\_ declare  
that, as a member of the Council for the Village of New Maryland, I have read and support the Code  
of Conduct for Elected Officials By-law.

Signed: \_\_\_\_\_

Declared this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Before me:

\_\_\_\_\_  
Chief Administrative Officer/Clerk  
Village of New Maryland