

BY-LAW NO. 23-02-02

A CODE OF CONDUCT BY-LAW FOR THE COUNCIL OF VALLEY WATERS

A By-Law to Amend the Valley Waters By-Law #23-02-01

PURPOSE: A By-law of the Valley Waters, in the Province of New Brunswick, for the purpose of establishing a Code of Conduct for Elected Members of the Valley Waters;

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 Valley Waters, its commitment to professional, accountable, and lawful conduct, and its desire to provide strong local governance and leadership; and

WHEREAS The enactment of this by-law repeals the following by-law(s):
Valley Waters By-law #23-02-01

BE IT ENACTED by the Council of Valley Waters, under the authority vested in it by the Local Governance Act, S.N.B. 2017, c.18 as follows:

1. TITLE

- a) This By-law will be cited as the “Council Code of Conduct”.

2. DEFINITIONS

- a. “CAO” means the Chief Administrative Officer for Valley Waters;
- b. “Council” means all members of Council duly elected and holding office;
- c. “Councillor” means any member of Council including the Mayor and Deputy Mayor;
- d. “Valley Waters Property” means Valley Waters’ financial and non-financial assets including but not limited to land, vehicles, equipment, electronic devices and documents;

e. “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;

g. “Officer” means an employee of Valley Waters that reports directly to the CAO and may carry some delegated or designated duties of the CAO.

3. CODE OF CONDUCT

A. Representing Legal Name

i. All Councillors shall:

- a. Work for the common good of Valley Waters’ citizens and taxpayers while promoting the public interest and advancing the mandate and long-term interests of Valley Waters;
- b. Conduct Council business in an open and transparent manner that promotes public confidence and trust, recognizing that an individual Councillor cannot exercise individual authority over Valley Waters;
- c. Exercise their duties with care, diligence, and skills that a reasonably prudent person would exercise in comparable circumstances;
- d. Exercise their duties by placing the interests of Valley Waters ahead of their personal interests; and
- e. 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 Valley Waters;

ii. All Councillors 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. All Councillors shall:

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

D. Adherence to Policies, Procedures and Bylaws

i. As the Valley Waters stewards and decision makers, all Councillors shall respect, and adhere to, the established policies, procedures and bylaws of Valley Waters showing commitment to performing their duties and functions with care and diligence.

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

i. All Councillors shall:

- a) Treat fellow Councillors, Administration/Staff and the public with respect, concern and courtesy and not engage in discrimination, bullying, harassment or use of derogatory language towards others in their roles as Councillors;
- b) Demonstrate the highest standards of personal integrity and honesty;
- c) Communicate and work with all fellow Councillors in an open, transparent and honest manner promoting a spirit of cooperation by listening to and respecting those opinions that may differ;
- d) Avoid forming “alliances” with other Councilors for the purpose of controlling Council meetings, agendas or outcomes; and
- e) Use communication tools and social media in a professional and appropriate manner only to promote the approved objectives of Council and not to attempt to reflect on Council decisions or disparage or criticize other Councilors or staff.
- f) Derogatory, defamatory, discriminatory, indecent, obscene or false comments shall not be posted.

F. Confidential Information

i. All Councillors shall hold in strict confidence all information concerning matters deemed confidential and shall not, either directly or indirectly, release, make public or in any way divulge any information which is deemed to be confidential unless expressly

authorized by Council or required by law to do so.

G. Conflict of Interest

i. No Councillor shall engage in any activity which is incompatible or inconsistent with the ethical conduct of official duties in the public interest. These activities include but are not limited to:

- a) Use of any influence of the office for any purpose other than official duties;
- b) Use of 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;
- c) Placing themselves in a position of obligation to any person or organization who might reasonably benefit from special consideration or may seek preferential treatment; and
- d) Influencing any Council decision or decision-making process involving or affecting any person or organization in which a Councillor or Councillors have a financial interest.

ii. On assuming office, each Councillor shall file a statement with the clerk disclosing any actual or potential conflict of interest of which the Councillor has knowledge, and the clerk shall then file the statement with the Local Governance Commission established under the *Local Governance Commission Act*.

iii. If a conflict of interest arises while a Councillor is in office, the Councillor shall immediately file a statement disclosing the conflict of interest with the clerk, and the clerk shall then file the statement with the Local Governance Commission established under the *Local Governance Commission Act*.

iv. A Councillor is not required, in a statement filed under subsection (1) or (2), to disclose particulars of the Councillor's financial interest or the extent of any interest in the matter giving rise to the conflict.

v. A statement disclosing a conflict of interest shall be made in the form prescribed by regulation.

vi. If a Councillor has a conflict of interest with respect to any matter in which the Council, local board or committee is concerned and the Councillor 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 Councillor shall,

- (a) as soon as the matter is introduced, disclose that the Councillor has a conflict of interest in the matter,
- (b) immediately withdraw from the meeting room while the matter is under consideration or put to a vote, and
- (c) as soon afterwards as the circumstances permit, file a statement disclosing the conflict of interest with the clerk, and the clerk shall then file the statement with the Local Governance Commission established under the *Local Governance Commission Act*.

H. Improper Use of Influence

- i. All Councillors shall, at all times, conduct themselves in a manner that reflects the separation of roles and responsibilities between Council and Administration, and shall:
 - a) Refrain from giving direction to any municipal employee or contracted resource, except through the CAO;
 - b) 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 Valley Waters to any specific course of action, expenditure, or use of municipal resources outside of the Valley Waters' established policies, procedures, or budget, or otherwise;
 - c) Not solicit, demand or accept the services of any municipal employee;
 - d) Avoid any situation in which a relationship (ex. friendship, social relationship or social interaction) with a member of staff may be perceived to create undue influence, access to information, conflict of interest, or to undermine the authority of the CAO; and
 - e) Not express any opinion on the performance of any municipal employee unless through a formal performance evaluation;

f) Not advocate for the promotion, sanction, or termination of any municipal employee.

I. Use of Municipal Assets and Services

i. No Councillor shall use or attempt to use Valley Waters' property, funds, services, or information for personal benefit or the benefit of any other individual.

ii. No Councillor shall use Valley Waters' assets including cell phones or email accounts for provincial or federal political activity.

J. Orientation and Other Training Attendance

i. All new Councillors must attend the local orientation sessions. All Councillors are encouraged to attend training opportunities that may be provided during their term.

4. COMPLAINTS

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 Councillor.

B. All reasonable attempts shall be made to keep the reports and complaints confidential until full investigation is completed in order to protect a Councillor and a complainant.

C. The report or complaint shall be in writing outlining the nature and specifics, be dated, include a 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 municipal office. All received complaints shall be included in the in-camera session of a regular Council meeting for Council's perusal upon receiving it.

D. An anonymous report or complaint shall not be considered valid.

E. Depending on the nature of the complaint, Council may:

i. Dismiss the report or complaint as invalid;

ii. Request legal opinion regarding the report or complaint;

iii. Request that legal counsel investigate the complaint and report to Council through the Mayor (or in the case of perceived wrongdoing by the Mayor, through the Deputy Mayor).

F. If the complaint is determined to be valid by the majority of Council or through independent legal advice, Council may impose sanctions, defining the specific action to be taken by a motion.

5. SANCTIONS

A. Council may impose sanctions on a Councillor who contravenes the Council Code of Conduct in the following forms:

- i. A letter of reprimand;
- ii. Requesting a letter of apology;
- iii. Requesting to attend training;
- iv. Suspension or removal of the Mayor or Deputy Mayor as official spokesperson for the Council;
- v. Suspension or removal from some or all Council committees and bodies to which Council has the right to appoint members;
- vi. restricting the privileges of attending conferences and workshops at Valley Waters' expense;
- vii. reduction or suspension of remuneration as Council may deem appropriate.

6. EFFECTIVE DATE

First Reading: *(by title)*

Second Reading: *(by title)*

Third Reading: *(by summary)* and Enacted

Mayor

Clerk