

RURAL MUNICIPALITY OF WEST RIVER

Code of Conduct Bylaw

Bylaw # 2024-01

A Bylaw relating to the minimum expectations for the behaviour and conduct of the Rural Municipality of West River's council members, committee members and the directors of its controlled corporations, in carrying out their functions and making decisions for the Rural Municipality of West River.

This Bylaw is made under the authority of the *Municipal Government Act*, R.S.P.E.I. 1988, Cap. M-12.1.

BE IT ENACTED BY THE COUNCIL OF THE RURAL MUNICIPALITY OF WEST RIVER as follows:

1. Title

This Bylaw may be cited and referred to as the "Code of Conduct Bylaw".

2. Definitions

In this Bylaw:

- (a) "Act" means the *Municipal Government Act*, R.S.P.E.I., 1988 Cap. M-12.1, as may be amended from time to time, or any successor act;
- (b) "Chief Administrative Officer" means the administrative head of the Municipality as appointed by Council pursuant to clause 86(2)(c) of the Act;
- (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 and includes, but is not limited to, privileged information, personal information, third party information, technical, financial or scientific information and any other information collected, obtained or derived for or from the Municipality's records that must or may be kept confidential;
- (d) "Council" means the Mayor and other members of the Municipality's council;
- (e) "Councillor" means a member of the Council, but excludes the Mayor;
- (f) "Deputy Mayor" means the Council member who is appointed by the Mayor to act as Mayor in the absence or illness of the Mayor;
- (g) "Disclosure Statement" means the disclosure statement prescribed by clause 107(2)(d) of the Act;
- (h) "Family Member" means, in relation to a person, a spouse, common law 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, and includes a step-parent, step-child, child-in-law, sibling-in-law and half-sibling;

- (i) “Minister” means the member of the executive council charged by order of the Lieutenant Governor in Council with the administration of the Act;
- (j) “Municipal Electoral Officer” means the person appointed under section 40 of the Act to be responsible for the administration of an election in the Municipality;
- (k) “Municipality” means the Rural Municipality of West River;
- (l) “Paid Agent” means an individual who is remunerated to act for or in place of a party;
- (m) “Person Closely Connected” means, in relation to a member of Council, a Family Member or agent, a business partner or an employer of the Council member;
- (n) “Staff” includes the Chief Administrative Officer and all staff of the Municipality, whether full-time, part-time, contract, seasonal or volunteer; and
- (o) “Updated Disclosure Statement” means the updated disclosure statement prescribed by clause 107(2)(e) of the Act.

3. Application

- 3.1 This Bylaw applies to the Mayor and all members of Council.
- 3.2 The obligations imposed on members of Council in this Bylaw are in addition to any other obligations under the common law and under any federal, provincial or municipal laws or regulations applying to the conduct of Council members.
- 3.3 This Bylaw does not override, prevail over, or amend legislation applicable to the roles, responsibilities, and duties of members of Council.
- 3.4 Part 21 of this Bylaw applies to members of the Municipality’s committees and to directors of the Municipality’s controlled corporations who are not members of Council.

4. Guiding Principles

- 4.1 Members of Council are keepers of the public trust and must uphold the highest standards of ethical behaviour.
- 4.2 Members of Council are expected to act lawfully. They are expected to be free from undue influence and not act, or appear to act, in order to gain financial or other benefits for themselves, family, friends or business interests as a result of the member holding municipal office.
- 4.3 Members of Council have a duty to make decisions based on the best interests of the Municipality as a whole.
- 4.4 Members of Council are responsible for the decisions that they make. Decision-making processes must be transparent and subject to public scrutiny.
- 4.5 Members of Council must act responsibly within the law and within the authority of the Act. All members of Council must observe the principles and obligations set forth in this Bylaw.

All members of Council must disclose actual or potential conflict of interest relating to their public duties and take steps to resolve the conflict for the protection of the public interest.

- 4.6 Members of Council must demonstrate and promote the principles set forth in this Bylaw through their decisions, actions and behaviour to build and inspire the public's trust and confidence in municipal government.
- 4.7 Members of Council must treat every person, including other members of Council, Staff and the public, with dignity, understanding and respect.
- 4.8 Members of Council must conduct public business efficiently and with decorum. They must treat each other and others with respect at all times. Council members must:
 - (a) refrain from using derogatory language towards members of Council, Staff and the public;
 - (b) respect the rights of other people;
 - (c) treat people with courtesy; and
 - (d) recognize the different roles others play in municipal government decision-making.
- 4.9 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.

5. General Conduct

- 5.1 Members of Council must adhere to the following principles and provisions:
 - (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 avoiding conflicts of interest and the improper use of the influence of their office;
 - (c) members of Council must not extend, in the discharge of their official duties, preferential treatment to Persons Closely Connected to them or organizations and groups in which they or Persons Closely Connected to them have a direct or indirect pecuniary interest;
 - (d) members of Council are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny;
 - (e) members of Council must seek to serve the public interest by upholding both the letter of the law and the spirit of applicable federal, provincial and municipal laws;
 - (f) members of Council are obliged to question any request to act or make a decision that they think may be unethical or unlawful;

- (g) 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, bullying, harassment, verbal abuse, or the adverse treatment of Council members, Staff or the public; and
- (h) members of Council must respect the role of Staff in the administration of the business affairs of the Municipality.

6. Confidential Information

- 6.1 Members of Council must respect rules regarding confidentiality, disclosure and access to all personal information in the control of the Municipality pursuant to the Municipality's Access to Information and Protection of Personal Information Bylaw.
- 6.2 Members of Council must not 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.
- 6.3 Members of Council shall not use confidential information for personal or private gain or for the gain any other person or entity.
- 6.4 Members of Council shall not access or attempt to gain access to confidential information in the Municipality's custody unless it is necessary for the performance of their duties and is not prohibited by legislation, regulations and Council policy.
- 6.5 Council shall keep confidential any information that falls into the following or similar categories:
 - (a) commercial information which, if disclosed, would likely be prejudicial to the Municipality or parties involved;
 - (b) information received in confidence which, if disclosed, would likely be prejudicial to the Municipality or parties involved;
 - (c) personal information, other than a person's address, that is protected under the Act; and
 - (d) human resource matters.

7. Public Disclosure Statements

- 7.1 Each member of Council is required to file a Disclosure Statement with the Chief Administrative Officer within thirty (30) days of being elected or appointed and to file an Updated Disclosure Statement by November 30 of each year the member serves on Council.
- 7.2 Each Council member is required to amend the Disclosure Statement to reflect any subsequent changes to the information filed on the Disclosure Statement. Upon being notified of a change, the Chief Administrative Officer shall make amendments to the Council member's Disclosure Statement for the Council member to initial, including a notation stating the date on which the statement is amended.

- 7.3 The Chief Administrative Officer shall, within seven days of receiving a Disclosure Statement or an Updated Disclosure Statement under section 7.1 or an amended Disclosure Statement under section 7.2:
- (a) provide public notice on the Municipality's website that the Disclosure Statement, the Updated Disclosure Statement or the amended Disclosure Statement has been filed at the Municipality's office; and
 - (b) post a public notice in the Municipality's office that the Disclosure Statement, Updated Disclosure Statement or amended Disclosure Statement is on file.

8. Gifts and Benefits

- 8.1 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 the Council member's duties of office, except for the following:
- (a) compensation authorized under the Municipality's Remuneration 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.
- 8.2 No member of Council shall accept the use of the Municipality's property or facilities at less than fair market value.
- 8.3 No member of Council shall sell property, goods and services to the Municipality at higher than fair market value.
- 8.4 A fee or advance paid, or a gift or benefit provided, with the Council member's knowledge, to a Person Closely Connected to a Council member is deemed to be a gift to that Council member.

9. Use of Municipal Property, Equipment and Services

- 9.1 No member of Council shall use, or request the use of, the Municipality's property, including surplus material or equipment for personal convenience or profit, unless the property 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.
- 9.2 No Member of Council shall use, or request the use of, for personal purpose any of the Municipality's Staff services, property, equipment, services, supplies or other Municipality-owned materials, other than for purposes connected with the discharge of municipal duties.
- 9.3 No Member of Council shall obtain, or attempt to obtain, personal financial gain from the use or sale of intellectual property developed or owned by the Municipality.
- 9.4 Members of Council shall not use information, or attempt to use information, gained in the execution of their duties that is not available to the general public for any purposes other than carrying out their official duties.
- 9.5 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 subject to this Bylaw and the Municipality's Conflict of Interest Bylaw.

10. Support for Charities

- 10.1 Members of Council may lend their support to and encourage community donations to registered charitable, not-for-profit and other community-based groups; however, all amounts raised through fundraising efforts shall go directly to the groups or volunteers or chapters acting as local organizers of the group.
- 10.2 No Member of Council shall directly or indirectly manage or control any monies received relating to fundraising for registered charitable, not-for-profit and other community-based groups.

11. Election Campaigns

- 11.1 No member of Council shall use supplies, services, Staff, the Municipality's logo or other resources of the Municipality for any election campaign or campaign-related activities.
- 11.2 A member of Council may only utilize the Municipality's facilities or equipment in the same manner as any other candidate for an election campaign purpose.
- 11.3 All members of Council shall be respectful of the role of the Chief Administrative Officer and Municipal Electoral Officer in managing the municipal election process and shall not interfere with how the Chief Administrative Officer and Municipal Electoral Officer carry out their duties.
- 11.4 No member of Council shall use the services of persons for campaign-related activities during hours in which those persons receive any compensation from the Municipality.

12. Planning or Procurement Proposals before Council

- 12.1 No member of Council shall solicit or accept support in any form from an individual, group or corporation that has any planning or procurement proposal before Council.

13. Improper Use of Influence

- 13.1 Members of Council shall not use the influence of their office for any purpose other than to exercise their official duties.
- 13.2 When a matter pertaining to the Municipality is before any tribunal, members of Council shall not contact any tribunal members.
- 13.3 In matters relating to municipal administration, direction shall be given to the Chief Administrative Officer by Council as a whole rather than by individual members of Council.

14. Business Relations

- 14.1 No member of Council shall allow the prospect of that member's future employment by a person or entity to affect the performance of that member's duties to the Municipality.
- 14.2 No member of Council shall act as a Paid Agent before Council or a committee of Council or any agency, board or committee of the Municipality.
- 14.3 No member of Council shall refer a third party to a person, partnership or corporation in exchange for payment or other personal benefit.

15. Conduct at Council Meetings

- 15.1 Members of Council shall conduct themselves with decorum at Council meetings in accordance with the provisions of the Municipality's Procedural Bylaw.

16. Respectful Workplace

- 16.1 Members of Council shall encourage public respect for the Municipality and its bylaws. All members of Council have a duty to treat members of the public, one another and Staff appropriately and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment.

17. Interactions of Council with Staff and Service Providers

- 17.1 Council has the responsibility to govern in accordance with the Act and its regulations.
- 17.2 Council members must act in accordance with the Municipality's Procedural Bylaw and the conduct guidelines outlined in this Bylaw.
- 17.3 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.
- 17.4 Members of Council must not direct or influence, or attempt to direct or influence any Staff member in the exercise of the Staff member's duties or functions.
- 17.5 Pursuant to subsection 93(6) of the Act, members of Council are to direct any inquiries to the Chief Administrative Officer rather than access Staff directly. No Council member or member of a Council committee shall publicly or privately instruct or direct an employee of the Municipality except through the Chief Administrative Officer. Members of Council

are not to contact or issue instructions to any of the Municipality's contractors, tenderers, consultants or other service providers.

- 17.6 Pursuant to subsection 93(7) of the Act, members of Council or a Council committee may communicate directly with an employee of the Municipality to obtain or provide information.
- 17.7 Members of Council must not make public statements attacking or reflecting negatively on the Municipality's Staff or invoke Staff matters for political purposes.

18. Employment of Persons Closely Connected to Members of Council

- 18.1 No member of Council shall attempt to influence any Staff of the Municipality to hire or promote a Person Closely Connected to the member.
- 18.2 No member of Council shall make any decision or participate in the process to hire, transfer, promote, demote, discipline or terminate any Person Closely Connected to the member.

19. Breaches, Complaint Handling and Internal Resolution

- 19.1 Members of Council are to abide by the requirements of this Bylaw and shall endeavour to resolve interpersonal disputes in good faith.
- 19.2 Before commencing the formal internal resolution procedure specified below, the member or members of Council who are a party or parties to an alleged contravention of this 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.
- 19.3 Alleged breaches of this Bylaw by a member of Council shall be submitted in a written complaint addressed to the Mayor and/or the Chief Administrative Officer within three (3) months of the last alleged breach.
- 19.4 A written complaint shall be submitted on the form hereto annexed as Schedule "A". A written complaint may be submitted by a Council member, a member of Staff or a member of the public who has witnessed or experienced behaviour from a Council member that is alleged to be in contravention of this Bylaw.
- 19.5 In the event that the Mayor is the subject of, or is implicated in a complaint, the complaint shall be addressed to the Deputy Mayor.
- 19.6 If the alleged contravention cannot be informally resolved, the Mayor or, if the Mayor is the subject of the complaint, the Deputy Mayor, will facilitate discussion between the parties.
- 19.7 The Mayor or, if the Mayor is the subject of the complaint, the Deputy Mayor, may dismiss the complaint if it is frivolous and vexatious. In determining whether the complaint is frivolous and vexatious, the Mayor or, if the Mayor is the subject of the complaint, the Deputy Mayor, may consider:
 - (a) whether the complaint advances a clear or legitimate complaint;
 - (b) whether a reasonable person could expect the complaint to be dealt with in the manner provided for in this Bylaw;

- (c) whether the behaviour alleged to have been in contravention of this Bylaw has already been addressed by a court or tribunal or competent jurisdiction;
 - (d) whether an action, claim, or complaint has already been commenced in a court or tribunal about the behaviour alleged to have been in contravention of this Bylaw and/or whether the complaint was submitted in the face of the dismissal of a previous action, claim, or complaint about the behaviour alleged to have been in contravention of this Bylaw; and
 - (e) whether it appears that the complaint is being brought for an improper purpose.
- 19.8 If the matter is not satisfactorily resolved after mayoral facilitation, the Council, with the assistance of the Chief Administrative Officer, will commence the formal internal resolution process by appointing 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.
- 19.9 All deliberations regarding alleged contraventions of this Bylaw should be conducted in confidence.
- 19.10 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.
- 19.11 The role of the investigator is to:
- (a) consider the alleged contravention of this Bylaw;
 - (b) ensure that the parties involved are given relevant information in regard to the allegation;
 - (c) ensure that the parties involved are given an opportunity to be heard by the investigator;
 - (d) explore if the alleged contravention can be resolved between the parties without making any findings; and
 - (e) failing resolution between the parties, the third-party investigator will:
 - (i) determine whether a breach of the code of conduct provisions and/or other provisions of this Bylaw has occurred based on the information provided by the complainant;
 - (ii) determine whether informal attempts were made to resolve the complaint and whether those attempts were successful;
 - (iii) where a complaint is unresolved following informal attempts to resolve it, investigate the complaint; and

- (iv) provide an investigation update to the Council, the complainant and respondent if for any reason the investigation cannot be completed and a report cannot be issued within the time prescribed under section 19.12.

19.12 Unless extended by Council following the receipt of an update under clause 19.11(e)(iv), the third-party investigator will provide a written, confidential report of the findings of the investigation to the Council and to the complainant and the respondent within ninety (90) days of the investigator's appointment, including findings as to whether there has been a breach of this Bylaw. The Chief Administrative Officer will receive and retain all reports prepared in relation to breaches of this Bylaw.

19.13 On receipt of the investigator's report Council shall, at its next meeting:

- (a) close the meeting to the public and review the report; and
- (b) following the review of the report, re-open the meeting to the public and hold a vote to determine:
 - (i) whether the Council member breached a code of conduct provision or any other provision in this Bylaw, and
 - (ii) if so, the appropriate sanction, if any.

19.14 The vote referred to in subsection 19.13(b) shall be determined by a majority of the Council members present and voting at the meeting.

19.15 Council shall consider the following when deciding whether to impose a sanction for a breach of the code of conduct provision(s) and/or any other provision of this Bylaw:

- (a) the nature of the breach, including the number of occasions on which the breach occurred and the length of time the activity or conduct that constituted the breach lasted;
- (b) whether the breach was intentional or inadvertent;
- (c) whether the Council member took any steps to remedy the breach or mitigate the consequences of the breach;
- (d) whether the Council member previously breached the code of conduct provisions or any other provision of this Bylaw and the circumstances of that breach;
- (e) whether the Council member has previously refused to comply with the sanction for a breach of the code of conduct provisions of this Bylaw and/or any other provision of this Bylaw; and
- (f) the recommendations of the investigator.

19.16 Council may, in accordance with subsection 107(3) of the Act:

- (a) dismiss the complaint;
- (b) require the member of Council to remove themselves from the meeting if their conduct is deemed to be inappropriate;

- (c) issue a letter of reprimand to the member of Council;
- (d) reduce or suspend the remuneration paid to the member of Council in respect of that member's services as a member of Council for a period of up to 90 days;
- (e) suspend the Council member for a period not to exceed:
 - (i) six months, or
 - (ii) the expiry of the Council member's term of office, whichever occurs first;
- (f) request that the Council member issue a letter of apology to Council, the complainant, or both;
- (g) require the member of Council to attend training as recommended by the Council;
- (h) impose a fine of not more than \$500; and/or
- (i) impose any other sanction that is recommended by the third-party investigator, where so enabled in the Act or its regulations.

19.17 A Council member who is sanctioned by Council for a breach of the code of conduct provision(s) in this Bylaw and/or any other provision in this Bylaw shall comply with the terms of the sanction within the time period specified by Council.

19.18 Where a Council member is suspended pursuant to clause 19.16(e), the Council member shall not, during the period of suspension,

- (a) in the Council member's capacity as a Council member, sit on Council, a committee of Council 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, its controlled corporations or other entities referred to in clause (a) in respect of the Council member's discharge of duties as a Council member.

19.19 Where a Council member has been sanctioned in accordance with subsection 107(3) of the Act, as set forth in section 19.16 above, the Council shall direct the Chief Administrative Officer to:

- (c) include a public notice of the sanction on the Municipality's website; and
- (d) post a public notice of the sanction in a visible location at the Municipality's office.

19.20 No Council member shall make reprisals or take any other action against a person who has made a complaint under this Bylaw because that person has made a complaint. In this section, "reprisals" and "take other action" means intimidation, bullying, harassment and/or discrimination or the threat of discrimination against the person who has made the complaint.

20. Training

20.1 Within the first six months after a member of Council is appointed, elected or re-elected:

- (a) the Chief Administrative Officer shall arrange for training for the Council member on the code of conduct provisions and the other provisions of this Bylaw in accordance with section 20.2; and
 - (b) the Council member shall complete the training arranged by the Municipality.
- 20.2 The training provided under this Part 20 shall consist of the training course on Council member conduct specified by the Minister.
- 20.3 The Chief Administrative Officer shall report to Council if a Council member fails or refuses to complete the training made available to the Council member.
- 20.4 A Council member who fails or refuses to complete the training made available to the Council member under this Part 20 within the required time specified will not, until the Council member completes the training:
 - (a) carry out a power, duty or function as a member of Council; or
 - (b) receive any remuneration.
- 20.5 A Council member who has not completed the training required under this Part 20 is deemed to be absent from a meeting even if that Council member is physically present during all or part of the meeting.

21. Conduct for Members of Committees and Controlled Corporations

- 21.1 Members of Council committees and directors of the Municipality's controlled corporations who are not members of Council shall:
 - (a) treat every person, including Staff and other members and directors, with dignity, understanding and respect;
 - (b) refrain from engaging in discrimination, bullying or harassment in their roles as members or directors with respect to Staff and other members and directors; and
 - (c) refrain from using derogatory language towards Staff and other members and directors.

22. Repeal

- 22.1 The Municipality's Code of Conduct Bylaw, Bylaw #2021-02 is hereby repealed.

23. Effective Date

This Bylaw comes into force on 22 day of February, 2024.

First Reading:

This Bylaw was read a first time at the Council meeting held on the 25 day of January, 2024.

This Bylaw was approved by a majority of Councillors present at the Council meeting held on the 25 day of January, 2024.

Second Reading:

This Bylaw was read a second time at the Council meeting held on the 22 day of February, 2024.

This Bylaw was approved by a majority of Councillors present at the Council meeting held on the 22 day of February, 2024.

Adoption and Approval by Council:

This Bylaw was adopted by a resolution of Council at the Council meeting held on the 22 day of February, 2024.

The Code of Conduct Bylaw is declared to be passed on the 22 day of February, 2024.

WITNESS the corporate seal of the Municipality.

Mayor

Chief Administrative Officer

BE IT RESOLVED THAT: Bylaw No. 2024-01, being a bylaw related to the minimum expectations for the behaviour and conduct of the Municipality’s Council members, committee members and the directors of its controlled corporations in carrying out their functions and making decisions for the Municipality, is hereby enacted as a bylaw of the Municipality and the Mayor and Chief Administrative Officer be and they are hereby authorized to sign the Bylaw and apply the Municipality’s seal thereto.

Dated the 22 day of February, 2024.

Mayor

Chief Administrative Officer

