



By-Law No. 16-2019

A By-Law Establishing the Code of Conduct for Council

Pursuant to subsection 10(2)(b) of the *Local Governance Act*, SNB 2017, c.18, amendments thereto and regulations adopted thereunder, the Council of the Rural Community of Hanwell hereby enacts as follows:

1. TITLE

This By-Law may be referred to as the “Code of Conduct By-Law”.

2. PURPOSE

The Rural Community of Hanwell Code of Conduct has four main purposes:

- a) To set out clear expectations of behaviour of members of Council;
- b) To provide information to the public as to the behaviour they can expect from members of Council;
- c) To provide guidance to members of Council in how they conduct their duties as council members; and
- d) To provide a process for responding to alleged breaches of the Code.

3. DEFINITIONS

For the purposes of this By-Law:

“Act” means the *Local Governance Act* (SNB 2017, c 18) and amendments. (Added May 18, 2022)

“Chief Administrative Officer (CAO)” means the CAO of the rural community of Hanwell as appointed by the Minister of Local Government and Local Governance Reform in accordance with Section 81 of the Act; from January 1st, 2023 and on, changes to the CAO position will be appointed by Council. **(Added 2023)**

“Community” means the Rural Community of Hanwell.

“Community Resources” includes but is not limited to all real and personal property, vehicles, facilities, equipment, supplies, services, documents, and computer programs belonging to the community.

“Complainant” means the party who makes the complaint. (Added May 18, 2022)

“Members of Council” means a member of Council and includes the Mayor, Deputy Mayor and Councillors, and may be referred to as “members” herein.

“Respondent” means the person who has had a complaint made against them. (Added May 18, 2022)

“RTIPPA” means the *Right to Information and Privacy Protection Act*, c.R-10.6 and assorted regulations as amended.

“Social Media” means web-based applications such as Facebook, Twitter, etc. and on-line forums that allow users to interact, share, and publish content such as photographs, text, audio and video.

“Staff” means the CAO and/or an employee or employees who work for the community as a corporate body and are under the direction of the CAO.

4. DUTY OF COUNCIL

Members of council are held to a high standard as leaders of the community and as such, they are expected to be well informed on all aspects of municipal governance, administration, planning, and operations. They need to carry out their duties in a fair, impartial, transparent, and professional manner.

5. RESPONSIBILITIES

This Code applies to all members of Council. It is the responsibility of council to be aware of and comply with the Code of Conduct.

- a) Members of council will conduct their duties with integrity, accountability, and transparency.
- b) Members of council are to act honestly, with reasonable care, and exercise due diligence in the performance and discharge of official functions and duties.
- c) Members of council understand that the public has a right to transparency in decision making.
- d) Members of council will at all times serve the interests of the community in a conscientious and diligent manner.
- e) Members of council will avoid the improper use of the influence of their office.
- f) Members of council shall not attempt to influence or interfere with employees, officers, or other persons performing duties, either directly or indirectly, financially,

politically, or otherwise, under the *Provincial Offences Procedure Act*, SNB 1987, c P-22.1.

- g) Members of council must avoid forming alliances with other councillors for the purpose of controlling Council meetings, agendas or outcomes.

6. CONFIDENTIALITY

Every member of council must hold in strict confidence all information of a confidential nature acquired in the course of his/her term with the community. Without restricting the scope of this rule, the following shall be considered breaches of the Code of Conduct:

- a) Using confidential information, which is not available to the general public, and to which members of council have access by reason of his/her position with the community to further his/her personal interests or the interests of others.
- b) Disclosing, either directly or indirectly, release, make public or in any way divulge any such information (verbal or written) or any aspect of the “Closed Session” deliberations to anyone, unless expressly authorized by Council or required by-law to do so.
- c) Disclosing to unauthorized persons confidential information to which the member of Council has access by reason of his/her position as a member of Council within the Community.
- d) Council shall comply with the RTIPPA at all times. Public comments, discussions, and disclosures to the media regarding employees of individuals that breach a person’s privacy, is deemed to be contrary to this Code of Conduct.

7. CONFLICT OF INTEREST

Conflict of Interest shall be governed by the community’s “By-Law Respecting the Proceedings of Council”, #01-2014. **(AMENDED , 2023)**

8. CONDUCT AT COUNCIL/COMMITTEE MEETINGS (AMENDED May 18, 2022)

Members of Council must conduct themselves with decorum at all Council and committee meetings in accordance with the provisions of the Procedural By-Law and this Code of Conduct.

Any member of Council found to be out of order may be asked to leave the meeting and further suspensions may occur. (ADDED May 18, 2022)

9. RESPECT FOR DECISION-MAKING PROCESS

Members of Council must not attempt to influence the decision-making process as it

relates to the award of contracts or settlement of claims through personal contact or interaction with the parties administering or directly involved in the process.

10. RESPECTFUL WORKPLACE

All members of Council have a duty to treat members of the public, one another, and staff with respect and without abuse, bullying, or intimidation, and to ensure that their work environment is free from discrimination and harassment. Members of Council must ensure compliance with the New Brunswick Human Rights Commission and WorkSafe NB.

11. COMMUNICATING ON BEHALF OF THE COMMUNITY

- a) A member must not claim to speak on behalf of Council unless is authorized to do so.
- b) Unless Council directs otherwise, the mayor is Council's official spokesperson and in the absence of the Mayor, it is the Deputy Mayor. All inquiries from the media regarding the official Council position on an issue shall be referred to Council's official spokesperson.
- c) A member who is authorized to act as Council's official spokesperson must ensure that their comments accurately reflect the official position and will of Council as a whole, even if the member personally disagrees with Council's position.
- d) Members must keep in mind that they are always a representative of the Rural Community of Hanwell, including when engaging in social media activities, and Members are encouraged to identify when views expressed are theirs alone and not official municipal communication.
- e) No member of council shall make a statement when they know that statement to be false.
- f) No member of council shall make a statement with the intent to mislead Council or members of the public.

12. CONDUCT RESPECTING STAFF/COUNCIL (AMENDED May 18, 2022)

- a) Members of council as a whole have the authority to approve budget, policy, committee processes, and other such matters.
- b) Staff serves the Council as a whole and the combined interests of all members as evidenced through the decisions of Council.
- c) No member of council shall maliciously or falsely harm the professional or ethical reputation or the prospects of staff or other members of Council.
- d) No member of council shall compel staff to engage in partisan political activities or be

subjected to threats or discrimination for refusing such activities.

- e) Members of council shall not use or attempt to use their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with intent of interfering with the person's duties including the duty to disclose improper activity.
- f) Members of council shall respect the role of staff as a corporate body who are charged with making recommendations that reflect their professional expertise and a corporate perspective, providing advice and analyses, implementing Council decisions, and carrying out their daily responsibilities as required under the *Local Governance Act*, and that staff are expected to do so without undue influence from any member or group of members.
- g) Members of council are not to use indecent, abusive, bullying, harassing, or insulting words or expressions toward another member, any staff of the community, or any member of the public.

13. INTERPERSONAL BEHAVIOUR

- a) Treat every person with dignity, understanding and respect:

Members of Council shall abide by the provisions of the *Human Rights Act* and, in doing so, shall treat every person including other members of Council, committees, boards, municipal staff, individuals providing services on a contract basis, and the public with dignity, understanding, and respect. Everyone has the right to an environment free from harassment and discrimination.

- b) Discrimination:

Members of Council shall not discriminate against anyone on the basis of their age, marital status, family status, creed or religion, physical disability, mental disability, race, colour, ancestry, place of origin, national origin, social condition, political belief or activity, sexual orientation, gender identity or expression, and sex (including pregnancy).

- c) Harassment:

In accordance with the *Human Rights Act*, harassment shall mean engaging in vexatious comment or conduct that is known or ought to have been known to be unwelcome. Without limiting the generality of the foregoing, members of Council shall not:

- Make racial, homophobic, sexist or ethnic slurs;
- Display pornographic, homophobic, sexist, racist or other offensive or derogatory material;

- Make leering (suggestive staring) or other offensive gestures;
- Make written or verbal abuse threats;
- Vandalize the personal property of others;
- Commit physical or sexual assault;
- Make unwelcome remarks, jokes, innuendos or taunting statements about a person's physical appearance, age, marital status, family status, creed or religion, physical disability, mental disability, race, colour, ancestry, place of origin, national origin, social condition, political belief or activity, sexual orientation, gender identity or expression, and sex (including pregnancy);
- Make unwelcome remarks, insulting gestures or jokes which cause embarrassment or awkwardness;
- Refuse to converse or interact with anyone because of their racial or ethnic background, colour, creed, sex, sexual orientation, age, record of offenses, marital status, same-sex partnership status, family status or disability;
- Make unnecessary or unwanted physical contact, including touching, patting, or pinching; and
- Demand sexual favours or requests.

14. GIFTS, BENEFITS, AND HOSPITALITY

Members of Council are expected to represent the public and the interests of the community and to do so both impartially and objectively. The acceptance of a gift, benefit or hospitality can imply favoritism, bias, or influence. There are times when the acceptance of a gift, benefit or hospitality occurs as part of the social protocol or community events linked to the duties of an elected official. Members of Council shall not accept gifts that would appear to be in gratitude for influence or to induce influence.

Members of Council are not precluded from accepting the following:

- a) Token gifts, souvenirs, mementoes or hospitality received in recognition for service on a committee for speaking at an event or for representing the community at an event;
- b) A political contribution under the *Municipal Elections Act*;

- c) Food and beverages at meetings, banquets, receptions ceremonies or similar events;
- d) Food, lodging, transportation and entertainment provided by other levels of government, by other local government or by local government boards or commissions;
- e) A stipend from a board or commission that the Councillor serves on as a result of an appointment by Council;
- f) Reimbursement of reasonable expenses incurred in the performance of office;
- g) Reimbursement of reasonable expenses incurred, and honorariums received in the performance of activities connected with municipal associations;
- h) Communications to the offices of a member, including subscriptions to newspapers and periodicals; or
- i) Gifts of a nominal value, (e.g. baseball cap, t-shirt, flash drive, book, etc.).

The stipend paid to each member of Council is intended to fully remunerate members of Council for service to the community.

15. USE OF LOCAL GOVERNMENT PROPERTY, RESOURCES AND SERVICES

- a) No member of council shall make use of, or permit the use of, any premises owned by the Rural Community of Hanwell, staff, or other resources (computers, net works, websites, social media) other than for carrying out the business of the Rural Community of Hanwell.
- b) Members of council shall avoid waste and extravagance in the provision or use of the Rural Community of Hanwell's resources or property.
- c) Members of council shall not use the facilities, equipment, supplies, services, or other resources of the Rural Community of Hanwell for any election campaign or campaign-related activities on community property.

16. USE OF SOCIAL MEDIA (ADDED May 18, 2022)

- a) 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 Rural Community of Hanwell, members should act with discretion and be judicious in what material they post on social media. As with any other communication, 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.

- b) No member of council shall attempt to disguise or mislead as to their identity or status as an elected representative of the Rural Community of Hanwell when using social media, or otherwise.
- c) No member of council shall use social media to publish anything that is dishonest, untrue, unsubstantiated, offensive, disrespectful, constitutes harassment, is defamatory or misleading in any way.
- d) 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 Rural Community of Hanwell as a whole and/or that such personal view or opinion does not accurately reflect the decisions of Council or bring the decision-making process of Council into dispute.

17. COMPLIANCE WITH THE CODE OF CONDUCT (ADDED May 18, 2022)

- a) Members of council are expected to adhere to the provisions of this Code.
- b) This by-law is intended to be self-enforcing. It establishes standards of conduct for members. Members of council shall be thoroughly familiar with and adhere to the By-law thereby enhancing public confidence in the local government by acting with integrity, respect, accountability, leadership, collaboration, public interest, and transparency.
- c) **(removed 2023)**
- d) Persons who have reason to believe that this Code has been breached in any way are encouraged to bring their concerns forward. No member of council 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.
- e) Any reported violations of this Code will be subject to an investigation by Council. This investigation shall be done in closed session, pursuant to S. 68(1)(j) of the Local Governance Act (labour and employment matters, including the negotiation of collective agreements). Council may choose to send the investigation to an independent third party. **(Added 2023)**
- f) Complaints shall be dealt with by Council in accordance with the process set out in the Conflict and Complaint Resolution Procedure Policy,

18. STATEMENT OF COMMITMENT (ADDED May 18, 2022)

Members of council acknowledge the importance of the principles contained in this Code which will be self-regulated by Council. Members are required to sign a “Statement of Commitment to the Code of Conduct” (Schedule “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*.

19. SEVERABILITY (ADDED May 18, 2022)

If a court of competent jurisdiction declares any portion of this bylaw invalid, then the invalid portion must be severed and the remainder of the bylaw is deemed valid.

20. ENACTMENT

In case of any conflict between this By-Law and the *Act*, the latter shall prevail. This By-Law shall come into effect on the date of enactment there from:

FIRST READING: (By title)	<u>November 20, 2019</u>
SECOND READING: (By title and in its entirety)	<u>November 20, 2019</u>
THIRD READING AND ENACTMENT: (By title)	<u>December 18, 2019</u>
AMENDMENT:	<u>July 15, 2020</u>
AMENDMENT:	<u>May 18, 2022</u>
AMENDMENT:	

Dave Morrison,
Mayor

Sherri Johnston
Clerk

SCHEDULE "A"

**STATEMENT OF COMMITMENT TO THE CODE OF CONDUCT OF
MEMBERS OF COUNCIL**

I, (Full Name) _____ declare that as a member of the Rural Community of Hanwell Council, I have read, support and acknowledge I am bound to follow By-Law #16-2019 "A By-Law Establishing the Code of Conduct for Council.

Signed: _____

Declared this _____ day of _____, 20____

Before me:

Clerk