

BY-LAW 6-24
A BY-LAW OF ROTHESAY ESTABLISHING A CODE OF CONDUCT FOR
ELECTED OFFICIALS

The Council of Rothesay, under authority vested in it by the *Local Governance Act*, SNB 2017, Chapter 18, amendments thereto and regulations thereunder, hereby enacts as follows:

1.0 TITLE

This By-law may be cited as the "*Elected Officials Code of Conduct By-law*".

2.0 DEFINITIONS

- (a) "Act" means the *Local Governance Act*, SNB 2017, c 18, amendments thereto and regulations thereunder;
- (b) "Administration" means the management and operations of the local government, comprised of various department, divisions and employees;
- (c) "CAO" means the Chief Administrative Officer for Rothesay;
- (d) "Confidential" or "Confidential Information" means any aspect of closed session deliberations, or any Town records identified as such that are protected under the *Local Governance Act* or *Right to Information and Protection of Privacy Act*, SNB 2009 c R-10.6, or any other legislation;
- (e) "Council" or "Town Council" means the Mayor and Councillors of Rothesay;
- (f) "local government" means the town of Rothesay;
- (g) "Member(s)" or "Council member(s)" means any person elected to the Council; which includes the Mayor;
- (h) "RTIPPA" means the *Right to Information and Protection of Privacy Act*, SNB 2009, c R-10.6;
- (i) "Rothesay" means the town of Rothesay, a municipal body corporate, as established under the Laws and Regulations of the province of New Brunswick;
- (j) "Staff" means all employees of Rothesay and includes appointed officers;
- (k) "Town" means the town of Rothesay, a municipal body corporate, as established under the Laws and Regulations of the province of New Brunswick;
- (l) "Town records" or "record" means any recorded information, regardless of medium or characteristics, made or received and/or retained by Rothesay in pursuance of legal obligations or in the transaction of business;

- (m) “social media” means freely accessible, third-party hosted, interactive internet technologies used to produce, post and interact through text, images, video, and audio to inform, share, promote, collaborate or network and include but are not limited to X (formerly known as Twitter), Facebook, Instagram, Snapchat, TikTok, YouTube, LinkedIn or personal websites; and
- (n) “undue influence” means behaviour that 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 their own free will.

3.0 PURPOSE

The residents and businesses of Rothesay are entitled to have a fair, honest and open local government that has earned the public’s full confidence for integrity. Town Council and staff seek to maintain and enhance the quality of life for all residents through responsible, fair, community-minded and sustainable government. Council members are dedicated to the concept of effective and democratic local government and should maintain a constructive, creative, cooperative and practical attitude toward working together in service to the public.

4.0 FRAMEWORK and INTERPRETATION

This By-law applies to all Members of Rothesay Council. The purpose is to provide standards for the conduct of Members relating to their roles and responsibilities as elected officials of the town of Rothesay. In addition to Town By-laws and policies, Members’ conduct is also governed by applicable provincial and federal legislation, amendments thereto and regulations thereunder, including but not limited to:

- (a) the *Local Governance Act* SNB 2017 c 18;
- (b) the *Right to Information and Protection of Privacy Act* SNB 2009, c R-10.6;
- (c) the *Local Governance Commission Act*, SNB 2023, c 18;
- (d) the *New Brunswick Human Rights Act* RSNB 2011, c 171;
- (e) the *Occupational Health and Safety Act* SNB 1983, c O-0.2;
- (f) the *Municipal Elections Act* SNB 1979, c M-21.01; and
- (g) the *Criminal Code of Canada* RSC 1985, c C-46

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

5.0 VALUES AND PRINCIPLES OF MEMBERS

5.1 VALUES

Members shall perform their functions of office with **honesty, integrity, objectivity, impartiality, accountability, respect, leadership, collaboration and public interest, and transparency.**

(1) Honesty

Conduct under this value and principle is demonstrated when Members are truthful, maintain integrity and take responsibility for their actions and decisions, and promote transparency by ensuring all information shared is accurate, free from misrepresentation and presented clearly and openly to foster trust. Upholding honesty ensures an environment of trust, respect, and accountability

(2) Integrity

Conduct under this value and principle upholds the public interest, is truthful, trustworthy and honourable. It shows adherence to ethical principles, demonstrates consistency in decision-making, acting with impartiality and fairness, respecting confidentiality and being accountable for decisions and outcomes. Upholding integrity fosters trust, credibility, and a positive reputation within any community or organization.

(3) Objectivity

Conduct under this value and principle is demonstrated when decisions are made and actions taken based on facts, fairness, and impartiality, free from personal bias or undue influence. Upholding objectivity ensures fair, balanced, and just outcomes, enhancing the credibility and trustworthiness of Members.

(4) Impartiality

Conduct under this value and principle is demonstrated when all individuals or groups are treated with fairness and respect, promoting trust and integrity within the Town and community. Upholding impartiality ensures fair treatment, avoidance of bias, consistency in decision-making and remaining neutral to ensure that all parties are heard and considered fairly.

(5) Accountability

Conduct under this value and principle is demonstrated when Council, or Members individually and collectively, accept responsibility for their actions and decisions. Upholding accountability promotes trust, ethical behavior, and a sense of responsibility within the Town and community.

(6) Respect

Conduct under this value and principle is demonstrated when a Member fosters an environment of trust by demonstrating due regard for the perspectives, wishes and rights of others, and an understanding of the role of local government. Upholding respect ensures a positive, collaborative, and supportive environment, where everyone feels safe and valued.

(7) Transparency

Conduct under this value and principle is demonstrated when Council communicates appropriate information publicly about decision-making processes and issues being considered; encourages appropriate public participation; communicates clearly; allowing for public scrutiny and providing appropriate means for feedback. Upholding transparency ensures trust, accountability, and integrity, and creates an environment of honesty and openness.

(8) Leadership, Collaboration and Public Interest

Conduct under this value and principle is demonstrated when Council or a Member encourages individuals to work together in pursuit of collective objectives by leading, listening to, and positively influencing others. Members as community leaders must build and inspire the public's trust and confidence in local government in all their dealings. Upholding the values of leadership, collaboration and the public interest fosters a culture of ethical leadership, collaboration, and a strong commitment to serving the public good. This ensures that decisions made are fair, transparent, and in the best interests of the community as a whole.

5.2 PRINCIPLES

- (1) Members are the keepers of the public trust and shall uphold the highest standards of ethical behaviour.
- (2) Members have a duty to make decisions based on the best interests of the town of Rothesay and its residents.
- (3) Members are responsible for their decisions. This includes acts of commission and acts of omission. The decision-making processes of Members must be transparent.
- (4) Members shall demonstrate and promote the principles of this By-law through their decisions, actions and behaviour. The behaviour of Members must build and inspire the public's trust and confidence in the local government.

6. COUNCIL RESPONSIBILITIES

(1) Conflict of Interest

Members have a statutory duty to comply with the requirements of the Conflict of Interest provisions set out in the *Act*; more particularly Part 8, a copy of which is attached hereto as **Schedule "A"**. Immediately upon taking office and subsequently when a conflict of interest occurs during the term of office, Members shall be provided with the appropriate form, along with relevant sections of *the Act* and completed conflict of interest forms shall then be filed with the Clerk and the Local Governance Commission, in accordance with the *Local Governance Commission Act, supra*.

Members shall be free from undue influence and shall not act or appear to act in order to gain financial or other benefits for themselves, friends or family associates.

Members shall not place themselves in a position of obligation to any person or corporation which might reasonably benefit from special consideration or may seek preferential treatment

(2) Act in the Public Interest

Recognizing that Rothesay seeks to maintain and enhance the quality of life for all Rothesay residents through effective, responsive and responsible government, Members shall conduct their business with integrity and in a fair, honest and open manner.

(3) Conduct of Members

The conduct of Members in the performance of their duties and responsibilities with and on behalf of Rothesay shall be fair, open and honest. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of each other, Rothesay staff, or the public. Members shall not use their position for any purposes other than the exercise of their official duties.

(4) Compliance with Processes

Members shall perform their duties in accordance with the By-laws, policies, procedures and rules of order established by Rothesay Council which govern the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the Council by Rothesay staff.

Members who are appointed to an external agency, board, committee, or commission shall participate fully in the normal business of such bodies. Members must recall that they retain their duties as Council members and must seek to harmonize the direction of the agency, board, committee, or commission with the direction and budgetary capabilities of Rothesay. Should the direction of the agency, board, committee, or commission and the direction and budgetary capabilities of the town of Rothesay appear incompatible with one another and

involve a matter of substance, the Member involved must defer taking a position on the matter and present both sides of the matter accurately to Council and seek the advice of the Council, with appropriate reporting from Rothesay staff.

(5) Conduct at Public Meetings

Members shall fully prepare themselves for public meetings, listen courteously and attentively to all public discussions before the body, and focus on the business at hand. They shall not interrupt other speakers, make personal comments not germane to the business of the meeting, or otherwise disturb a meeting.

(6) Decisions Based on Merit

Members shall base decisions on the merits and substance of the matter at hand, acting in the interest of the residents of Rothesay as a whole. In order to meet this responsibility, decisions must be free from personal bias, including:

- a. conflict of interest or behaviour that gives rise to apprehension of bias;
- b. personal animosity or loyalty to an applicant or proponent of a position;
- c. personal ideology;
- d. preconceived beliefs in a given fact situation that precludes consideration of other evidence or
- e. agreements to trade votes with another Member.

Members shall keep themselves informed by regularly reviewing relevant federal and provincial laws and local government by-laws, policies and procedures and any supplemental information related to their duties as Members, to ensure they are acting in compliance with said laws, policies and procedures.

Members shall recognize that the function of local government is at all times to serve the interests of the greater community rather than the interest of any specific constituency.

Members shall strive for impartiality in all decision-making.

If conflict arises between personal views and the official duties of a Member, the conflict shall be resolved in favour of the public interest.

(7) Gifts and Favours

A Member may not accept gifts, meals, or hospitality that create or would reasonably seem to create improper influence upon them in the performance of their duties.

Items normally given in the course of business, such as small mementos of an event in line with commonly accepted municipal customs, do not typically have a substantial influence on Members and may be accepted.

It would be improper, however, to accept or to give the following kinds of gifts or gratuities unless expressly authorized by Council:

- cash or cash equivalent gifts;
- unusually lavish meals or hospitality;
- items bearing advertising or the logo of private persons or corporations with whom the Town does business or may do business in the future;
- trips;
- secret commissions, payments, or kickbacks; and/or
- fundraiser, sports event, or other event tickets of more than \$50 face value [unless purchased on behalf of the Town and issued by the Mayor or his/her delegate].

(8) Sharing of Information

Subject to Conflict of Interest rules as governed by the *Local Governance Act*, and subject to *RTIPPA*, Members shall share substantive information that is relevant to a matter under consideration by the Council or a Committee that they may have received from sources outside of the public decision making process.

(9) Confidential Information

Members shall respect the confidentiality of information concerning the property, personnel or legal affairs of Rothesay or a member of Council, an officer or employee of the local government or a member of the public; more specifically as outlined in the *Local Governance Act* and *RTIPPA*. They shall neither disclose confidential information without proper authorization, nor use such information to advance their personal, financial or other private interests.

The obligations identified under this section shall continue to apply to Members following their service when they are no longer Members.

(10) Use of Public Resources

Members shall not use public property, resources or services that are not available to the public in general, for personal gain or in support of a candidate in a local government election. This includes but is not limited to: staff time, equipment, supplies or facilities.

(11) Advocacy

The Mayor shall be the public voice of Council once a decision has been taken, unless he/she chooses to delegate a specific topic to a specific Member. The Mayor shall be the voice of Council to the media, unless he/she chooses to delegate this task.

In the cut and thrust of Council debates, genuine and full debate is expected. Members have every right to express disagreement with positions put forward by others provided such disagreement remains focused on the issue and does not descend to personal attacks on other Members.

Once Council has adopted a resolution, Members are expected to support such resolutions and the work flowing from them. Members should not seek to undo or reopen debate on such resolutions unless new information comes to light that was not reasonably known at the time of the original resolution, in which case a Member may put forward a motion to reconsider such resolution, outlining the new information upon which it is based and the reason it was not reasonably known at the time of the original resolution. Reconsideration of Council resolutions shall be in accordance with the Rothesay Procedural By-law.

Notwithstanding the second and third paragraphs above in this section, from the time that a writ for a municipal election or by-election is issued until the regular polling day for such election or by-election, a Member who is a candidate for re-election may speak freely in public about his or her views of decisions taken in Open Session, by the outgoing Council. Comments shall be consistent with the intent and requirements of this By-law.

(12) Policy Role of Members

Members shall respect and adhere to the structure of government and administration as established in Rothesay. In this structure, the Council determines the policies of Rothesay with the advice, information and analysis provided by Rothesay staff, committees, and the public.

Members, therefore, shall not interfere with the administrative functions of Rothesay or with the professional duties of Rothesay staff, nor shall they impair the ability of staff to implement Council policy decisions.

(13) Respectful Workplace Environment

Members shall treat each other, Rothesay staff and the public, with respect and shall be supportive of the personal dignity, self-esteem and well-being of those with whom they come in contact with during the course of their duties.

Members shall refrain from personal harassment of fellow Members or any Rothesay staff member. Personal harassment is improper and unwelcome behaviour directed at another person that is known [or reasonably should be known] to cause offense or hurt, whether or not it is based on a prohibited ground under the *Human Rights Act*.

While a single significant incident can be personal harassment, such cases usually involve repeated and hostile or demeaning conduct that affects a person's dignity or psychological or physical well-being and that reasonably can be expected to result in a harmful working environment.

Personal harassment includes, but is not limited to, the following types of behaviour:

- bullying or intimidating behaviour, such as shouting or cursing at others, humiliating a staff member in front of coworkers, making degrading comments or gestures, or teasing and belittling behaviour;
- spreading malicious rumours or gossip;
- threats, insults, or written or verbal abuse, including persistent vexatious comments or communications;
- undermining or deliberately impeding a person's work;
- withholding necessary information or purposefully giving the wrong information;
- practical jokes that embarrass or demean others;
- tampering with or vandalism of personal property, work equipment, or workplace; and/or
- shunning, ignoring, or isolating someone.

7.0 Use of Communication Tools

Electronic communication devices provided by the Town are the property of the Town, and shall, at all times, be treated as the Town's property. Members are advised there is no expectation of privacy in the use of these devices and further that:

- (1) Members are required to acknowledge and sign out electronic communication devices provided to them for the duration of their Council term; a copy of which is attached hereto as **Schedule "B"**; which form may be amended from time to time by resolution of Council;
- (2) all emails, messages or documentation sent, received or created on Town devices, as well as emails, messages or documentation relating to the business of the Town received by regular mail, courier, hand-delivered or email; sent/received on private devices or through personal email accounts, are considered records of the Town; are subject to the *Right to Information and Protection of Privacy Act*; and copies shall be provided to the Clerk's office upon request;
- (3) all files stored on Town devices, all use of email and the Internet through the Town's firewall may be inspected, traced or logged by Rothesay;
- (4) in the event of a complaint pursuant to this By-law, Council may require that any or all of the electronic communication devices provided by the Town to Members be confiscated and inspected as part of the investigation including downloading information which is considered relevant to the investigation. All email messages, documents or Internet data may be retrieved; and

- (5) no Member shall use any property, equipment, services or supplies of the Town, including email, Internet services, or any other electronic communication device, if the use could be considered offensive, inappropriate, or otherwise contrary to this By-law or any provincial or federal legislation.

8.0 Use of Social Media

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 Town, 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.

No Member shall attempt to disguise or mislead as to their identity or status as an elected representative of the Town when using social media.

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.

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 Town or Council as a whole.

9.0 COMPLAINT PROCESS

Members are expected to adhere to the provisions of this By-law. 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 has that authority. 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.

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 By-law.

9.1 Informal Complaint Process

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 informally by advising the Member that the conduct violates this By-law and encouraging the Member to stop.

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 as outlined in this By-law.

9.2 Formal Complaint Process

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:

- 1) All complaints shall be made in writing to the Clerk (also Head of the Public Body, duly appointed by Council under the authority of *RTIPPA*), and shall be dated and signed by an identifiable individual.
- 2) The complaint shall set out the following:
 - a. the name of the Member to whom the complaint relates;
 - b. the section(s) of the By-law believed to have been breached;
 - c. the date of the alleged breach;
 - d. the facts and an explanation as to why there may be a contravention of this By-law;
 - e. identification of any witnesses to the alleged contravention; and
 - f. any evidence or material in support of the alleged contravention
- 3) Following the receipt of a complaint, the Town Clerk shall advise the Mayor or Deputy Mayor and place the matter on the agenda of the next Closed Meeting of Council. The Mayor or Deputy Mayor will notify the Member in writing.
- 4) If Council 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 a review, they may choose not to do so. In that event, Council shall pass such a resolution, and the complainant and Member shall be notified, in writing, of the decision.
- 5) If Council is of the opinion that a complaint appears to have sufficient grounds, it shall review the complaint in a fair and impartial manner and seek further information if required.

- 6) A Member who is the subject of an alleged breach shall be afforded procedural fairness, including an opportunity to respond to the allegations before Council deliberates and makes any decision or determines any corrective action.
- 7) The Member who is the subject of the alleged breach may ask to have the matter tabled to allow said party to obtain legal counsel. In such a case, a special Closed Meeting will be called no sooner than seven (7) calendar days from the date of the first meeting.
- 8) Following the Member's response to the allegations, said Member shall leave the meeting room during the discussion by Council and shall not participate in any vote on the matter.
- 9) A decision by Council shall be made within ninety (90) calendar days of the date of receipt of the complaint and a report of the results shall be conveyed to the complainant and the Member; unless Council has determined a detailed investigation is required. In such a case, Council shall retain an external investigator, with relevant experience, to conduct an investigation and provide a report and recommendation to Council.
- 10) 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, they may choose not to investigate or, if already commenced, may terminate the investigation and shall advise Council. Council shall direct that the complainant and Member be notified in writing.
- 11) 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 the investigator shall, upon conclusion of the investigation, provide Council the result of the investigation. Council shall notify the complainant and Member in writing.
- 12) Council shall review the report and, if Council determines that a Member has breached this By-law, 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 an Open Meeting of Council.

- 13) Members are expected to co-operate in every way possible in securing compliance with the application and enforcement of this By-law and shall not obstruct any person in carrying out the objectives or requirements of this By-law or investigating a possible breach of this By-law.

9.3 Corrective Action

If an investigation by Council or an investigator finds a Member has breached a provision of this By-law or federal or provincial legislation, corrective actions to be taken may include, but are not limited to, any of the following:

- a) letter of reprimand addressed to the Member;
- b) requiring the Member to issue a letter of apology;
- c) requiring that the Member attend training or counselling as directed by Council;
- d) suspending the Member from exercising the powers or performing the duties conferred under Section 48 of *the Act*; for a period no longer than the maximum prescribed for a suspension under the *Local Governance Commission Act*;
- e) reducing or suspending the Member's compensation for the duration of any suspension imposed under paragraph d), for a period no longer than the maximum prescribed for a suspension under the *Local Governance Commission Act*;
- f) reducing or suspending the Member's privileges, including travel or the use of resources, services or property of the local government;
- g) removal from membership of a committee or external appointment;
- h) required return of Town property or reimbursement for its value;
- i) restrictions on contact with Town Administration;
- j) the offences and penalties contained in the *Local Governance Act* for violations under the Disclosure of Conflict of Interest provisions;
- k) the offences and penalties contained in the *Right to Information and Protection of Privacy Act* for violations under that Act; and/or
- l) other penalties and/or sanctions contained in relevant federal or provincial legislation.

10.0 Role of the Local Governance Commission

If a matter respecting an alleged breach of a provision of this Code of Conduct By-law cannot be resolved under this By-law or the *Local Governance Act*, a person may request in writing that the Local Governance Commission investigate the alleged breach, in accordance with Section 42 of the *Local Governance Commission Act*, SNB 2023 c 18.

If a matter respecting an alleged conflict of interest cannot be resolved under this By-law or the *Local Governance Act*, a person may request in writing that the Local Governance Commission investigate the alleged conflict, in accordance with Section 44 of the *Local Governance Commission Act*, SNB 2023 c 18.

11.0 Violation Not Cause to Challenge a Decision

A violation of this By-law shall not be considered a basis for challenging the validity of a Council or a Committee decision.

12.0 STATEMENT OF COMMITMENT

Members acknowledge the importance of the principles contained in this By-law. Members are required to sign a "Statement of Commitment to the Elected Officials Code of Conduct By-law", attached hereto as **Schedule "C"**, within ten (10) business days of this By-law coming into force, and subsequent elected officials shall sign a "Statement of Commitment to the Elected Officials Code of Conduct By-law" within ten (10) business days of taking the Oath of Office pursuant to section 58 of the *Local Governance Act*.

13.0 Review

This By-law shall be reviewed every four years in October prior to the quadrennial election, with the first review in October 2029.

14.0 EFFECTIVE DATE

This By-law comes into effect 1 January 2025.

FIRST READING BY TITLE : 25 November 2024

SECOND READING BY TITLE : 9 December 2024

(Advertised as to content on the
Rothesay website in accordance with the
Local Governance Act, SNB (2017) c. 18) : 9 December 2024

READ IN SUMMARY : 9 December 2024

THIRD READING BY TITLE
AND ENACTMENT : 9 December 2024


MAYOR


CLERK

Schedule "A"
By-law 6-24

PART 8
CONFLICT OF INTEREST

Excerpt from the *Local Governance Act*, SNB 2017 c 18 (October 2024)

Definitions and interpretation

87(1) The following definitions apply in this Part.

"controlling interest" means beneficial ownership of, or direct or indirect control or direction over, voting shares of a public corporation carrying more than 10% of the voting rights attached to all voting shares of the corporation for the time being issued.

"committee" means a committee of a council or a local board.

"family associate" means a member's or senior officer's

- (a) spouse or common-law partner,
- (b) child,
- (c) parent, or
- (d) sibling.

"local board" means

- (a) a body whose entire membership is appointed under the authority of a council,
- (b) a water or wastewater commission established under section 15.2 of the *Clean Environment Act*, and
- (c) any body prescribed by regulation.

"member" means a member of council, a member of a local board or a member of a committee.

"officer", in relation to a private corporation or a public corporation, means

- (a) a chief executive officer, a chief operating officer, a chief financial officer, a president, a vice president, a secretary, an assistant secretary, a treasurer, an assistant treasurer and a general manager,
- (b) a person who performs functions similar to those normally performed by a person referred to in paragraph (a).

"private corporation" means a corporation whose shares are not publicly traded.

"public corporation" means a corporation whose shares are publicly traded.

"registered charity" means a registered charity within the meaning of the *Income Tax Act* (Canada).

"senior officer", in relation to a local government or local board, means

- (a) a chief administrative officer, or the person who has the primary responsibility for administration,
- (b) a treasurer, an assistant treasurer, or the person who has the primary responsibility for financial affairs,
- (c) a clerk, an assistant clerk or, in the case of a local board, a secretary of the local board,
- (d) a solicitor,
- (e) an engineer,
- (f) a planner, or the person who has the primary responsibility for zoning and other community planning matters,
- (g) a building inspector, or the person who has the primary responsibility for the enforcement of by-laws or other laws with respect to building and construction,
- (h) a by-law enforcement officer, or the person who has the primary responsibility for the enforcement of by-laws or other laws with respect to matters other than building and construction,
- (i) a fire chief,
- (j) a chief of police, and
- (k) a purchasing agent.

“service club” means a non-profit organization, of which one of the primary objectives is to provide community services on a voluntary basis.

87(2) For greater certainty, in this Part, a person is not employed by a local government, local board or trade union if the person is compensated on a fee-for-services basis.
2021, c.44, s.4

Application of conflict of interest provisions

88 The provisions of this Part apply to members and to senior officers employed by or appointed by local governments and local boards.

Conflict of interest – member or senior officer

89(1) Subject to subsection (2) and section 90, for the purposes of this Act a member or a senior officer has a conflict of interest if

- (a) the member, senior officer or family associate:
 - (i) has or proposes to have an interest in a contract in which the council, local board or committee of which the person is a member or by whom the person is employed or was appointed has an interest, or
 - (ii) has an interest in any other matter in which the council, local board or committee is concerned that would be of financial benefit to the member, senior officer or family associate,
- (b) the member, senior officer or family associate is a shareholder in or is a director or an officer of a private corporation that
 - (i) has or proposes to have an interest in a contract with the council, local board or committee, or
 - (ii) has an interest in any other matter in which the council, local board or committee is concerned that would be of financial benefit to the corporation,
- (c) the member, senior officer or family associate has a controlling interest in or is a director or an officer of a public corporation that
 - (i) has or proposes to have an interest in a contract with the council, local board or committee, or
 - (ii) has an interest in any other matter in which the council, local board or committee is concerned that would be of financial benefit to the corporation, or
- (d) the member, senior officer or a family associate would otherwise benefit financially by a decision of the council, local board or committee in a contract, proposed contract or other matter in which the council, local board or committee is concerned.

89(2) A member or a senior officer does not have a conflict of interest by reason of a family associate’s interest as described in paragraph (1)(a), (b), (c) or (d) unless the member or senior officer knew or ought reasonably to have known of the family associate’s interest.

89(3) If a trade union has entered into or is seeking to enter into a collective agreement with a local government or a local board, a member who belongs to or is employed by the trade union has a conflict of interest with respect to any matter relating to the administration or negotiation of the collective agreement.

2021, c.44, s.4

Exceptions to conflict of interest

90 A member or a senior officer does not have a conflict of interest and does not violate section 96 by reason only that the member, senior officer, or family associate is, as the case may be,

- (a) a qualified voter, an owner-occupier of residential property, or a user of any public utility service supplied to him or her by the local government or local board in the same manner and subject to the same conditions that are applicable in the case of persons who are not members or senior officers,
- (b) entitled to receive on terms common to other persons any service or commodity or any subsidy, loan or other benefit offered by the local government or local board,
- (c) a purchaser or owner of a debenture of the local government or local board,

- (d) a person who has made a deposit with a local government or local board, the whole or part of which is or may be returnable to him or her in the same manner as the deposit is or may be returnable to other qualified voters,
- (e) eligible for election or appointment to fill a vacancy, office or position in the council, local board or committee when the council, local board or committee is empowered or required by any general or special Act to fill the vacancy, office or position,
- (f) a person having an interest in land valued in use as farmland or farm woodlot under the *Assessment Act* or being registered under the farm land identification program under the *Real Property Tax Act*,
- (g) a director or officer of a corporation incorporated for the purpose of carrying on business for and on behalf of a local government,
- (h) in receipt of an allowance for attendance at meetings, or any other allowance, honorarium, remuneration, salary or benefit to which the person is entitled by reason of being a member or as a member of a volunteer fire brigade,
- (i) an honorary member of a trade union,
- (j) a person having any interest which is an interest in common with voters generally,
- (k) a person having an interest which is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member or senior officer, or
- (l) a member of a service club or registered charity that is in receipt of a benefit from the local government, local board or committee.

2021, c.44, s.4

Disclosure of conflict of interest – member

91(1) On assuming office, each member shall file a statement with the clerk disclosing any actual or potential conflict of interest of which the member has knowledge, and the clerk shall then file the statement with the Local Governance Commission established under the *Local Governance Commission Act*.

91(2) If a conflict of interest arises while a member is in office, the member 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*.

91(3) A member is not required, in a statement filed under subsection (1) or (2), to disclose particulars of the member's financial interest or the extent of any interest in the matter giving rise to the conflict.

91(4) A statement disclosing a conflict of interest shall be made in the form prescribed by regulation.

91(5) If a member has a conflict of interest with respect to any matter in which the council, local board or committee is concerned and the member 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 member shall,

- (a) as soon as the matter is introduced, disclose that the member 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*.

2021, c.44, s.4; 2023, c.18, s.97

Disclosure of conflict of interest – senior officer

92(1) On assuming office, a senior officer shall file a statement with the clerk disclosing any actual or potential conflict of interest of which the senior officer has knowledge, and the clerk shall then file the statement with the Local Governance Commission established under the *Local Governance Commission Act*.

92(2) If a conflict of interest arises while a senior officer is in office, the senior officer shall file a statement with the clerk disclosing the conflict of interest, and the clerk shall then file the statement with the Local Governance Commission established under the *Local Governance Commission Act*.

92(3) The senior officer is not required, in a statement filed under subsection (1) or (2), to disclose particulars of the senior officer's financial interest or the extent of any interest in the matter giving rise to the conflict.

92(4) A statement disclosing a conflict of interest shall be made in the form prescribed by regulation.

2021, c.44, s.4; 2023, c.18, s.97

Recording and filing of declaration of conflict of interest

93(1) Every statement disclosing a conflict of interest filed under subsection 91(1) or (2) or 92(1) or (2) shall be recorded and kept in a file by the clerk and that file shall be available for examination by the public in the office of the clerk during regular office hours.

93(2) Every oral disclosure made under paragraph 91(5)(a) shall be recorded in the minutes of the meeting by the clerk or the person who is responsible for taking the minutes.

Effect of conflict of interest on quorum

94(1) If the number of members who, by reason of the provisions of this Act, are required to withdraw from a meeting is such that at that meeting the remaining members are not of sufficient number to constitute a quorum, despite any other general or special Act, the remaining members shall be deemed to constitute a quorum if there are not fewer than three.

94(2) If there are insufficient remaining members to constitute what is deemed to be a quorum under subsection (1), the council, local board or committee may apply to the Minister for an order authorizing it to consider, to discuss and to vote on the matter with respect to which the conflict of interest has arisen.

94(3) On an application under subsection (2), the Minister may make an order that authorizes the council, local board or committee or certain members of the council, local board or committee to consider, discuss and vote on the matter raised in the application as if a conflict of interest did not exist, subject to the conditions and directions that the Minister considers appropriate.

Senior officer may advise on a matter while having a conflict

95 A senior officer may, within the scope of their employment, provide advice to a council, a local board or a committee on a matter with respect to which the senior officer has a conflict of interest, if the advice is provided at the request of the council, the local board or the committee and the request is made with knowledge of the conflict.

2021, c.44, s.4

Prohibited conflict

96 A member or a senior officer shall not:

- (a) accept any fees, gifts, gratuities or other benefit that could reasonably be seen to influence any decision made by them in carrying out their functions as a member or as a senior officer, or
- (b) for their personal gain, or for the personal gain of a family associate, make use of their position or of any information that is obtained in their position and is not available to the public.

2021, c.44, s.4

Offences and penalties

97(1) A person who violates or fails to comply with section 91 or 92 commits an offence punishable under Part 2 of the *Provincial Offences Procedure Act* as a category F offence.

97(2) A person who violates or fails to comply with section 96 commits an offence punishable under Part 2 of the *Provincial Offences Procedure Act* as a category H offence.

97(3) In addition to or instead of any sentence that may be imposed in accordance with the *Provincial Offences Procedure Act*, a judge of the Provincial Court may make one or more of the following orders:

- (a) an order requiring the person to resign their office or position on the terms and conditions imposed by the judge,
- (b) an order prohibiting the person from holding that office or position or any other specified office or position during the period of time that the judge prescribes,
- (c) if the violation or failure to comply has resulted in financial gain to the person or a family associate, an order requiring the return of any gain realized in accordance with terms and conditions imposed by the judge, and
- (d) any other order that the judge considers appropriate in the circumstances.

97(4) A failure to comply with an order under subsection (3) makes a person liable to be committed for contempt of the Provincial Court.

97(5) Even though a person has committed an offence under subsection (1) or (2), the judge may release the person without the imposition of a fine, a term of imprisonment or any other sentence that the judge may or shall impose under the *Provincial Offences Procedure Act* or this section if

- (a) the violation or failure to comply has not resulted in any personal gain to the person accused, and
- (b) the violation or failure to comply was, in the opinion of the judge, inadvertent.

97(6) No proceedings with respect to an offence under subsection (1) or (2) shall be commenced after three years after the date on which the offence was, or is alleged to have been, committed.

2021, c.44, s.4

This Part prevails over other conflict of interest rules

98 The provisions of this Part with respect to conflicts of interest shall be deemed to supersede all other provisions that may exist in any other Act, public or private, other than the *Local Governance Commission Act*, any regulation under those Acts, any by-law of a local government or any municipal charter with respect to those matters, even though no conflict may exist between the provisions of this Act and the other provisions.

2023, c.18, s.97

Schedule "B"
By-law 6-24

Acknowledgement of electronic device

Rothesay provides iPads to Council members for Town business. These iPads belong to the Town, and therefore the following conditions apply to their use:

1. You may be requested to return the iPad for servicing/upgrades from time to time.
2. An Apple ID and password are created by Rothesay staff on your behalf to be used with the device. Please do not change or replace this Apple ID.
3. If you create a password to lock the iPad, it should be given to the Town Clerk or ICT Coordinator. Failure to do so could result in the loss of personalization of the device should Rothesay staff need to service the device.
4. Be aware that Town-issued devices **ARE SUBJECT TO** search requests received under the *Right to Information and Protection of Privacy Act (RTIPPA)*. No email accounts other than the assigned @rothesay.ca account assigned will be permitted on the iPad.
5. Be aware that any personal information stored on the iPad may be visible to Rothesay staff and is subject to searches under *RTIPPA*. It is **strongly** recommended that you restrict personal use of the iPad. Should the iPad be found to have been used for any illegal activity, you will lose access to the device and be reported to the appropriate authorities.
6. You **MUST** return the iPad to the Town Hall prior to an election, whether or not you are re-offering, or upon your departure from Council for any other reason. In the event the device is not returned, it will be de-activated, and you will be charged the cost of a replacement.
7. You are responsible for the care of the iPad and must return the equipment in working order at the end of your term.
 - a. Should the equipment malfunction during the length of your term, through no fault of your own, it will be repaired or replaced with a suitable piece of equipment at no cost to you.

By signing this document I agree to the terms and conditions listed above.

SIGNATURE: _____

Print Name _____ Date _____

SCHEDULE "C"
STATEMENT OF COMMITMENT TO THE
CODE OF CONDUCT BY-LAW 6-24

I, (Full Name please print) _____ declare that,
as a member of Rothesay Town Council, I acknowledge receipt of and have read the
Elected Officials Code of Conduct By-law.

Signed: _____

Declared this ____ day of _____, 20__

Before me:

Rothesay Town Clerk

