

N.S. Reg. 220/2024

FILED

Date: October 15, 2024

Jane Newton
Registrar of Regulations
Province of Nova Scotia

**In the matter of subsection 520(1) of Chapter 18 of the Acts of 1998,
the *Municipal Government Act***

-and-

**In the matter of regulations respecting a code of conduct
for elected officials of villages**

Order

I, John Lohr, Minister of Municipal Affairs and Housing for the Province of Nova Scotia, pursuant to subsection 520(1) of Chapter 18 of the Acts of 1998, the *Municipal Government Act*, hereby make regulations respecting a code of conduct for elected officials of villages in the form set forth in the attached Schedule "A".

This order is effective on and after October 20, 2024.

Dated and made October 15, 2024, at Halifax Regional Municipality, Province of Nova Scotia.



Honourable John Lohr
Minister of Municipal Affairs and Housing

Schedule “A”

Regulations Respecting a Code of Conduct for Village Elected Officials made under Section 520 of Chapter 18 of the Acts of 1998, the *Municipal Government Act*

Interpretation

Citation

- 1** These regulations may be cited as the *Code of Conduct for Village Elected Officials Regulations*.

Definitions

- 2** In these regulations,

“Act” means the *Municipal Government Act*;

“complaint” means a complaint regarding an alleged breach of the code of conduct;

“elected official” means a village commissioner;

“investigator” means a person or entity appointed by a village under subsection 408AD(1) of the Act to receive and investigate complaints;

“model code of conduct” means the model code of conduct prescribed in Schedule “A”.

Code of Conduct

Application

- 3** **(1)** The code of conduct referred to in these regulations is a code of conduct established under Section 408AB of the Act.
- (2)** The code of conduct applies to elected officials at all times and in all locations.

Adoption of code of conduct and notice to Minister

- 4 (1) A village must adopt the model code of conduct on or before December 19, 2024.
- (2) A village must report to the Minister and provide a notice confirming adoption of the model code of conduct on or before December 19, 2024.

When code of conduct applies

- 5 (1) The code of conduct applies to each village commissioner from the time that they are declared elected until the earliest of the following:
- (a) the date of their resignation;
 - (b) the date they are disqualified from office;
 - (c) the date their successor is sworn into office, or the date of the meeting at which a successor would have been sworn into office if there is no successor.
- (2) The code of conduct does not apply to action or conduct that occurred before the earlier of the following dates:
- (a) date that the code is adopted by a village;
 - (b) December 19, 2024.

Complaint and Investigation Process

Appointment of investigator by village

- 6 (1) An investigator must have experience conducting investigations and applying the principles of natural justice and procedural fairness.
- (2) A village must include an investigator's contact information on its publicly accessible website or by posting notices in conspicuous places in the village.
- (3) A village must ensure that no conflict of interest exists between the investigator and the parties involved in a complaint.

Timeline for complaints

- 7 (1) A complaint must be made to an investigator no later than 6 months after the date that the complaint is discovered.
- (2) For the purposes of this Section, a complaint is discovered on the following applicable date:
- (a) the date that the complainant first knew or ought reasonably to have

known that the village commissioner's conduct or action was potentially in breach of the code of conduct;

- (b) for conduct or an action that is continuous, the date that the village commissioner's action or conduct ceases;
- (c) for conduct or a series of actions that is repeated, the date that the village commissioner's last act or conduct in the series occurs.

Complaints during elections

- 8**
- (1) A complaint brought forward between nomination day, if a village has a nomination bylaw under Section 410 of the Act, and election day must not be investigated until the election is concluded.
 - (2) An investigation in progress on an election's nomination day, if a village has a nomination bylaw under Section 410 of the Act, must continue, but may be paused between nomination day and election day.
 - (3) An investigation in progress for a complaint made about the conduct of an elected official will not continue if the official is not re-elected.

Initial complaint process

- 9**
- (1) An investigator must notify the clerk whenever a complaint is received.
 - (2) An investigator must determine if there is merit to a complaint and then take 1 of the following actions:
 - (a) notify the clerk that it is dismissed in accordance with subsection 23C(3) of the Act;
 - (b) if the investigator finds that the complaint has merit, the investigator must
 - (ii) notify the village commissioner who is the subject of the complaint that a complaint has been made about them, and that it is proceeding to an investigation, and
 - (iii) begin their investigation and notify the commission in camera of the fact that a complaint is proceeding to the investigation phase.

Confidentiality

- 10**
- An investigator must protect the confidentiality of all of the following to the greatest extent possible, while still applying the principles of natural justice and ensuring procedural fairness:
- (a) the complainant;

- (b) all persons who are the subject of the complaint;
- (c) all persons involved in the investigation,

Reporting on investigation

- 11** (1) Except as provided in subsection (2), the report on the investigation required by subsection 408AD(2) of the Act to be presented to the commission must be presented no later than 6 months after a complaint is made.
- (2) The commission may grant an investigator additional time to present a report in exceptional circumstances, including a delay caused by a village election period.
- (3) A village commissioner who is the subject of a complaint must be given an opportunity to review and respond to the information in an investigator's report, and to make submissions to the commission before the commission determines whether there was a breach of the code of conduct.

Investigator report on failing to comply with sanction

- 12** Despite Sections 9, 10 and 11, if a village commissioner fails to comply with a sanction as required by the code of conduct, the investigator is not required to conduct an investigation but must present a report to the commission with a recommendation on an appropriate sanction.

Determinations

- 13** After receiving the investigator's report and hearing any submissions from any village commissioner who is the subject of the complaint, the commission must determine if a breach occurred any appropriate sanctions to impose in accordance with Sections 17 and 18.

Conflict of interest—village commissioner present at meeting

- 14** If a village commissioner who is the subject of a complaint or who has made a complaint under the code of conduct is present at a commission meeting at which the complaint is discussed, the commissioner must
- (a) withdraw from their place as a village commissioner and take 1 of the following applicable actions while the complaint is being considered:
 - (i) for a closed meeting, leave the room where the meeting is held,
 - (ii) for a meeting that is open to the public, either
 - (A) leave the room where the meeting is held, or
 - (B) attend only in part of the room set aside for the general

public; and

- (b) not vote on any issue related to the complaint.

Public record

15 After a commission's determination of a complaint, the commission must make a record that is open to the public outlining all of the following:

- (a) the section of the code of conduct under which the complaint was made;
- (b) the investigator's recommendations;
- (c) the commission's determination and any sanction imposed

The commission determination final

16 A commission's determination regarding a complaint is final and binding on all parties.

Sanctions and Sanction Framework

Sanctions framework

17 A commission must consider all of the following criteria before imposing a sanction on a village commissioner for a contravention of the code of conduct:

- (a) the nature of the contravention;
- (b) the length or persistence of the contravention;
- (c) whether the village commissioner's contravention was intentional;
- (d) whether the village commissioner has taken any steps to remedy the contravention;
- (e) whether the village commissioner has previously contravened the code of conduct;
- (f) any external factors that are relevant to the village commissioner's contravention, including personal issues and health issues;
- (g) the resources necessary to fulfilling the village commissioner's responsibilities as a village commissioner.

Sanctions for contravention of code of conduct

18 (1) The sanctions to be imposed by the commission under 408E of the Act may include 1 or more of the following prescribed sanctions:

- (a) a letter of formal reprimand or warning;
 - (b) a requirement that the village commissioner provide a letter acknowledging their contravention and an apology no later than 15 days after the date the commission imposes the sanction;
 - (c) a requirement that the village commissioner attend training that is appropriate to address the action or conduct that contravened the code of conduct;
 - (d) a public censure;
 - (e) limiting the village commissioner's access to certain local government facilities, equipment or property;
 - (f) suspending or removing the village commissioner as chair or vice-chair of the commission or the chair of any committee;
 - (g) suspending or removing the village commissioner, for a period no longer than 6 months, from some or all village committees or boards;
 - (h) limiting the village commissioner's participation on behalf of a village;
 - (i) limiting the village commissioner's travel or expense reimbursement on behalf of a village;
 - (j) a fine of up to \$1000 per contravention of the code of conduct, that must be paid no later than 6 months after the date that the commission imposes the sanction;
 - (k) reducing the village commissioner's remuneration, for a period no longer than 6 months;
 - (l) requiring the village commissioner to repay any direct monetary loss realized by a village as a result of the village commissioner's contravention, in an amount determined by the investigator;
 - (m) requiring the village commissioner to repay any direct monetary gain they obtained as a result of their contravention, in an amount determined by the investigator.
- (2)** A village commissioner who is determined by the commission to have contravened the code of conduct must complete additional code of conduct training.

**Schedule “A”—Model Code of Conduct for Municipalities
prescribed by the Minister under subsection 520(1) of Chapter 18 of the Acts of 1998,
the *Municipal Government Act***

Title

- 1** The title of this code of conduct is the *Code of Conduct for Elected officials of the [insert name of village]*.

Definitions

- 2** In this Code, the following definitions apply:

“Act” means the *Municipal Government Act*;

“clerk” means the clerk of the village;

“closely connected” to a village commissioner, means any of the following:

- (i) a family member of the village commissioner,
- (ii) an agent of the village commissioner,
- (iii) a business partner of the village commissioner,
- (iv) an employer of the village commissioner;

“Code” means the *Code of Conduct for Elected officials of the [insert name of village, as in title]*;

“commission” means the commission of the village;

“complaint” means a complaint regarding an alleged breach of the Code;

“confidential information” includes any information in the possession of the village that the village is prohibited from disclosing pursuant to legislation, court order or by contract, or is required to refuse to disclose under Part XX of the Act or other legislation, or that pertains to the business of the village and is generally considered to be of a confidential nature, including information about any of the following:

- (i) the security of the village’s property,
- (ii) a proposed or pending acquisition or disposition of land or other property,

- (iii) a tender that has or will be issued but that has not been awarded,
- (iv) contract negotiations,
- (v) employment and labour relations,
- (vi) draft documents and legal instruments, including reports, policies, bylaws and resolutions, that have not been deliberated in a meeting open to the public,
- (vii) law enforcement matters,
- (viii) litigation or potential litigation, including matters before administrative tribunals,
- (xi) advice that solicitor-client privileged;

“discrimination” has the same meaning as in the *Human Rights Act*;

“elected official” means a village commissioner;

“family member” means in relation to a person, any of the following, and includes a step-family member:

- (i) spouse,
- (ii) parent or guardian,
- (iii) child,
- (iv) sibling,
- (v) sibling of a parent,
- (vi) child of a sibling,
- (vii) grandchild,
- (viii) grandparent,
- (ix) parent-in-law,
- (x) sibling-in-law,
- (xi) spouse of a child;

“harass” has the same meaning as in the *Human Rights Act*;

“investigator” means a person or entity appointed by a village under subsection 408AD(1) of the Act to receive and investigate complaints;

“poisoned environment” means an environment where harassing or discriminatory conduct causes significant and unreasonable interference with a person’s work environment;

“sexual harassment” has the same meaning as in the *Human Rights Act*.

General purpose

- 3 (1) The purpose of this Code is to set out the expectations for the behaviour of village commissioners in carrying out their functions and making decisions that benefit the constituents in their village.
- (2) Nothing in this Code is intended to prevent elected officials from sharing or expressing dissenting opinions.

Interaction with laws and policies

- 4 (1) This Code is intended to operate together with, and as a supplement to, the applicable common law, the *Criminal Code* of Canada, the Act, the *Municipal Conflict of Interest Act* and any other applicable legislation.
- (2) This Code is intended to operate together with, and as a supplement to, the other by-laws and policies of a village.
- (3) This Code prevails in any conflict between the Code and any village resolution, policy or bylaw.

Guiding principles

- 5 All of the following are the guiding principles for village commissioners’ conduct:

Collegiality: village commissioners must work together to further the best interests of the village in an honest and honourable way.

Respect: village commissioners must demonstrate respect towards one another, the democratic decision-making process and the role of staff. Village commissioners must not act in a manner that negatively impacts the village or tarnishes the village’s reputation.

Integrity: village commissioners must act lawfully and adhere to strong ethical principles by prioritizing the village’s interests over individual interests.

Professionalism: village commissioners must create and maintain an environment that is respectful and free from all forms of discrimination and harassment, including sexual harassment. Village commissioners must show consideration for every person's values, beliefs and contributions, and support and encourage others to participate in commission activities.

Transparency: village commissioners must be truthful and open about their decisions and actions and make every effort to accurately communicate information openly to the public.

Responsibility: village commissioners are responsible for the decisions that they make and must be held accountable for their actions and outcomes. Village commissioners must demonstrate awareness of their own conduct and consider how their words or actions may be perceived as offensive or demeaning.

General conduct

- 6
- (1) A village commissioner must be truthful and forthright and not deceive or knowingly mislead the commission, the clerk and treasurer, staff or the public.
 - (2) A village commissioner must show respect for chairs of commission meetings, chairs of committee meetings, colleagues, staff and members of the public that present during commission meetings or other meetings of the village.
 - (3) A village commissioner must adhere to the direction of the chairs of meetings with respect to rules of procedure.
 - (4) A village commissioner must conduct commission business and all duties in an open and transparent manner, other than for those matters that the commission is authorized by law to carry out in private.
 - (5) A village commissioner must not be impaired by alcohol or drugs while attending any commission meeting or other meeting of the village.
 - (6) A village commissioner must comply with any sanction imposed under this Code, and failing to comply with a sanction imposed is considered a breach of the Code.

Confidential information

- 7
- (1) A village commissioner must not disclose or release any confidential information to the public in oral, written or any other form, other than when required by policy or law or authorized by the commission to do so.
 - (2) A village commissioner must not use confidential information for personal or private gain or for the private gain of any other person or entity.
 - (3) A village commissioner must not access or attempt to access confidential

information in the custody of the village unless the information is necessary for the performance of their duties and its access is not prohibited by legislation or by the by-laws or policies of the village.

- (4) A village commissioner must not discuss any matters relating to an active investigation under the Code with anyone other than the investigator or their own legal counsel, unless required by law.

Gifts and benefits

- 8 (1) A village commissioner must not accept a fee, advance, cash, gift, gift certificate or personal benefit that is connected directly or indirectly with the performance of their duties of office, other than the following exceptions:
 - (a) gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
 - (b) a suitable memento of a function honouring the village commissioner;
 - (c) sponsorships and donations for community events organized or run by a village commissioner or by a third party on behalf of a village commissioner;
 - (d) compensation authorized by the village.
- (2) A fee, advance, cash, gift, gift certificate or personal benefit paid or provided to a person closely connected to a village commissioner, with the village commissioner's knowledge, is deemed to be a gift to the village commissioner.

Use of village property, equipment and services

- 9 (1) A village commissioner must not use, or request the use of, any village property, including surplus material or equipment, for personal convenience or profit, unless the property meets 1 of the following:
 - (a) it is generally available for use by the public and the village commissioner is receiving no special preference in its use;
 - (b) it is made available to the village commissioner in the course of carrying out commission activities and duties, and is used for purposes connected with the discharge of commission duties.
- (2) A village commissioner must not obtain, or attempt to obtain, personal financial gain from the use or sale of intellectual property developed by the village.
- (3) A village commissioner must not use information, or attempt to use information, gained in the course of their duties that is not available to the general public for

any purposes other than carrying out their official duties.

- (4) A village commissioner, or a person closely connected to a village commissioner, must not tender on the sale of surplus village property, including old or extra equipment.

Building, development, planning, or procurement proposals before commission

- 10 A village commissioner must not solicit or accept support in any form from an individual, group or corporation with any building, development, planning or procurement proposal before the commission.

Improper use of influence

- 11 A village commissioner must not use the influence of their office for any purpose other than for the exercise of their official duties.

Business relations

- 12 (1) A village commissioner must not allow any prospect of their future employment by a person or entity to affect the performance of their duties to the village.
- (2) A village commissioner must not borrow money from any person who regularly does business with the village, unless the person is an institution or company whose shares are publicly traded and who is regularly in the business of lending money.
- (3) A village commissioner must not act as an agent of a person or entity before the commission or a committee of the commission or any agency, board or committee of the village.

Employment of persons closely connected to village commissioners

- 13 (1) A village commissioner must not attempt to influence any village employee to hire or promote a person closely connected to the commissioner.
- (2) A village commissioner must not make any decision or participate in the process to hire, transfer, promote, demote, discipline or terminate any person closely connected to the commissioner.

Fairness

- 14 (1) A village commissioner must not give special consideration, treatment or advantage to any individual or entity beyond that which is given to all.
- (2) A village commissioner must not give special consideration, treatment or advantage to an organization or group because the village commissioner, or a person closely connected to the member, is involved with the organization or group.

Adherence to policies, procedures, bylaws and other laws

- 15** (1) Village commissioners must adhere to all applicable federal and provincial legislation.
- (2) Village commissioners must adhere to the procedures, resolutions, policies and bylaws of the village.
- (3) Village commissioners must adhere to the expense and hospitality policy of the village.

Respect for commission as a decision-making body

- 16** (1) A village commissioner must abide by, and act in accordance with, any decision made by the commission, whether or not the commissioner voted in favour of the decision.
- (2) A village commissioner must not encourage non-compliance with any legislation, regulation, bylaw, resolution, policy or procedure.

Communicating on behalf of commission

- 17** (1) A village commissioner, other than the chair, must not claim to speak on behalf of the commission unless the commissioner is authorized to do so.
- (2) The chair or an individual designated by the commission may speak on behalf of the commission and must make every effort to convey the intent of the commission's decision accurately.

Interactions of commission with staff and service providers

- 18** (1) A village commissioner must not direct, or attempt to direct, the clerk and treasurer or staff other than through a direction provided by the commission as a whole.
- (2) A village commissioner must be respectful of the role of the clerk and treasurer and staff to advise based on political neutrality and objectivity and without undue influence from any individual commissioner or group of the commission.
- (3) A village commissioner must not issue instructions to any of the contractors, tenderers, consultants or other service providers to the village unless the commission as a whole has provided direction regarding same.
- (4) A village commissioner must not require or request that a village employee undertake personal chores or tasks for the member that are unrelated to village business.
- (5) A village commissioner must not make public statements that are critical of specific or identifiable village employees or service providers.

Respectful interactions

- 19** **(1)** A village commissioner must not engage in discrimination or harassment as prohibited by the *Human Rights Act*.
- (2)** A village commissioner must not sexually harass any person.
- (3)** A village commissioner must not engage in any discriminatory or harassing action or conduct, verbal or non-verbal, directed at 1 or more individuals or groups that creates a poisoned environment.

Reprisals

- 20** A village commissioner must not undertake any act of reprisal or threaten reprisal against a complainant in a matter under this Code or any person providing relevant information in relation to a matter under this Code.

