

VILLAGE OF PLASTER ROCK

BY-LAW NO. 37

PLASTER ROCK VILLAGE COUNCIL CODE OF CONDUCT BY-LAW

Pursuant to the authority vested in it by paragraph 10(2) b) of the Local Governance Act, S.N.B. 2017, c. 18, the Council of the Village of Plaster Rock, duly assembled, hereby enacts as follows:

Short title

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

Definitions:

2.1 In this by-law:

- a) **Act** means the Local Governance Act, S.N.B 2017, c.18, and assorted regulations and amendments;
- b) **CM** means the Clerk-Manager of the Municipality
- c) **Confidential information** includes information in the possession of, or received in confidence by, the Municipality that the Municipality is prohibited from disclosing pursuant to legislation, court order or by contract, or is required to refuse to disclose under RTIPPA or any other legislation, or any other information that pertains to the business of the Municipality, and is generally considered to be of a confidential nature, including but not limited to the information concerning:
 - (i) the security of municipal property;
 - (ii) a proposed or pending acquisition or disposition of land or other property;
 - (iii) a tender that has or will be issued but has not been awarded;
 - (iv) contract negotiations;
 - (v) employment and labor relations;
 - (vi) draft documents and legal instruments, including reports, policies, by-laws and resolutions, that have not been the subject matter of deliberation in a meeting open to the public;
 - (vii) law enforcement matters;
 - (viii) litigation or potential litigation, including matters before administrative tribunals; and (ix) advice that is subject to solicitor-client privilege.
- d) **Council** means the council of the Village of Plaster Rock;

- e) **Member** means a member of Council and includes the Mayor, Deputy Mayor and Councilors;
- f) **Municipality or Village** means the Village of Plaster Rock;
- g) **RTIPPA** means the Right to Information and Privacy Protection Act c. R-10.6 and assorted regulations as amended;
- h) **Social media** means web-based applications and on-line forums that allow users to interact, share and publish content such as text, links, photos, audio and video;
- i) **Village resources** includes, but is not limited to, all real and personal property, facilities, vehicles, equipment, supplies, services, staff, documents, intellectual property, computer programs or technological innovations belonging to the Village;
- j) **Undue influence** 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 his or her own free will.

Purpose and application

3.1 The purpose of this by-law is to establish standards for the ethical conduct of Members relating to their roles and obligations as representatives of the Municipality and a procedure for the investigation and enforcement of those standards.

Representing the Municipality

4.1 Members shall:

- a) act honestly and, in good faith, serve the welfare and interests of the Municipality as a whole;
- b) perform their functions and duties in a conscientious and diligent manner with integrity, accountability and transparency;
- c) conduct themselves in a professional manner with dignity and make every effort to participate diligently in the meetings of Council, committees of Council and other bodies to which they are appointed by Council;
- d) arrange their private affairs and conduct themselves in a manner that promotes public confidence and will bear close public scrutiny;
- e) not use public office for personal financial benefit;
- f) at all times, conduct themselves with decorum and in accordance with the Village's Procedural By-law during any meeting.

Communicating on behalf of the Municipality

- 5.1 A Member must not claim to speak on behalf of Council unless authorized to do so.
- 5.2 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.
- 5.3 A Member who is authorized to act as Council's official spokesperson must ensure that his or her comments accurately reflect the official position and will of Council as a whole, even if the Member personally disagrees with Council's position.
- 5.4 Members must keep in mind they are always representatives of the Village of Plaster Rock, including when engaging in social media activities, and are encouraged to identify when views expressed are theirs alone and not official Village of Plaster Rock communication.
- 5.5 No Member shall make a statement when they know that statement is false.
- 5.6 No Member shall make a statement with the intent to mislead Council or members of the public.

Respecting the decision-making process

- 6.1 Decision making authority lies with Council, and not with any individual Member. No Member shall, unless authorized by Council, attempt to bind the Municipality or give direction to employees, agents, contractors, consultants or other service providers or prospective vendors to the Municipality.
- 6.2 Members shall accurately communicate the decisions of Council, even if they disagree with Council's decision, such that respect for the decision-making processes of Council is fostered.

Adherence to Policies, Procedures and By-laws

- 7.1 Members shall uphold the law established by the Parliament of Canada and the Legislature of New Brunswick and the by-laws, policies and procedures adopted by Council.
- 7.2 Members shall respect the Municipality as an institution, its by-laws, policies and procedures and shall encourage public respect for the Municipality, its by-laws, policies and procedures.
- 7.3 A Member must not encourage disobedience of any by-law, policy or procedure of the Municipality in responding to a member of the public, as this undermines public confidence in the Municipality and in the rule of law.

Respectful interactions with council members, staff, the public and others

8.1 Members shall act in a manner that demonstrates fairness, respect for individual differences and opinions, and an intention to work together, for the common good and in furtherance of the public interest.

8.2 Members shall treat one another, employees of the Municipality and members of the public with courtesy, dignity and respect and without abuse, bullying or intimidation.

8.3 No Member shall use indecent, abusive or insulting words or expressions toward another Member, any employee of the Municipality or any member of the public.

8.4 No member shall speak in a manner that is discriminatory to any individual based on the person's race, religious beliefs, color, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation.

8.5 Members shall respect the fact that employees work for the Municipality as a corporate body and are charged with making recommendations that reflect their professional expertise and a corporate perspective and that employees are required to do so without undue influence from any Member or group of Members.

8.6 Members must not:

- a) involve themselves in matters of Administration, which fall within the jurisdiction of the CM;
- b) use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any employee of the Municipality with the intent of interfering in the employee's duties;
- c) maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of employees of the Municipality;
- d) cause persistent, excessive nit-picking, unjustified criticism and constant scrutiny;
- e) exclude or ignore an employee, refuse to acknowledge his or her contributions, undermine his or her efforts or impede on an employee's efforts in advancing, promotions or transfers; or,
- f) compel staff to engage in partisan political activities, or subject staff to threat or discrimination for refusing to engage in such activities.

Confidential Information

9.1 Members shall only be entitled to have access to information in the possession of the Village that is relevant to matters before Council or a Committee or that is relevant to their role as Members of Council. Otherwise, they have the same access rights to information as any member of the public.

9.2 Members must keep in confidence matters discussed in private at a Council or Council committee meeting until the matter is discussed at a meeting held in public.

9.3 No Member shall use confidential information for personal benefit or for the benefit of any other individual or organization.

9.4 In the course of their duties, Members may also become privy to confidential information received outside of an “in-camera” meeting. Members must not:

- a) disclose, release or publish by any means, including social media, to any member of the public, including the media, any confidential information acquired by virtue of their office, unless the disclosure is required by law or authorized by Council to do so;
- b) access or attempt to gain access to confidential information in the custody or control of the Municipality unless it is necessary for the performance of the Member’s duties and is not otherwise prohibited by Council, and only then if the information is acquired through appropriate channels in accordance with applicable Council by-laws and policies.

Conflicts of Interest

10.1 Members have a statutory duty to comply with the Conflict of interest provisions set out in Part 8 of the Act and a corresponding duty to vote unless required or permitted to abstain under the Act or another enactment.

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

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

10.4 Members shall approach decision-making with an open mind that is capable of persuasion.

10.5 It is the individual responsibility of each Member to seek independent legal advice, at the Member’s sole expense, with respect to any situation that may result in a pecuniary or other conflict of interest.

Improper use of Influence

11.1 No Member shall use the influence of the Member’s office for any purpose other than for the exercise of the Member’s official duties.

11.2 No Member shall act as a paid agent to advocate on behalf of any individual, organization or corporate entity before Council or a committee of Council or any other body established by Council.

11.3 Members shall not contact or otherwise attempt to influence members of any adjudicative body regarding any matter before it relating to the Municipality.

11.4 Members shall refrain from using their positions to obtain employment with the Municipality for themselves, family members or close associates.

Use of Municipal Assets and Services

12.1 No Member shall obtain any personal financial gain or advantage from the use of village property. Members shall use municipal property, equipment, services, supplies and staff resources only for the performance of their duties as a Member, subject to the following limited exceptions:

- a) municipal property, equipment, service, supplies and staff resources that are available to the general public may be used by a Member for personal use upon the same terms and conditions as members of the general public, including booking and payment of any applicable fees or charges;
- Participation in community groups and organizations and their events**

Members shall:

13.1 Seek Council approval for the use of their name or position and title in the official name of any event where fundraising activities occur.

13.2 Seek Council approval for the use of municipal resources in support of any event organized by the Member where fundraising activities occur. The request shall be reviewed by the CM, and a report provided to Council with an assessment of the associated costs.

13.3 Ensure that any funds for external or non-Member organized community groups or organizations are not received using village staff, village email, or other village resources.

13.4 Ensure that any funds, goods, or services received for community groups or charitable events are not used for any other purpose.

13.5 Respect the need for transparency with respect to their involvement in community groups and organizations and their events and perform their community service in a manner that promotes public confidence.

14. Remuneration and Expenses

14.1 Members are stewards of public resources and shall avoid waste, abuse and extravagance in the use of public resources.

14.2 Members shall be transparent and accountable with respect to all expenditures and strictly comply with all municipal by-laws, policies and procedures regarding claims for remuneration and expenses.

Acceptance of Gifts and Hospitality

15.1 Members shall not solicit, accept or agree to accept any gifts, hospitality, reward, advantage or other benefits that would, to a reasonable member of the public, appear to be in gratitude for influence, to induce influence, or otherwise to go beyond the necessary and appropriate public functions involved.

15.2 Members of Council are not precluded from accepting:

- a) rewards, gifts or benefits not connected with the performance or duties of office;
- b) political contributions that are accepted in accordance with applicable law;
- c) reasonable quantities of food and beverages at banquets, receptions, ceremonies or similar events;
- d) services provided without compensation by persons volunteering their time;
- e) food, lodging, transportation and entertainment provided by other levels of governments or by other local governments, boards or commissions;
- f) a reimbursement of reasonable expenses incurred in the performance of duties or office;
- g) token gifts such as souvenirs and commemorative gifts that are given in recognition of service or for attending an event;
- h) gifts that are received as an incident of protocol or social obligation that normally and reasonably accompany the responsibility of the office.

15.3 Gifts received by a Member on behalf of the Municipality as a matter of official protocol which have significance or historical value for the Municipality shall be left with the Municipality when the Member ceases to hold office.

15.4 Where it is not possible to decline unauthorized gifts, hospitality or other benefit, Members shall report the matter to the Council. The Council may require that the gift be returned to the sender with an acknowledgement of the return and reference this Code or be retained by the Municipality or be disposed for charitable purposes.

15.5 Members of Council shall not accept invitations from contractors, or potential contractors to the Municipality to attend special events that may be viewed as creating an unreasonable level of access or indebtedness:

- a) **Access** may be defined as a prolonged period of contract with the Member(s) individually;
- b) **Indebtedness** is based on the value of the event.

Election Campaigns

16.1 No Member shall use any facilities, equipment, supplies, municipal logo or other municipal resources for any election campaign or campaign-related activity.

Informal Complaint Process

17.1 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 by:

- a) advising the Member that the conduct violates this by-law and encouraging the Member to stop;
- b) requesting the Mayor to assist in informal discussion of the alleged complaint with the Member in an attempt to resolve the issue. In the event that the Mayor is the subject of, or is implicated in a complaint, the person may request the assistance of the Deputy Mayor.

17.2 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 procedure outlined below.

Formal Complaint Process

18.1 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 file a formal complaint in accordance with the following procedure:

- a) all complaints shall be made in writing to Council and shall be dated and signed by an identifiable individual;
- b) Council may appoint an investigator by resolution of Council to investigate a formal complaint;
- c) the complaint must set out reasonable and probable grounds for the allegation that the Member has contravened this by-law, including a detailed description of the facts, as they are known, giving rise to the allegation;
- d) in the case where Council appoints an investigator:
 - (i) all complaints shall be addressed to the investigator;
 - (ii) if the facts, as reported, include the name of one or more Members who are alleged to be responsible for the breach of this by-law, the Member or Members concerned shall receive a copy of the complaint submitted to the investigator, subject to the RTIPPA.
 - (iii) upon receipt of a complaint under this by-law, the investigator shall review the complaint and decide whether to proceed to investigate the complaint or not. 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, the investigator may choose not to investigate or, if already commenced, may terminate the investigation or may dispose of the complaint in a summary manner. In that event, the complainant and Council, if Council is not the investigator, shall be notified of the investigator's decision;

- (iv) 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 investigator regarding the investigation shall be confidential;
- (v) the Investigator shall, upon conclusion of the investigation, provide the Council and the Member who is the subject of the complaint, the result of the investigator's investigation.

e) Where the Council is the investigator:

- (i) the Clerk shall place the matter on the next regular or special meeting of Council agenda in closed session;
- (ii) When the matter is addressed, the party that is the subject of the allegation may ask to have the matter tabled to allow said party to obtain legal counsel. In such a case, a second meeting of Council in Closed session will be called no sooner than seven (7) days from the date of the first meeting.
- (iii) Should Council determine that a Member has potentially breached this Code, 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 in open session of Council.

- i) a Member who is the subject of an investigation shall be afforded procedural fairness, including an opportunity to respond to the allegations before Council deliberates and makes any decision or any sanction is imposed;
- j) a Member who is the subject of an investigation is entitled to be represented by legal counsel, at the Member's sole expense.

Compliance and Enforcement

19.1 Members shall uphold the letter, the spirit and intent of this by-law.

19.2 Members are expected to co-operate in every way possible in securing compliance with the application and enforcement of this by-law.

19.3 No Member shall:

- a) undertake any act of reprisal or threaten reprisal against a complainant or any other person for providing relevant information to Council or to any other person;
- b) obstruct Council, or any other person, in carrying out the objectives or requirements of this bylaw.

19.4 Subject to the penalties listed in Part 8 (Conflict of Interest) of the Act, sanctions that may be imposed on a Member, by Council, upon a finding that the Member has breached this by-law may include:

- a) a letter of reprimand addressed to the Member;
- b) requesting the Member to issue a letter of apology;
- c) publication of a letter of reprimand or request for apology and the Member's response;
- d) suspension or removal from some or all Council committees and bodies to which Council has the right to appoint members;
- e) expulsion from the meeting room for the remainder of the meeting;
- f) barring the Member from attendance at closed session meetings either permanently or for an interim period ;
- g) barring the Member from being circulated and / or informed of confidential materials and / or matters;
- h) reduction or suspension of remuneration as defined in subsection 49(1) Salaries and allowance of mayor and councillors of the Act corresponding to a reduction in duties, excluding allowances for attendance at council meetings;
- i) a fine, not to exceed the maximum amount payable under Part II of the Provincial Offences Procedure Act as a Category D offence;
- j) any other sanction Council deems reasonable and appropriate in the circumstances provided that the sanction does not prevent a Member from fulfilling the legislated duties of a Councilor and the sanction is not contrary to the Act.

19.5 Where applicable and unless otherwise stated, a sanction imposed by Council for cumulative offences will be for a length of time as follows:

- 1st offence: three (3) months
- 2nd offence: six (6) months
- 3rd offence: twelve (12) months

Procedure

20.1 Every member of Council shall be provided with a copy of this by-law, and will sign the statement of commitment after each municipal election as an acknowledgement that he or she has read and supports it.

Review

21.1 This by-law shall be brought forward for review at the beginning of each term of Council, when relevant legislation is amended, and at any other time that Council considers appropriate to ensure that it remains current and continues to accurately reflect the standards of ethical conduct expected of Members.

Severability

22.1 If any Section or parts of the by-law are found in any court of law to be illegal or beyond the power of the Council to enact, such Section or parts shall be deemed to be severable and all other Section or parts of the by-law shall be deemed to be separate and independent from and to be enacted as such.

This by-law comes into full force on the date of final passing thereof.

First Reading	July 22, 2019
Second Reading	July 22, 2019
Third Reading and Enactment	August 19, 2019

Mayor Alexis Fenner

Patty St. Peter, Clerk