

August 23, 2022

CONSULTATION DRAFT
MUNICIPAL GOVERNMENT ACT
CODE OF CONDUCT REGULATIONS

Pursuant to subsection 107(1) and clause 261(1)(e) of the *Municipal Government Act* R.S.P.E.I. 1988, Cap. M-12.1, Council made the following regulations:

1. Definitions

In these regulations, “**Act**” means the *Municipal Government Act* R.S.P.E.I. 1988, Cap. M-12.1.

2. Code of conduct bylaw, requirements

- (1) In addition to complying with the requirements of Part 4, Division 6, of the Act, the council of a municipality shall, in its code of conduct bylaw, establish rules
- (a) in relation to the public notice and publication to be undertaken by a council where a member of council has been sanctioned under subsection 107(3) of the Act;
 - (b) in relation to the public notice and publication to be undertaken by a chief administrative officer with respect to the financial disclosure statements filed with the chief administrative officer pursuant to clause 107(2)(d) of the Act;
 - (c) addressing the necessity for members of council to treat every person, including other members of council, municipal employees and the public with dignity, understanding and respect;
 - (d) addressing the necessity for members of council to refrain from engaging in discrimination, bullying or harassment in their roles as members with respect to other council members, municipal employees and the public; and
 - (e) addressing the necessity for members of council to refrain from using derogatory language towards other members of council, municipal employees and the public.

Complaint process

- (2) The council of a municipality shall, in its code of conduct bylaw, establish a process for complaints, including at a minimum
- (a) who may submit a complaint;
 - (b) the form in which complaints shall be submitted;
 - (c) the person or persons to who a complaint shall be submitted;
 - (d) the time period after the occurrence complained of becomes known to the complainant during which a complaint about that matter shall be submitted;
 - (e) rules for determining whether a complaint is frivolous or vexatious and for dismissing the complaint on that basis;

- (f) rules prohibiting any person from making reprisals or taking other action against a person who has made a complaint; and
- (g) rules respecting an informal complaint resolution process.

Investigation process

- (3) The council of a municipality shall, in its code of conduct bylaw, establish a process for the investigation of complaints that have not been resolved through an informal complaint resolution process, including at a minimum
 - (a) the appointment of a third-party investigator by the council;
 - (b) the process for the investigator's review of the complaint and determination whether further investigation is necessary;
 - (c) the investigation process, including the information to be provided to the council member who is the respondent and the respondent's right to respond to the complaint;
 - (d) requiring the council member who is the respondent to assist the investigator during the investigation and to participate in the investigation in good faith; and
 - (e) specifying the time within which the investigator shall provide a report of findings, recommendations and proposed sanctions, if any, to the council, the complainant and the respondent.

Role of investigator

- (4) The council of a municipality shall, in its code of conduct bylaw, specify the role of the investigator in the complaint resolution process, including at a minimum the following duties:
 - (a) to determine whether a breach of the code of conduct has occurred based on the information provided by the complainant;
 - (b) to determine whether informal attempts were made to resolve the complaint and whether those attempts were successful;
 - (c) where a complaint is unresolved following informal attempts to resolve it, to investigate the complaint;
 - (d) to ensure that the complainant and respondent are provided with the opportunity to be heard;
 - (e) to report to the council in accordance with clause (3)(d) and the terms of the bylaw.

Council's review of report

- (5) On receipt of the investigator's report, council shall at its next meeting
 - (a) close the meeting to the public and review the report; and
 - (b) following the review of the report, re-open the meeting to the public and hold a vote to determine
 - (i) whether the council member breached the code of conduct, and
 - (ii) if so, the appropriate sanction, if any.

Majority

- (6) The vote referred to in subsection (5) shall be determined by a majority of the members present and voting at the meeting.

3. Code of conduct for committees, etc.

- (1) The council of a municipality shall include in its code of conduct bylaw a code of conduct for members of committees and directors of controlled corporations established by council who are not members of council.

Requirements

- (2) The council of a municipality, in establishing the code of conduct for members of committees and directors of controlled corporations who are not members of council, as referred to in subsection (1), shall, at a minimum, establish rules
- (a) addressing the necessity for the members and directors to treat every person, including other members and directors, with dignity, understanding and respect;
 - (b) addressing the necessity for the members and directors to refrain from engaging in discrimination, bullying or harassment in their roles as members or directors with respect to other members and directors; and
 - (c) addressing the necessity for the members and directors to refrain from using derogatory language towards other members and directors.

4. Code of conduct training

- (1) The code of conduct bylaw of a municipality shall require that within the first six months after a member of council is appointed, elected or re-elected
- (a) the chief administrative officer of the municipality shall arrange for training in accordance with subsection (3) to be provided to the member on the code of conduct for members of council; and
 - (b) the member shall complete the training arranged by the municipality.

Initial training

- (2) Within the first six months after this section comes into force, the chief administrative officer of a municipality shall ensure that training on the municipality's code of conduct is made available to each member of council and that each member is aware that the member is required to complete the training.

Training course

- (3) The training provided under this section shall consist of the training course on member conduct specified by the Minister.

Report to council

- (4) The chief administrative officer shall report to council if a member fails or refuses to complete the training made available to the member.

Consequence

- (5) A member who fails or refuses to complete the code of conduct training made available to the member within the required time specified in subsection (1) or (2), as applicable, shall not, until the member completes the training,
- (a) carry out a power, duty or function as a member of council; and
 - (b) shall not receive any remuneration.

Member deemed absent

- (6) A member who has not yet completed the code of conduct training as required under this section is deemed to be absent from a meeting even if that member is physically present during all or part of the meeting.

5. Sanctions - factors to be considered

- (1) The council of a municipality shall consider the following when deciding whether to impose a sanction for a breach of the code of conduct:
- (a) the nature of the breach, including the number of occasions on which the breach occurred and the length of time the activity or conduct that constituted the breach lasted;
 - (b) whether the breach was intentional or inadvertent;
 - (c) whether the council member took any steps to remedy the breach or mitigate the consequences of the breach;
 - (d) whether the council member previously breached the code and the circumstances of that breach;
 - (e) whether the council member has previously refused to comply with a sanction for a breach of the code;
 - (f) the recommendations of the investigator.

Imposing sanctions

- (2) Where a council of a municipality decides to impose specific sanctions in its code of conduct bylaw for a breach of the code of conduct, the code of conduct bylaw may include one or more of the following sanctions:
- (a) pursuant to subsections 107(3) and (4) of the Act, a fine in an amount not exceeding \$500;
 - (b) a letter of reprimand addressed to the council member;
 - (c) a request that the council member issue a letter of apology to a specified person or persons;
 - (d) a requirement that the council member attend training as recommended by the council;
 - (e) suspension of the council member for a period not to exceed
 - (i) six months, or
 - (ii) the expiry of the member's term of office,whichever occurs first;
 - (f) reduction or suspension of the council member's compensation as provided for under subsection 82(2) of the Act.

Compliance required

- (3) A council member who is sanctioned by council for a breach of the code of conduct shall comply with the terms of the sanction within the time period specified by the council.

Consequences of suspension

- (4) Where a council member is suspended pursuant to clause (2)(e), the council member shall not, during the period of the suspension,

- (a) in the member’s capacity as a council member, sit on council, a committee of council or the board of directors of a controlled corporation or other entity established by the municipality; or
- (b) receive any remuneration, allowance or other sum from the municipality or a controlled corporation or other entity referred to in clause (a) in respect of the member’s discharge of duties as a council member.

6. Review

A council shall review and update its code of conduct bylaw at least once every five years starting from the date the bylaw is passed.

7. Commencement

These regulations come into force on