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Item No. 15.1.2
Halifax Regional Council
December 10, 2024

TO: Mayor Fillmore and Members of Halifax Regional Council

SUBMITTED BY: Cathie O'Toole, Chief Administrative Officer

DATE: October 21, 2024

SUBJECT: New Code of Conduct and Repeal of Administrative Order 52

ORIGIN

Staff-Initiated Report

EXECUTIVE SUMMARY

This report recommends that Halifax Regional Council adopt the model Code of Conduct for Elected Officials and repeal Administrative Order 52. Regulation 218/2024 introduces the model Code of Conduct for Elected Officials. The regulations came into effect on October 20, 2024. Council must adopt the new code of conduct on or before December 19, 2024 and report to the Minister upon its adoption. With the new code of conduct, there is no longer a need for Administrative Order 52.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Repeal Administrative Order 52, the *Code of Conduct for Elected Officials* Administrative Order and adopt Administrative Order 2024-004-GOV, the *Code of Conduct for Elected Officials* Administrative Order, as set out in Attachment 1 of this report.

DISCUSSION

The Province of Nova Scotia adopted *Regulation 218/2024* on October 20, 2024, setting out the new Code of Conduct for Elected Officials. The regulations require Council to adopt the new model code of conduct on or before December 19, 2024. The regulations also require that notice be given to the Minister upon adoption by Council.

The development of the code of conduct framework was informed by the Code of Conduct Working Group, which was established in January 2022 and consisted of representatives from the Nova Scotia Federation of Municipalities (NSFM), Association of Municipal Administrators of Nova Scotia (AMANS), and the Department of Municipal Affairs and Housing, with HRM staff having participated throughout. The group was tasked with developing a set of recommendations for a code framework that included mandatory code

content, available sanctions, and options for an investigator model. The group developed a list of 25 recommendations for a code framework, which were ultimately approved by the Minister of Municipal Affairs and Housing.

Regulation 218/2024 includes:

- 45 mandatory code content provisions
- 13 sanctions that can be imposed by a Council in the event of a code contravention
- 7 considerations a Council must consider prior to imposing a sanction for a code contravention
- The role of the investigator (section 20C of the Charter requires the Municipality to appoint a code of conduct complaints investigator)
- A prescribed process for handling code complaints, investigations, and sanctions.

The new regulations set out that the code of conduct applies to all elected officials from the time they are elected until they are no longer an elected official, whether through resignation, disqualification of office or until the date their successor is sworn in. The regulations also set out the process for investigations of complaints made against a Councillor. The Municipality is required to appoint an investigator to investigate complaints against elected officials under section 20C of the *Charter*. The Municipality is in the process of seeking out Expressions of Interest for investigators, and will list the investigator(s) contact information on the Municipality's website in compliance with the regulations once one is appointed.

The purpose of the code is to set out the expectations for the behaviour of members elected to Council in carrying out their functions and making decisions that benefit the constituents of the Municipality.

The guiding principles of the code are:

1. Collegiality;
2. Respect;
3. Integrity;
4. Professionalism;
5. Transparency; and
6. Responsibility.

The code also covers the general conduct of Councillors, their interactions with other members of Council, the CAO, members of staff, businesses, municipal assets and intellectual property, as well as confidential information.

With the adoption of the new code, the Municipality's existing Code of Conduct for Elected Officials, Administrative Order 52, is no longer necessary. This report recommends repealing Administrative Order 52.

FINANCIAL IMPLICATIONS

No financial implications are identified.

RISK CONSIDERATION

No risks identified.

COMMUNITY ENGAGEMENT

No community engagement was done in preparation of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications were identified.

ALTERNATIVES

As adoption of the model code of conduct is a requirement of the regulations, there are no suggested alternatives for this report.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, SNS 2008, c 39:

Code of conduct

20A (1) The Municipality shall adopt a code of conduct.

(2) The code of conduct must (a) include a requirement for compliance with the expense policy and the hospitality policy; (aa) consist of the model code of conduct prescribed by the regulations, if one has been prescribed; (b) apply to the Mayor, councillors and positions prescribed by the regulations; and (c) comply with the regulations.

Compliance with code of conduct

20B Every person to whom the code of conduct applies shall comply with the code of conduct.

Complaints regarding alleged breaches of code of conduct

20C (1) The Municipality shall appoint a person or entity other than a Council member or an employee of the Municipality to receive and investigate complaints regarding alleged breaches of the Municipality's code of conduct.

(2) Subject to subsection (3), the person or entity appointed by the Municipality shall present a report on the investigation of a complaint to the Council, which must include a recommendation regarding the validity of the complaint and, where applicable, a recommendation regarding an appropriate sanction.

(3) Where the person or entity appointed by the Municipality determines that a complaint regarding an alleged breach of the Municipality's code of conduct is frivolous or vexatious, the person or entity may dismiss the complaint.

Sanction for breach of code of conduct

20D Where the Council determines that a person has breached the Municipality's code of conduct, the Council may impose a sanction prescribed by the regulations.

Regulation 218/2024:

Adoption of the Code and Notice to Minister

4(1) The Municipality must adopt the model code of conduct on or before December 19, 2024.

(2) The Municipality must report to the Minister and provide a notice confirming adoption of the model code of conduct on or before December 19, 2024.

ATTACHMENTS

Attachment 1 - Administrative Order 2024-004-GOV *The Code of Conduct for Elected Officials Administrative Order*

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

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**ADMINISTRATIVE ORDER 2024-004-GOV
RESPECTING THE CODE OF CONDUCT FOR ELECTED
OFFICIALS OF THE HALIFAX REGIONAL MUNICIPALITY**

WHEREAS section 20A of the *Charter* requires Council to adopt a code of conduct, and Regulation 218/2024 requires the code of conduct to be adopted on or before December 19, 2024;

AND WHEREAS the purpose of the Code is to set out the expectations for the behaviour of members elected to Council in carrying out their functions and making decisions that benefit the constituents of the Halifax Regional Municipality;

BE IT RESOLVED as an Administrative Order of the Council of the Halifax Regional Municipality under the authority of section 20A of the *Halifax Regional Municipality Charter*, SNS 2008, c 39, as follows:

Short Title

1. This Administrative Order may be cited as the *Code of Conduct for Elected Officials Administrative Order*.

Purpose

2. The purpose of this Administrative Order is to adopt the model code of conduct as set out in the regulations to the *Charter*.

Interpretation

3. In this Administrative Order,

(a) "Charter" means the *Halifax Regional Municipality Charter*, SNS 2008, c 39, as amended; and

(b) "Council" means the Council of the Halifax Regional Municipality.

Adoption of the Model of Code of Conduct

4. Council hereby adopts the *Model Code of Conduct for the Halifax Regional Municipality* as set out by the regulations to the *Halifax Regional Municipality Charter*, SNS 2008, c 39, as amended from time to time and attached to this Administrative Order as Schedule "A".

Repeal

5. Administrative Order 52, the *Code of Conduct for Elected Officials*, is repealed.

Done and passed this _____ day of _____, 2024.

Mayor

Municipal Clerk

**Schedule “A”—Model Code of Conduct
for the Halifax Regional Municipality
prescribed by the Minister under subsection 383(1) of Chapter 39
of the Acts of 2008, the *Halifax Regional Municipality Charter***

Title

1 The title of this code of conduct is the *Code of Conduct for Elected Officials of the Halifax Regional Municipality*.

Definitions

2 In this Code, the following definitions apply:

“Act” means the *Halifax Regional Municipality Charter*;

“CAO” means the Chief Administrative Officer;

“closely connected” to a Council member, means any of the following:

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

“Code” means the *Code of Conduct for Elected Officials of the Halifax Regional Municipality*;

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

“confidential information” includes any information in the possession of 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 Part XX of the *Municipal Government Act* or other legislation, or that pertains to the business of the Municipality and is generally considered to be of a confidential nature, including information about any of the following:

- (i) the security of the Municipality’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,

(ix) advice that [is] solicitor-client privileged;

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

“elected official” means any Council member, including the Mayor;

“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 the Municipality under subsection 20C(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 members elected to Council in carrying out their functions and making decisions that benefit the constituents in the Municipality.

(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 bylaws and policies of the Municipality.

(3) This Code prevails in any conflict between the Code and any municipal resolution, policy or bylaw.

Guiding principles

5 All of the following are the guiding principles for Council members' conduct:

Collegiality: Council members must work together to further the best interests of the Municipality in an honest and honourable way.

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

Integrity: Council members must act lawfully and adhere to strong ethical principles by prioritizing the Municipality's interests over individual interests.

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

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

Responsibility: Council members are responsible for the decisions that they make and must be held accountable for their actions and outcomes. Council members 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 Council member must be truthful and forthright and not deceive or knowingly mislead Council, the CAO, staff or the public.

(2) A Council member must show respect for chairs of Council meetings, chairs of committee meetings, colleagues, staff and members of the public that present during Council meetings or other meetings of the Municipality.

(3) A Council member must adhere to the direction of the chairs of meetings with respect to rules of procedure.

(4) A Council member must conduct Council business and all duties in an open and transparent manner, other than for those matters that Council is authorized by law to carry out in private.

(5) A Council member must not be impaired by alcohol or drugs while attending any Council meeting or other meeting of the Municipality.

(6) A Council member 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 Council member 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 Council to do so.

(2) A Council member must not use confidential information for personal or private gain or for the private gain of any other person or entity.

(3) A Council member must not access or attempt to access confidential information in the custody of the Municipality unless the information is necessary for the performance of their duties and its access is not prohibited by legislation or by the bylaws or policies of the Municipality.

(4) A Council member 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 Council member 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 Council member;

(c) sponsorships and donations for community events organized or run by a Council member or by a third party on behalf of a Council member;

(d) compensation authorized by the Municipality.

(2) A fee, advance, cash, gift, gift certificate or personal benefit paid or provided to a person closely connected to a Council member, with the Council member's knowledge, is deemed to be a gift to the Council member.

Use of municipal property, equipment and services

9 (1) A Council member must not use, or request the use of, any municipal 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 Council member is receiving no special preference in its use;

(b) it is made available to the Council member in the course of carrying out Council activities and duties, and is used for purposes connected with the discharge of municipal duties.

(2) A Council member must not obtain, or attempt to obtain, personal financial gain from the use or sale of intellectual property developed by the Municipality.

(3) A Council member 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 Council member, or a person closely connected to a Council member, must not tender on the sale of surplus municipal property, including old or extra equipment.

Building, development, planning, or procurement proposals before Council

10 A Council member must not solicit or accept support in any form from an individual, group or corporation with any building, development, planning or procurement proposal before Council.

Improper use of influence

11 A Council member 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 Council member must not allow any prospect of their future employment by a person or entity to affect the performance of their duties to the Municipality.

(2) A Council member must not borrow money from any person who regularly does business with the Municipality, 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 Council member must not act as an agent of a person or entity before Council or a committee of Council or any agency, board or committee of the Municipality.

Employment of persons closely connected to Council members

13 (1) A Council member must not attempt to influence any municipal employee to hire or promote a person closely connected to the member.

(2) A Council member must not make any decision or participate in the process to hire, transfer, promote, demote, discipline or terminate any person closely connected to the member.

Fairness

14 (1) A Council member must not give special consideration, treatment or advantage to any individual or entity beyond that which is given to all.

(2) A Council member must not give special consideration, treatment or advantage to an organization or group because the Council member, 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) Council members must adhere to all applicable federal and provincial legislation.

(2) Council members must adhere to the procedures, resolutions, policies and bylaws of the Municipality.

(3) Council members must adhere to the expense and hospitality policy of the Municipality.

Respect for Council as a decision-making body

16 (1) A Council member must abide by, and act in accordance with, any decision made by Council, whether or not the member voted in favour of the decision.

(2) A Council member must not encourage non-compliance with any legislation, regulation, bylaw, resolution, policy or procedure.

Communicating on behalf of Council

17 (1) A Council member, other than the Mayor, must not claim to speak on behalf of Council unless the Council member is authorized to do so.

(2) The Mayor or an individual designated by Council may speak on behalf of Council and must make every effort to convey the intent of Council's decision accurately.

Interactions of Council with staff and service providers

18 (1) A Council member must respect the role of the CAO as head of the administrative branch of the Municipality's government and must not involve themselves directly in the administration of the affairs of the Municipality, including, without limitation, the administration of contracts.

(2) A Council member must not direct, or attempt to direct, the CAO, other than through a direction provided by the Council as a whole.

(3) A Council member must be respectful of the role of the CAO and municipal employees to advise based on political neutrality and objectivity and without undue influence from any individual member or group of the Council.

(4) A Council member must not direct or influence, or attempt to direct or influence any municipal employees in the exercise of their duties or functions, unless Council as a whole provides direction regarding [the] same.

(5) A Council member must not direct municipal employees except through the CAO.

(6) A Council member must not issue instructions to any of the contractors, tenderers, consultants or other service providers to the Municipality.

(7) A Council member must not require or request that a municipal employee undertake personal chores or tasks for the member that are unrelated to municipal business.

(8) A Council member must not make public statements that are critical of specific or identifiable municipal employees or service providers.

Respectful interactions

19 (1) A Council member must not engage in discrimination or harassment as prohibited by the *Human Rights Act*.

(2) A Council member must not sexually harass any person.

(3) A Council member 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 Council member 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.