



Municipality of the District of Argyle

Item: Provincial legislation – Code of Conduct

Date: November 17, 2024

Vision statement

Argyle is the community of choice to invest, live and play.

Mission statement

Argyle invests time & talent in growth opportunities in fishing, tourism, and renewable energy sectors.

Argyle provides affordable taxation while providing safe and healthy communities and strives to engage and inform our residents on decisions that affect them most.

Argyle provides high class, accessible recreational and cultural facilities and helps celebrate its unique heritage and culture and welcomes new residents to our region.

CAO's Recommendation:

That Council adopt the new legislation for the code of conduct via motion, and subsequently consider the repeal and approval of a new Code of Conduct Policy.

Suggested motion:

Move that the provincial code of conduct be adopted by the Municipality of the District of Argyle, and that staff be instructed to develop policy to reflect the new legislation.

Background:

The Code of Conduct legislation is the culmination of years of collaborative work between the municipalities and the province of NS. The committee was chaired by Mayor Pam Mood and engaged municipal and provincial staff and elected officials. Due to several incidents across NS and the changing dynamics of government, it was considered very important to develop a uniform code of conduct that would lay the foundation for respectful workplace management. Municipalities have HR policy that enables education or discipline in the case of staff behavior, but there was a noted absence of this type of consistent policy for municipal elected officials.

Past incidents of negative behavior were not managed consistently, with some municipalities seeking to meet a high standard, and others none. It was the goal of the committee to develop a

uniform Code of Conduct that addressed behavior common to the province. The policy framework was developed under the following mutually agreed guiding principles: Respect, integrity, professionalism, transparency, responsibility. Each of which is described in the model policy.

Summary of the new Code of Conduct.

The policy seeks to address and make clear that while a councillor is encouraged to speak plainly on behalf of those who elected them, there are certain behaviors that are not acceptable and not reflective of the importance of their position. It should be noted that this policy **has received legal review** to support the work of the committee.

- General behaviors are in support of honesty (not intentional deception), respect for the order of conduct of the meeting and of the chair, sobriety, and transparent communication. Other important elements are to keep confidential information confidential, as well as to compliance with the Municipal Conflict of Interest Act. There is deeper definition of who would be considered family or connected to the Councillor.
- There are clear rules around the non-acceptance of gifts and the proper use of municipal property and equipment. Other important elements are the improper use of council position for undue influence, and other financial restrictions on a councillor due to their position.
- There are rules around limitations on Council interactions with staff and contractors, and to not override the role of the CAO in these situations.
- The consequences of non-compliance will be handled by a third-party investigator. This is a major change from any prior Code of Conduct. The third-party investigator is to be selected by the Council, and the Association of Municipal Administrators has issued a request for proposals to assist all municipalities.

Comparison with existing code of conduct

Our original code of conduct is attached to the agenda for your information. The codes of conduct are very similar to each other. The provincial policy is superior in that it establishes corrective actions in better detail than our own. There is a noted absence addressing vexatious or false claims. To better explain, there is no portion of this policy that addresses how the Council may in fact fine someone who has intentionally made a false claim or allegation against a councillor. This is an item that we can address in our policy if we choose. There is precedence for this, as there are elements in many HR related policies to address retaliation or other negative allegations against another that are unsubstantiated. In short, our policy may be more stringent than provincial legislation but cannot be less stringent by law.

Training

The Province of Nova Scotia is committed to training councillors and key staff in the implementation of such a Code. The training is set for early 2025. While Council is obligated to passing this Code, there is no obligation for councillors to sign off on the document, unlike our own Code.

MGA and Municipal Strategy considerations:

There are no municipal strategy implications on this item, it would neither hinder or help the pre-existing strategic decisions of Council as listed in the Strategic Plan and the Municipal Planning Strategy.

The establishment of a Code of Conduct is obligated under 23A.

23A

(1) Each municipality shall adopt a code of conduct.

(2) A code of conduct must

(a) include a requirement for compliance with the expense policy and the hospitality policy for the municipality;

(aa) consist of the model code of conduct prescribed by the regulations, if one has been prescribed;

(b) apply to the mayor or warden, councillors and positions prescribed by the regulations; and

(c) comply with the regulations.

Compliance with code of conduct

23B Every person to whom a code of conduct for a municipality applies shall comply with the code of conduct.

Complaints regarding alleged breaches of code of conduct

23C (1) Each 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 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

23D 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.

Fines imposed or paid under code of conduct

23E (1) A fine imposed as a sanction for a breach of a municipality's code of conduct may be collected in the same manner as taxes owing to the municipality.

(2) A fine paid under a code of conduct sanction belongs to and forms part of the general revenue of the municipality.

*The policy as presented by the Province of Nova Scotia is done so by **Order of the Minister**. This means we must comply with this piece of legislation.*

Financial considerations:

Municipalities will have to pay for the services of a third-party investigator.

Legal considerations:

The Municipality does not have legal option to oppose this legislation. The third-party investigator will be charged with complaints, where prior to this it was the municipal solicitor that would address complaints. Complaints would be brought to the attention of the solicitor to assess whether actions were contrary to the Code, how serious that was, and the potential fines or implications to the Councillor in question. The policy that Argyle shall approve will have legal review.