



Rural Municipality of Brackley, PEI
A Bylaw to Provide Rules Governing Conflict of Interest for Members of Council
Bylaw # 2024-XX

BE IT ENACTED by the Council of Rural Municipality of Brackley as follows:

1. Title

1.1. This bylaw shall be known and cited as the “Conflict of Interest Bylaw.”

2. Authority

2.1. The *Municipal Government Act* R.S.P.E.I. 1988, Cap. M-12.1.

3. Application

3.1. This bylaw applies to all members of Council and to all members of any Committee of Council.

4. Definitions

4.1. “Act” *Municipal Government Act* R.S.P.E.I. 1988, Cap. M-12.1, and any amendments thereto.

4.2. “Bias” means a preconceived opinion, predisposition, or prejudice that prevents a person from impartially evaluating information on an issue that has been presented for determination.

4.3. “Chief Administrative Officer” or “CAO” means the administrative head of the Rural Municipality of Brackley as appointed by Council.

4.4. “Conflict of Interest” means a situation in which a member of Council is in a conflict of interest if, in relation to a matter under consideration by the Council, the member or a person closely connected to the member:

- (a) has any pecuniary interest;
- (b) is a shareholder, officer, agent or director of a corporation or any other organization that has dealings or contracts with the municipality; or
- (c) is a party to dealings or a contract with the Municipality, or is a member of a partnership that has dealings or a contract with the Municipality.
- (d) a Council member is in a conflict of interest if the member makes a decision or participates in making a decision in the execution of their office while at the same time the member knows or ought reasonably to know that the member’s private interests or the private interests of a person closely connected to the member affected the member’s impartiality in the making of the decision.

- 4.5. "Council or member of Council" means the Mayor and other members of the Council of the Rural Municipality of Brackley, and if the context so dictates, a member of a Rural Municipality of Brackley committee.
- 4.6. "Family member" means, in relation to a person: a spouse, parent, child, brother, sister, aunt, uncle, grandchild, grandparent, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law or daughter-in-law of the person.
- 4.7. "Improper Conduct" means behaviour that a reasonable and sensible person would not do. It is behaviour that is unfitting and not suited to the character, time, and place.
- 4.8. "Municipality" means the Rural Municipality of Brackley.
- 4.9. "Pecuniary" means money or monetary matters or that which can be valued in money.
- 4.10. "Person Closely Connected", in relation to a member, means a family member, an agent, a business partner or an employer of the person.
- 4.11. "Private Interest" means a relationship, obligation, duty, responsibility or benefit unique to the member of Council or a person closely connected to the member of Council.
- 4.12. "Undue Influence" means one person taking advantage of a position of power over another person.

5. General

- 5.1. Pursuant to subsections 97(1) and 97(2) of the Act, the purpose of this bylaw is to:
- (a) set out the procedure to be followed by a member of Council if the member believes or suspects that they may have a conflict of interest; and
 - (b) set out the procedure to be followed by the Council if a complaint is received by Council that a member of Council has a conflict of interest.
- 5.2. Where there is an inconsistency between this bylaw and the *Municipal Government Act* or another enactment, this bylaw is of no force or effect to the extent of the inconsistency.

6. Procedure for Reporting Conflicts of Interest

- 6.1. Every member of Council is individually responsible for preventing potential and actual conflicts of interest as defined in Part 4, Division 4 of the Act.
- 6.2. A member of Council shall ensure that any conflict of interest is brought to the attention of Council as soon as it arises and declare their interest before any discussion of the matter during any type of meeting of Council including:
- (a)** council meetings;
 - (b)** council committee meetings, including Planning Board meetings;
 - (c)** meetings with the public for the purpose of information sharing or gathering, such as town hall meetings;

- (d) public hearings required under legislation;
- (e) controlled corporation meetings; and
- (f) meetings where the member serves as the representative of the Council on another body.

6.3. There is no conflict in the decision made by Council if an interest is properly declared and the declaration:

- (a) occurs before any consideration or discussion;
- (b) discloses the general nature of the conflict;
- (c) includes any material details that may reasonably be seen to affect the member's impartiality; and
- (d) involves the person making the declaration leaving the room at any time while the topic is being discussed and decisions relating to the topic are being made.

6.4. If a member of Council or a person closely connected to the member develops a private interest in a matter *after* it has been addressed by Council, the member of Council must disclose the conflict of interest as soon as possible thereafter.

6.5. A member of Council shall disclose an interest each and every time the matter in which an interest is held is brought before Council.

6.6. When a member of Council declares a conflict of interest, the Council member shall:

- (a) refrain from discussion and voting;
- (b) leave the room where the meeting is being held until discussion and voting has occurred;
- (c) not influence discussion, voting, recommendations or other actions to be taken involving the matter, including using their office or position to influence others or the decisions of others, before, during, and after the meeting; and
- (d) submit a written amendment to the disclosure statement if they have declared a conflict of interest that is not present, but is required to be included, on their most recently filed public disclosure statement.

6.7. If a conflict of interest is declared by a member of Council or a committee, the following shall be recorded in the meeting minutes:

- (a) the declaration of a conflict of interest;
- (b) the general nature of the conflict declared;
- (c) the material details; and
- (d) the abstention and withdrawal of the member.

6.8. The person presiding over any meeting of Council, a Council committee, a controlled corporation or other bodies of Council shall ensure that the provisions in this section are followed when a conflict of interest is declared. Discussion on the matter must be suspended until the Council, Council committee, controlled corporation, or other bodies of Council, as the case may be, can determine whether or not a conflict is present.

- 6.9. If a Council member is in doubt as to whether they are in, or may be in, a conflict of interest, it is the responsibility of that Council member to ensure a conflict is not present.
- 6.10. Where a member of Council has a conflict of interest and the member, pursuant to subsection 98(8) of the Act, has a right to be heard as a taxpayer or a voter at a meeting of Council, the member:
- (a) shall leave their place at the Council table, but is not required to leave the room; and
 - (b) may exercise the right to be heard at the meeting in the same manner as a person who is not a member of Council.
- 6.11. During any public consultation, hearing, or other format used by the municipality for seeking feedback from the public or receiving information from an applicant, a member of Council may exercise the right to be heard as a taxpayer or voter. However, the member must declare the conflict of interest to those present before speaking.
- 6.12.** Deliberations of potential conflict shall take into account the information included in the disclosure statement required under the Code of Conduct bylaw, as well as all other facts relating to the matter.
- 6.13.** For greater certainty, a Council member does have a Pecuniary or other Conflict of Interest by reason only of any interest:
- (a) that the member or a person closely connected to the member may have, as a voter, taxpayer or utility customer of the Municipality;
 - (b) that the member or a Person Closely Connected to the member may have as a result of being appointed:
 - i. by the Council as a director of a controlled corporation, or
 - ii. as the representative of the Council on another body;
 - (c) that the member or a Person Closely Connected to the member may have with respect to any allowance, honorarium, remuneration, compensation or benefit to which the member or the Person Closely Connected to the member may be entitled by being appointed by the Council to a position described in clause (b);
 - (d) that the member may have with respect to any remuneration or allowances the member may be entitled to in accordance with the Rural Municipality of Brackley Remuneration Bylaw;
 - (e) that the member or a Person Closely Connected to the member may have by being employed by the Government of Canada, the Government of Prince Edward Island or a federal or provincial Crown corporation or agency, except with respect to a matter directly affecting the department, corporation or agency of which the member or the Person Closely Connected to the member is an employee;
 - (f) that a Person Closely Connected to the member may have by being employed by a municipal department, except with respect to a matter that directly affects the municipal department of which the Person Closely Connected to the member is an employee;

- (g) that a Person Closely Connected to the member may have by having an employer, other than the Municipality, that is monetarily affected by a decision of the Municipality;
- (h) that the member or a Person Closely Connected to the member may hold in common with the majority of voters of the Municipality;
- (i) that, in the opinion of the Council, is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member; or
- (j) that the member may have by discussing or voting on a bylaw that applies to businesses or business activities in which the member or a Person Closely Connected to the member has an interest, unless the only business affected by the bylaw is the business of the member or the Person Closely Connected to the member.

7. Procedure for Handling Conflict of Interest Complaints Against a Member of Council

- 7.1.** A complaint that a member of Council is in a conflict of interest may be made to Council pursuant to section 97 of the Act:
- (a) by a member of Council; or
 - (b) in writing, by an elector of the Municipality.
- 7.2.** If a complaint is made against a member of Council, the Mayor shall ensure that the complaint comes before Council to be addressed as follows:
- (a) where a member of Council has made a complaint against another member of Council, the complainant will address Council with respect to the nature of the complaint; or
 - (b) where an elector has made a complaint against a member of Council, the complaint will be tabled in writing and the elector will be given the opportunity to speak.
- 7.3.** After either event in clauses 7.2 (a) or (b) above, the Council member against whom the complaint is made shall be given an opportunity to respond to the complaint.
- 7.4.** The complaint shall be recorded in the minutes of the meeting.
- 7.5.** In the event that the Mayor is the subject of the complaint, the Deputy Mayor will bring the matter before Council.
- 7.6.** After the parties to a complaint against a member of Council have addressed the Council, the parties to the complaint shall excuse themselves from the meeting room for the duration of the discussion regarding the complaint.
- 7.7.** Council may seek an opinion from legal counsel for the Municipality when determining whether or not a conflict exists, and the matter may be put over until that advice has been received and considered.
- 7.8.** The member of Council that is the subject of a complaint may seek an opinion from independent legal counsel and the matter may be put over until that advice has been received and considered.

- 7.9. The member of Council against whom a complaint has been made shall be absent from any discussion in advance of a vote and shall not vote in any way or attempt to influence the discussion of, or voting on, the matter at issue until the complaint has been resolved and it has been determined by Council that the member is not in a conflict.
- 7.10. Council will consider all relevant information and will determine, by majority vote, if a conflict of interest exists. After voting the Council shall declare that:
- (a) the member is in a conflict of interest; or
 - (b) the member is not in a conflict of interest.
- 7.11. The disclosure and decision as to whether a conflict of interest exists must be recorded in the minutes of the Council meeting.
- 7.12. If Council determines a conflict of interest exists, Council will require the member of Council to:
- (a) remove themselves from the Council meeting and any other meeting when the matter is discussed;
 - (b) abstain from the discussion and voting on the matter; and
 - (c) not attempt in any way, before, during or after a meeting, to influence the discussion or voting on any question, decision, recommendation or other action to be taken involving a matter in which the member has a conflict of interest.

8. Disqualification for Failing to Disclose a Conflict of Interest

- 8.1. A member of Council is disqualified from serving on Council if they:
- (a) fail to declare their interest in the matter before the Council;
 - (b) fail to remove themselves from the Council meeting and any other meeting when the matter is discussed;
 - (c) fail to abstain from the discussion and voting on the matter; and
 - (d) attempts in any way, before, during or after a meeting, to influence the discussion or voting on any question, decision, recommendation or other action to be taken involving a matter in which the member has a conflict of interest.
- 8.2. Pursuant to subsection 96(6) of the Act, a member of Council who fails to comply with, or contravenes, section 8(1) of this bylaw may be pardoned by a resolution of Council, if Council is satisfied that the member's action was inadvertent or due to a genuine error in judgment.
- 8.3. Council shall not pardon a member of Council who fails to comply with, or contravenes, section 8.1 of this bylaw where that member should reasonably have known that they were acting in a conflict.
- 8.4. Where a member is disqualified, Division 5 of Part 4 of the Act applies.

9. Schedules

9.1. The Schedules to this bylaw form part of this bylaw and may be changed by resolution of the Council.

10. Severability

10.1. If any provision of this bylaw is deemed to be invalid by a court having jurisdiction for any reason, then that provision shall be severed, and all remaining provisions shall remain valid and in force.

11. Repeal of Existing Bylaw

11.1. Bylaw #XXX and all amendments thereto are hereby repealed.

12. Effective Date

12.1. This Conflict of Interest Bylaw, Bylaw# 2024-XX, shall be effective on the date of approval and adoption below.

First Reading:

This Conflict of Interest Bylaw, Bylaw# 2024-XX, was read a first time at the Council meeting held on the _____ day of _____, 2024.

This Conflict of Interest Bylaw, Bylaw# 2024-XX, was approved by a majority of Council members present at the Council meeting held on the _____ day of _____, 2024.

Second Reading:

This Conflict of Interest Bylaw, Bylaw# 2024-XX, was read a second time at the Council meeting held on the _____ day of _____, 2024.

This Conflict of Interest Bylaw, Bylaw# 2024-XX, was approved by a majority of Council members present at the Council meeting held on the _____ day of _____, 2024.

Approval and Adoption by Council:

This Conflict of Interest Bylaw, Bylaw# 2024-XX, was adopted by a majority of Council members present at the Council meeting held on the _____ day of _____, 2024.

Signatures

Mayor (signature sealed)

Chief Administrative Officer (signature sealed)

This Conflict of Interest Bylaw adopted by the Council of the Rural Municipality of Brackley on _____ is certified to be a true copy.

Chief Administrative Officer Signature

Date

(Date signed