

BYLAW 13-05, A BY-LAW RESPECTING THE DUTIES AND POWERS OF THE CHIEF ADMINISTRATIVE OFFICE AND THE AND THE RELATIONSHIP BETWEEN COUNCIL, THE CHIEF ADMINISTRATIVE OFFICER, AND THE EMPLOYEES OF THE TOWN.

Council of the Town of Saint Andrews, under the authority vested in it by the *Municipalities Act of New Brunswick*, Chapter M-22, R.S.N.B. (1973) hereby enacts as follows:

Definitions

1. **“Act”** means the *New Brunswick Municipalities Act*, R.S.N.B. 1973 and amendments.

“Chief Administrative Officer (CAO)” The Chief Administrative Officer of a city or town has such duties and powers as the council prescribes by by-law or resolution. *NB Municipalities Act* Section 75, 1966, c.20, s.76; 2003, c.27, s.28.

“Clerk” means the person holding the position and performing the duties of clerk as outline in the *NB Municipalities Act* Section 76 (1) (2) 1966, c.20, s.77; 2003, c.27, s.29.

76(1) The clerk of a municipality is the clerk of the council and shall

- (a) attend all meetings of council and record in a book
 - (i) the names of the members of council present at the meeting, and
 - (ii) all resolutions, decisions and proceedings of the council, without note or comment,
- (b) if required by any member of the council present, record the name and vote of every member voting on a question,
- (c) keep the books, documents and records of the council and the originals of all by-laws and resolutions,
 - (i) maintain an indexed register of certified copies of all by-laws of the municipality that shall be available for public inspection during regular office hours,
- (d) be the custodian of the corporate seal of the municipality,
 - (i) if the mayor and deputy mayor are absent or the office of mayor is vacant, call a meeting of council to select a councillor to act as presiding officer of the council,
 - (ii) sign, as required under paragraph 5(2)(b), all agreements, contracts, deeds and other documents to which the municipality is a party,
- (e) notify all members of the council of all meetings of the council, and
- (f) perform such other duties as the council assigns to him or her.

76(2) The Assistant Clerk is subject to the directions of the Clerk and, in the absence or disability of the Clerk or when there is no clerk, has all the powers and duties of the Clerk. 1966, c.20, s.77; 2003, c.27, s.29.

“Council” means the Mayor and Councillors of the municipality of Saint Andrews.

“Development Officer” means Planning Officer.

“Directors” means the department head of public works, the fire chief, the administrative assistant, the clerk, the treasurer, the planning officer, and any other employee deemed to hold a supervisory role.

“Employee” means any other person employed by the Town of Saint Andrews other than the CAO and the Directors.

“Minister” means the Minister of Environment and Local Government and includes anyone designated by the Minister to act on the Minister’s behalf

“Municipality” means a city, town or village;

“Planning Officer” means Development Officer;

“Town” means the Town of Saint Andrews, New Brunswick

“Town Manager” means Chief Administrative Officer. Where the term “Town Manager” exists in any By-Law, regulation or Policy of the Town of Saint Andrews, it shall be replaced with the term **“Chief Administrative officer”**.

Appointment of the Chief Administrative Officer

2(1) Council shall appoint a Chief Administrative Officer for the Town and the duties and powers of the Chief Administrative Officer are prescribed by the By-Law made pursuant to Section 75 of the *Act* with such additions or deletions as may be approved by a resolution of Council from time to time.

2(2) The Chief Administrative Officer is appointed under Subsection 74(1) of the *Act* and is employed on a full time basis.

2(3) Pursuant to Subsection 74(5) of the *Act*, the Chief Administrative Officer is entitled to hold office until retirement, death, resignation, or dismissal for cause by the affirmative vote of at least two thirds of the whole Council.

2(4) Notwithstanding Subsection (3) hereof, and Subsection 74(5) of the *Act*, the Chief Administrative Officer may be dismissed or otherwise disciplined in accordance with the terms of a written contract of employment in force between the Town and the Chief Administrative Officer.

2(5) Upon hiring, the Council and the Chief Administrative Officer may agree to a provision in the contract of employment to a limited duration of the term of the contract and to other provisions concerning the conditions of employment.

Full Time Appointment

3(1) Unless prevented by ill health or other sufficient cause, all of the Chief Administrator’s time and attention shall be devoted to the business of the Town as required by this By-Law and the Council.

3(2) Notwithstanding Subsection 3(1), the Chief Administrative Officer may engage in another business if the Chief Administrative Officer has;

(a) Complied with the *conflict of interest* requirements in Section 90.1 of the *Act*.

(b) Advised the Council in writing that a directorship, officer, agent or employee of any other company or that an interest in another business has been acquired, or is held, and outlines the nature of the directorship, officer, agent, employee, or business and its name and any property or business in which that business has a pecuniary interest,

(c) Established that any such business does not engage in the sale of, or otherwise deal in, any product or service to or with the Town, and

(d) Received authorization from Council.

3(3) Notwithstanding Subsection 3(1), the Chief Administrative Officer shall, to the extent that such activities do not materially interfere with the performance of the CAO duties and responsibilities, be allowed to manage his/her passive personal investments and to serve on civic, charitable or professional boards and committees.

- 3(4) The Chief Administrative Officer shall obtain permission from the mayor for absences from the Town in excess of three (3) days.

Relationship between Council, the Chief Administrative Officer and the Employees of the Town

- 4(1) The Chief Administrative Officer is the head of the administrative branch of the government of the Town and is responsible to Council for the proper administration of the affairs of the Town in accordance with applicable legislation, the By-Laws of the Town, and the procedures and resolutions adopted by Council.
- 4(2) The Chief Administrative Officer shall keep the Council informed concerning the affairs of the Town, and shall recommend to Council, such actions as may be necessary or expedient for the welfare of the Town, or as required by the *Municipalities Act* and other applicable legislation.
- 4(3) The Council shall provide direction on the administration, plans, policies and programs of the Town to the Chief Administrative Officer.
- 4(4) The Council shall communicate with the employees of the Town solely through the Chief Administrative Officer, except in circumstances where the CAO is unavailable or where the CAO provides permission, that the members of Council may communicate directly with employees of the Town to obtain or provide information.
- 4(5) No member of Council, or committee, or member of a committee established by Council shall instruct or give direction to, either publically or privately, an employee of the Town.
- 4(6) The Chief Administrative Officer shall communicate to Council on behalf of Town staff.

Responsibilities of the Chief Administrative Officer

- 5(1) Duties of CAO as outline in Section 75 of the Act. "*The Chief Administrative Officer of a city or town has such duties and powers as the council prescribes by by-law or resolution*".
1966, c.20, s.76; 2003, c.27, s.28. *NB Municipalities Act*
- 5(2) Town Council
- (a) The Chief Administrative Officer (CAO) is the head of the administrative branch of the government of the Town and is responsible to Council for the proper administration of the affairs of the Town in accordance with applicable legislation, the By-Laws of the Town and the policies and resolutions adopted by Council.
- (b) The CAO shall keep Council informed concerning the affairs of the Town, and shall recommend to Council such actions as may be necessary or expedient for the welfare of the Town, or as required by the *Municipalities Act* and the *Community Planning Act*, and other applicable legislation.
- (c) The CAO shall attend all meetings of Town Council and act as ex-officio member of all committees, boards, and authorities, as required by Council.
- (d) The CAO shall prepare and submit such reports and recommendations as may be required by Town Council or its committees, boards or authorities.
- (e) The CAO shall make recommendations to Council and to the Planning Advisory Committee of the Town of Saint Andrews, those actions as outlined in the *New Brunswick Community Planning Act*. (R.S.N.B. 1973, c. C-12), based on recommendations by the Saint Andrews Development Officer.
- (f) The CAO shall regularly communicate to Town Council, the status of policy directives as initiated by Council and providing an interface between the Administration and Town Council for the flow of information and directives. This includes those objectives in the Municipal Plan and any projects, objectives or initiatives resolved by Council.
- (g) The CAO shall recommend and/or provide such professional development, training and consultation for Council such that Council can function in an efficient and productive manner.

(h) The CAO shall discharge other duties as Council may, by resolution, direct.

5(3) Financial Responsibilities

- (a) The CAO shall ensure that the annual budget and appropriate capital, operational or other plans are prepared and submitted to Council.
- (b) The CAO shall provide resources to Council such that the annual budget may be duly completed.
- (c) The CAO shall be responsible for the administration of the budget and the monitoring of the work plan after adoption of the budget.
- (d) The CAO shall, or cause to, regularly report to Council on the status of the budget and shall make recommendations to any needed alterations, motions, or actions as required by legislation or by emergency circumstances.
- (e) The CAO shall make or authorize expenditures and subject to section 5(2) of the Municipalities Act, enter into contracts on behalf of the Town, for anything required for the Town where the amount of the expenditure is budgeted or is within the amount determined by Council resolution or policy and may delegate this authority to the Directors or employees of the Town.
- (f) The CAO shall approve payment of all expenditures and invoices less than \$3000.00 for non-budgeted items and will submit to Council for payment all expenditures and invoices for payment for non-budgeted items \$3000.00 or more.
- (g) The CAO shall be cognisant of all appropriate Municipal, Provincial and or Federal grant programs or opportunities.

5(4) Legal Responsibilities

- (a) The CAO shall provide Council with legal advice and interpretation as attained through consultation with the Town's designated legal counsel, of any and all matters pertaining to decisions of Council.
- (b) The CAO shall authorize, in the name of the Town, and subject to applicable legislation and the common law, the commencement or defence of a legal action or proceedings before a court, board, or tribunal, including reporting the commencement of the legal action, defence or proceeding to Council at the next meeting and may, if Council so provides by policy, delegate this authority to employees of the Town, but Council may by resolution, limit this authority to the extent deemed appropriate from time to time.
- (c) The CAO shall, where Council so provides by policy, settle a legal action or proceeding in accordance with the policy.
- (d) The CAO shall ensure that sufficient liability insurance is provided to Council and to Town employees.
- (e) The CAO shall ensure the legality of all contracts or agreements entered into by the Town.

5(5) Administrative Responsibilities

- (a) The CAO shall supervise the performance of all contracts and agreements entered into by the Town and ensure that all the conditions relating thereto have been fulfilled in accordance with the provisions of such contracts or agreements.
- (b) The CAO shall oversee the publication of all notices, ordinances or other documents required by law to be published and prepare, or approve, all reports which the Town or any officers thereof are required by law to prepare.
- (c) On the approval of Council, the CAO shall assume the duties of the Town Clerk as defined by the NB Municipalities Act section 76 or if not assuming the duties, will recommend to Council a suitable person whom the Council will appoint.
- (d) Except as provided by the Municipalities Act, all Directors including the office of clerk of the Town are accountable to the CAO for the performance of their

duties and shall submit the reports and recommendations of them to and through the CAO.

- (e) The CAO shall coordinate and direct the preparation of plans and programs to be submitted to Council for the construction, rehabilitation and maintenance of all Town property and facilities.
- (f) The CAO shall be guided by the policies and objectives as outlined by the Town of Saint Andrews Municipal Plan.
- (g) The CAO shall develop and recommend to Town Council, an Emergency Plan pertaining to the health, safety and welfare of the community and the civic employees.
- (h) The CAO shall manage, in coordination with the Town Planner, the continuing growth of residential and commercial development involving both private and public developers while preserving and enhancing the historic character of the Town, mitigating environmental concerns, and enhancing the lifestyle and quality of the community.
- (i) The CAO shall develop an organizational chart of departments, personnel, and duties and shall make recommendations to Council on the establishment or modification of the departments of the Town.
- (j) The CAO shall recommend to Council the appointment, employment, promotion, suspension or dismissal of Directors.
- (k) The CAO shall appoint, employ, promote and evaluate or suspend or dismiss for cause all other employees of the Town other than Directors.
- (l) The CAO shall carry out annual performance appraisals of all Directors and the Town Clerk and ensure that annual performance appraisals of all other personnel are carried out by their supervisors.

5(6) Professional Responsibilities

- (a) The CAO shall, where appropriate, establish and maintain positive working relationships with all pertinent personnel in the relevant Provincial and Federal government departments.
- (b) The CASO shall liaise with the executive director the Southwest New Brunswick Service Commission (SNBSC) and understand all by-laws, regulations, budgets and operations as they affect the operations and budget of the Town of Saint Andrews.
- (c) The CAO is encouraged to be a member of the Association of New Brunswick Municipal Administrators and any other professional association which furthers his/her professional growth.
- (d) The CAO shall develop yearly work related objectives and personal goals which will form the basis for the CAO's evaluation. These objectives and goals may include opportunities for training and professional development and would include attendance and participation at appropriate workshops, seminars and conferences.

5(7) Knowledge

- (a) The CAO shall have qualifications and education which enables him/her to effectively implement current infrastructure priorities and those objectives stated in the Saint Andrews Municipal Plan.
- (b) The CAO shall be knowledgeable of the *Community Planning Act* (R.S.N.B. 1973, c. C-12), and is cognizant of those responsibilities and obligations outlined in the *Community Planning Act* (R.S.N.B. 1973, c. C-12). The CAO will liaise with the Saint Andrews Development Officer and will take appropriate action based on the Development Officer's recommendations.

5(8) Relationship with the Development Officer/ Building Inspector/ Compliance Officer

- (a) The Chief Administrative Officer shall maintain a working relationship with the Development Officer/ Building Inspector/ Compliance Officer and shall coordinate and present all planning information to Council and to the Planning Advisory Committee as outlined in applicable legislation.

- (b) The Chief Administrative Officer shall communicate to Council and to the Development Officer//Building Inspector/ Compliance Officer, all decisions of the Planning Advisory Committee.
- (c) The Chief Administrative Officer shall communicate all planning decisions, resolutions or other pertinent matters from Council to the Planning/ Building Inspector/ Compliance Officer.
- (d) The Chief Administration Officer shall provide oversight for planning decisions and shall recommend actions in contentious planning issues which may include using contractual planning consultants and/or legal consultation.
- (e) The Development Officer/ Building Inspector/ Compliance Officer is a Director of the Town and is responsible to the Chief Administrative Officer for the performance of duties related to planning.

Other Positions held by the Chief Administrative Officer

- 6 On the approval of Council, the CAO shall assume the duties of the Town Clerk as defined by the *NB Municipalities Act* Section 76 or if not assuming the duties, will recommend to Council a suitable person whom the Council will appoint.

Evaluation of the Chief Administrative Officer

- 7 The Chief Administrative Officer is to be evaluated annually on a date either established by Council policy or on a mutually agreed upon date which coincides with the date the CAO was hired as outlined in Council Policy.
- 8 The Council, by resolution may rescind, amend, or vary the appointments authorized in Sections 6 hereof.


Repeal Provision

- 9 By-Law #67, a By-Law Concerning the Authority and Responsibilities of the Town Manager, passed by Town Council on June 4, 1984, and its amendments thereto, is hereby repealed.

In Witness whereof the Town of Saint Andrews has caused its corporate seal to be hereunto affixed to this By-Law the 9th day of September, 2013.

FIRST READING: August 12, 2013
 SECOND READING: September 9, 2013
 THIRD READING: September 9, 2013


 Mayor


 Clerk