

## By-law No. GG-004: RESPECTING THE CHIEF ADMINISTRATIVE OFFICER

By-law No. 126 of the Town of Grand Bay-Westfield in the Province of New Brunswick

Being a By-law of the Town of Grand Bay-Westfield to establish the position of Chief Administrative Officer; to establish and define the powers and duties of the Chief Administrative Officer; and to delegate powers, duties and functions to the Chief Administrative Officer.

**WHEREAS** Section 81 of the Local Governance Act 2017, establishes the position of Chief Administrative Officer and the offices powers as prescribed by Council;

**AND WHEREAS** Council wishes to delegate certain powers to the Chief Administrative Officer in accordance with Section 81 of the Local Governance Act;

**NOW THEREFORE** the Council of the Town of Grand Bay-Westfield, duly assembled, enacts as follows:

### 1. TITLE

- 1.1 This By-law may be referred to as the Chief Administrative Officer By-law 126.

### 2. PURPOSE

- 2.1 The purposes of this By-law is to establish the position of Chief Administrative Officer and to delegate certain powers duties and functions to the Chief Administrative Officer.

### 3. DEFINITIONS

- 3.1 In this By-law, the following words and phrases have the following meaning:

- a) "Act" means the Local Governance Act 2017, SNB 2017, 18, as amended from time to time;
- b) "Administration" means the general operation of the Town, including personnel, financial and other related matters as permitted by the Act;
- c) "Chief Administrative Officer" or "CAO" means the person appointed to the position of Chief Administrative Officer by Council in accordance with the Act;
- d) "Council" means the municipal Council of the Town of Grand Bay-Westfield;
- e) "Council Committee" has the same meaning as that prescribed in the Act and includes a Standing Committee;
- f) "Department" means any department of the Town;
- g) "Department Head" means the Commissioner, Director or Manager in charge of a Town Department;
- h) "Designated Officer" has the same meaning as that prescribed in the Act;
- i) "Mayor" means the Chief Elected Officer of the Town as described in the Act; and

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- j) "Non-profit" has the same meaning as that prescribed in the Act;
- k) "Road" has the same meaning as that prescribed in the Act; and
- l) "Town" means the Town of Grand Bay-Westfield and the area within its jurisdictional boundaries, as the text requires.

### **4. OFFICE**

- 4.1 The position of Chief Administrative Officer is hereby created and the person appointed to that position shall have the title "Chief Administrative Officer".
- 4.2 Council shall by resolution, appoint an individual to the position of Chief Administrative Officer.
- 4.3 Council shall establish the terms and conditions of the appointment of an individual to the position of Chief Administrative Officer including:
  - a) the term of the appointment; and
  - b) the salary and benefits to be paid or provided to the Chief Administrative Officer which may be varied from time to time by Council, subject to any agreement entered into by the Chief Administrative Officer and the Town.
- 4.4 The appointment of a person to the position of Chief Administrative Officer may only be made, suspended or revoked if the majority of the whole Council votes to do so.
- 4.5 Any employee of the Town functioning as the Acting Chief Administrative Officer shall have all the duties, powers and functions of the Chief Administrative Officer as provided in the Act, this By-law, the job description for Chief Administrative Officer and other Provincial legislation and Town By-laws, policies and procedures.
- 4.6 Council shall deal and communicate with Administration only through the Chief Administrative Officer or his/her designate with the exception of any inquiry or investigation involving the Chief Administrative Officer.

### **5. ACCOUNTABILITY**

- a. The Chief Administrative Officer shall be accountable to Council for the exercise of all the powers, duties and functions delegated to the Chief Administrative Officer by the Act, this By-law, and any By-laws or resolutions, policies or procedures adopted by Council from time to time whether such powers, duties and functions are exercised by the Chief Administrative Officer personally, or by someone to whom the Chief Administrative Officer has delegated that power, duty or function.
- b. The Chief Administrative Officer shall carry out his or her powers, duties and functions in compliance with:
  - a) the Act;

- b) this By-law;
  - c) any other applicable enactment;
  - d) any other applicable By-law or resolution passed by Council; and
  - e) any contract binding on the Town.
- c. The Chief Administrative Officer is the administrative head of the Town and shall be responsible for the implementation of the Town's policies and programs.

## **6. GENERAL POWERS AND DUTIES**

- 6.1 The Chief Administrative Officer has:
- a) all of the powers, duties and functions that are given to a Chief Administrative Officer under the Act or any other enactment;
  - b) all the powers, duties and functions delegated to the Chief Administrative Officer by Council in this or any other By-law, resolution, policy or procedure.
  - c) Primary responsibility for the Administration of the Town.
  - d) Except as otherwise determined by Council, the CAO shall be the Clerk, as defined by the Act, with all the powers and responsibilities pursuant to the Act.
- 6.2 The Chief Administrative Officer shall:
- a) be the contact between the Administration of the Town and Council, and communication from the Administration of the Town to Council shall flow through the Chief Administrative Officer;
  - b) be responsible for advising and informing Council with respect to:
    - i. the operations and affairs of the Town;
    - ii. the financial state of the Town;
    - iii. implementation of Council policies and procedures; and
    - iv. policies and procedures regarding the Administration of the Town.
- 6.3 Unless otherwise directed by Council, once every 12 months on a date determined by Council, the Chief Administrative Officer is required to provide Council with a report listing all agreements, contracts, and legal and financial /monetary settlements which have been approved by the Chief Administrative Officer or his/her designate since the previous reporting which involve an expenditure, revenue or payment.
- 6.4 The Chief Administrative Officer must either personally carry out all of the powers, duties and functions that are given the Chief Administrative Officer or delegate such powers, duties and functions to a Designated Officer of the Town or to a Town

employee. The Chief Administrative Officer can authorize the recipients of such delegations to further delegate their powers, duties and functions to other Town employees.

## **7. ADMINISTRATION**

7.1 The Chief Administrative Officer has the authority to:

- a) appoint a Department Head or other senior person as Acting Chief Administrative Officer to act during the absence of the Chief Administrative Officer. The Acting Chief Administrative Officer appointed by the Chief Administrative Officer shall have all the duties, powers and functions of the Chief Administrative Officer as provided in the Act, this By-law and other Provincial legislation and Town By-laws, policies and procedures.
- b) establish Administrative policies and procedures and in particular employment policies and procedures including policies and procedures that govern the actions of employees;
- c) hire, appoint, suspend, remove, transfer promote, reward or terminate any Town employee;
- d) determine salaries, benefits, hours of work and other working conditions for all Town employees;
- e) coordinate, direct, supervise and review the performance of Administration;
- f) conduct audits, investigations and studies of the Administration, subject always to the right of Council to direct audits, investigations and studies;
- g) establish the structure of the Administration including creating, eliminating, merging or dividing Departments provided that any such reorganization does not result in decreased level of services to the Town. If a major organizational change is contemplated, the Chief Administrative Officer shall consult with Council prior to proceeding with such organizational change; and
- h) attend all Council and Council Committee meetings.

7.2 The Chief Administrative Officer shall report to Council on any changes to the structure of the Administration.

7.3 The Chief Administrative Officer, subject to the directions and approval of Council, if applicable, negotiate all collective agreements with Town employees, where applicable.

7.4 The Chief Administrative Officer shall be responsible for ensuring the senior Town staff members are familiar with duties and responsibilities of the Chief Administrative Officer, Council processes, policies and processes, issues being addressed by Council and issues of concern to the Town.

7.5 All

## **8. FINANCIAL POWERS AND FUNCTIONS**

8.1 The Chief Administrative Officer shall:

- a) annually, or as required or directed by Council, cause to have prepared and submit budgets to Council for operating and capital programs in accordance with the Act;
- b) at the end of each fiscal year, or as required or directed by Council, prepare and submit a complete financial report on all financial activities of the Town during the preceding year; and
- c) monitor and report to Council as required or directed by Council on the operation and capital budgets approved by Council and in particular report on variances between budgeted and actual expenditures.

8.2 At no time may the Chief Administrative Officer authorize cumulative operating and capital expenditures in excess of the approved total operating and capital budgets unless in accordance with established policy and procedure respecting unbudgeted expenditures.

8.3 The Chief Administrative Officer shall select the financial institution(s) to be used by the Town, and shall open and close accounts that hold the Town's money.

8.4 The Chief Administrative Officer is authorized to invest funds on behalf of the Town in accordance with the provisions of the Act.

8.5 The Chief Administrative Officer may pay any amounts the Town is legally required to pay pursuant to an order or judgment of a Court, board or other tribunal having jurisdiction over an action, claim or demand against the Town.

8.6 The Chief Administrative Officer may approve the:

- a) settlement of all actions, claims or demands against the Town where the amount paid by the Town does not exceed \$500,000.00, inclusive of prejudgment interest and Court costs.
- b) settlement of all actions, claims or demands by the Town, where the difference between the amount recovered and the amount claimed by the Town does not exceed \$500,000.00, inclusive of prejudgment interest and Court costs.

8.7 The Chief Administrative Officer shall monitor and control expenditures within the budgets approved by Council. Budget amendments must be approved by Council.

## **9. MISCELLANEOUS POWERS**

9.1 The Chief Administrative Officer is authorized to:

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- a) retain and instruct legal counsel on matters involving all statements of claim and any actual legal and administrative proceedings involving the Town, and to report to Council within a reasonable time period the details of such matters, without limiting the foregoing:
  - i. providing legal services to Council and Administration, and
  - ii. appearing in all legal and administrative proceedings including commencing, defending and intervening in such proceedings to define, enforce and defend the legal and equitable rights of the Town and such other boards, authorities, agencies and other entities as may be required by Council;
- b) accept service of all notices and other documents on behalf of the Town;
- c) provide any and all certificates or statutory declarations on behalf of the Town;
- d) temporarily close, in whole or in part, any Road at any time where construction or maintenance activity adjacent to or on the Road may cause a hazard or for a municipal purpose or special event;
- e) prepare and issue distress warrants and seize and sell goods pursuant to distress warrants on behalf of the Town for recovery of tax and utility arrears pursuant to the Act;
- f) carry out inspections, remedies, enforcement or other actions pursuant to the Act any other applicable enactment or By-law;
- g) make determinations, undertake inspections, and issue orders pursuant to the Act or any other enactment or By-law which the Town is authorized to enforce including without limitation, matters related to dangerous or unsightly premises;
- h) appoint administrative support to the Planning Advisory Committee and Assessment Review Board;
- i) extend the time for endorsement of subdivision plans and for the registration of the subdivision plans in accordance with the Act;
- j) ensure the sufficiency of any petitions that may be submitted to the Town in accordance with requirements of the Act;
- k) conduct a census;
- l) in the case of an emergency, as determined by the Chief Administrative Officer, expend monies for the emergency that are not in an approved budget, up to a maximum of \$500,000.00 for each expenditure, and subsequently report to Council on the details of those expenditures;
- m) award all tenders and enter into all agreements and contracts required for the completion of such tenders in accordance with all Council approved By-laws,

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- procurement policies, policies, directives and guidelines and subject to the expenditure being included in an approved budget; and
- n) exercise such other power, duty and function as may be required by Council from time to time.
- 9.2 Unless otherwise directed by Council, in accordance with established procurement policies and procedures, as well as provisions of other By-laws, the Act and any other enactments, the Chief Administrative Officer is authorized to enter into any and all agreements and contracts on behalf of the Town including, but not limited to, agreements and contracts:
- a) necessary to provide insurance coverage for the Town
  - b) to retain the services of any individual or corporation or to acquire materials, supplies or goods for purposes related to the operations of the Town,
  - c) to acquire or dispose of interests in land,
  - d) incidental to the development and subdivision of land pursuant to the Local Governance Act and the Town's Land Use By-law, or together with such other documentation which may be required in order to give effect to the contract or agreement.

### **10. INDEMNIFICATION**

- 10.1 The Town shall indemnify the Chief Administrative Officer provided that the Chief Administrative Officer was acting in good faith to carry out the powers, duties and functions given to the Chief Administrative Officer by this By-law, the Act, any other applicable agreement binding on the Town, enactment or any other applicable By-law, resolution, policy or procedure.

### **11. INTERPRETATION**

- 11.1 Any reference in this By-law to the Act, any other enactment any other By-law, resolution, policy or procedure shall include all amendments thereto, all regulations and orders thereunder and any successor thereto.

### **12. CONFLICT**

- 12.1 The provisions of this By-law shall prevail in any case where there is conflict between this By-law and any previous resolution or By-law of Council.

### **13. SEVERABILITY**

- 13.1 If at any time any provision of this By-law is declared or held to be illegal invalid or ultra vires, in whole or in part, by a Court having jurisdiction, then that provision shall

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not apply and the remainder of this By-law shall continue in full force and effect and shall be constructed as if it had been enacted without the illegal, invalid or ultra vires provision.

**14. ENACTMENT**

14.1 By-law No. GG-004, a By-law of the Municipality of Grand Bay-Westfield Respecting the Chief Administrative Officer comes into force and effect on the date it is passed, signed and sealed.

**15. REPEAL**

15.1 By-law No. 126, being Town of Grand Bay-Westfield By-law Respecting the Chief Administrative Officer, and all amendments thereto, is hereby repealed.

READ A FIRST TIME by summary this 9th day of January, 2023.

READ A SECOND TIME by title this 9th day of January, 2023.

READ A THIRD TIME by title and ENACTED on this ### day of \_\_\_\_\_, 2023.

This By-law comes into force on the date of final passing thereof.

SIGNED AND APPROVED this ### day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
John Enns-Wind  
Chief Administrative Officer

\_\_\_\_\_  
Brittany Merrifield  
Mayor

Seal