



Notice of Meeting and Meeting Agenda Governance Committee

Wednesday, December 6, 2023

9:30 AM

6th Floor Boardroom
625 Fisgard St.
Victoria, BC V8W 1R7

M. Little (Chair), S. Goodmanson (Vice Chair), S. Brice, C. Coleman, B. Desjardins, G. Holman, P. Jones, K. Murdoch, D. Murdock, S. Tobias, C. Plant (Board Chair, ex officio)

The Capital Regional District strives to be a place where inclusion is paramount and all people are treated with dignity. We pledge to make our meetings a place where all feel welcome and respected.

1. Territorial Acknowledgement

2. Approval of Agenda

3. Adoption of Minutes

3.1. [23-942](#) Minutes of the October 4, 2023 Governance Committee Meeting

Recommendation: That the minutes of the Governance Committee meeting of October 4, 2023 be adopted as circulated.

Attachments: [Minutes - October 4, 2023](#)

4. Chair's Remarks

5. Presentations/Delegations

The public are welcome to attend CRD Board meetings in-person.

Delegations will have the option to participate electronically. Please complete the online application at www.crd.bc.ca/address no later than 4:30 pm two days before the meeting and staff will respond with details.

Alternatively, you may email your comments on an agenda item to the CRD Board at crdboard@crd.bc.ca.

5.1. Presentations

5.1.1. [23-957](#) Presentation: Sid Tobias, Mayor of View Royal, Re: Provincial Engagement Tool

6. Committee Business

6.1. [23-717](#) Code of Conduct - Next Steps

Recommendation: [At the October 4, 2023 Governance Committee meeting, this report was referred to the next Governance Committee meeting without discussion due to lack of time:]
The Governance Committee recommends to the Capital Regional District Board:
1. That staff report back with a draft Code of Conduct bylaw that includes the following elements:
a. Standards of conduct will be applicable to Board Directors, Alternate Directors, and elected members of CRD Committees and Commissions;
b. Allows for complaints to be made by Directors, Alternate Directors, and elected members on CRD Committees and Commissions;
c. Includes a clear process for filing complaints;
d. Allows for complaints to be referred to and adjudicated by a third-party investigator;
e. Has a preliminary screening mechanism, an informal and formal resolution process;
f. Allows for the imposition of remedies and sanctions;
g. Includes guidelines for confidentiality in investigations and provides for the public release of investigative reports;
h. Provides for the discretionary reimbursement of legal expenses.

Attachments: [Staff Report: Code of Conduct - Next Steps](#)
[Appendix A: UBCM Model Code of Conduct](#)
[Appendix B: Code of Conduct Comparison Tables \(CRD & BC\)](#)
[Appendix C: Esquimalt Policy: Council Code of Conduct](#)
[Appendix D: Langford Policy: Council Code of Conduct Policy](#)
[Appendix E: Saanich Policy: Code of Conduct](#)
[Appendix F: Sidney Bylaw: Council Code of Conduct Bylaw No. 2249, 2023](#)
[Appendix G: Comox Valley Regional District Policy: Board Code of Conduct](#)
[Appendix H: Nanaimo Bylaw: City of Nanaimo Bylaw No. 7348](#)
[Appendix I: Surrey Bylaw: Council Code of Conduct Bylaw 2020, No. 20020](#)
[Appendix J: Vancouver Bylaw: Code of Conduct No. 12886](#)
[Presentation: Code of Conduct Next Steps](#)

6.2. [23-982](#) Bylaw No. 4548: Victoria Family Court Committee - Amendment of Commission Bylaw No. 4453

Recommendation: The Governance Committee recommends to the Capital Regional District Board:
1. That Bylaw No. 4548, "Victoria Family Court and Youth Justice Committee Commission Bylaw No. 1, 2022, Amendment Bylaw No. 1, 2023", be introduced, and read a first, second, and third time;
2. That Bylaw No. 4548 be adopted.

Attachments: [Staff Report: Bylaw No. 4548: VFCYJC Amendment of Commission Bylaw](#)
[Appendix A: Bylaw No. 4548](#)
[Appendix B: Bylaw No. 4453 - Redlined Unofficial Consolidation](#)

6.3. [23-971](#) Appointment of Liaison to Accessibility Advisory Committee

Recommendation: The Governance Committee recommends to the Capital Regional District Board:
That Director [X] be appointed as the Governance Committee liaison to the Accessibility
Advisory Committee for a one-year term ending December 31, 2024.

Attachments: [Staff Report: Appointment of Liaison to Accessibility Advisory Committee](#)
[Appendix A: Accessibility Advisory Committee TOR](#)
[Appendix B: Previous Staff Report: April 5, 2023](#)

7. Notice(s) of Motion**8. New Business****9. Adjournment**

The next meeting will be held in 2024.

To ensure quorum, please advise Jessica Dorman (jdorman@crd.bc.ca) if you or your alternate cannot attend.

Meeting Minutes

Governance Committee

Wednesday, October 4, 2023

9:30 AM

6th Floor Boardroom
625 Fisgard St.
Victoria, BC V8W 1R7

PRESENT

Directors: M. Little (Chair), S. Goodmanson (Vice Chair) (9:33 am) (EP), K. Amour (for B. Desjardins), S. Brice, C. Coleman, G. Holman (EP), P. Jones, K. Murdoch, D. Murdock (9:32 am), S. Tobias, C. Plant (Board Chair, ex officio)

Staff: T. Robbins, Chief Administrative Officer; N. Chan, Chief Financial Officer; L. Hutcheson, General Manager, Parks and Environmental Services; K. Morley, General Manager, Corporate Services; R. Lachance, Senior Manager, Financial Services; C. Nielson, Senior Manager, Human Resources; A. Orr, Senior Manager, Corporate Communications; C. Jenkinson, Manager, Executive Services; B. Semmens, Manager, Financial Planning & Performance; M. Lagoa, Deputy Corporate Officer; J. Dorman, Committee Clerk (Recorder)

EP - Electronic Participation

Regrets: Director Desjardins

The meeting was called to order at 9:30 am.

1. Territorial Acknowledgement

Director Coleman provided a Territorial Acknowledgement.

2. Approval of Agenda

MOVED by Director Brice, **SECONDED** by Director Tobias,
That the agenda for the October 4, 2023 Governance Committee meeting be approved.
CARRIED

3. Adoption of Minutes

3.1. [23-721](#) Minutes of the August 2, 2023 Governance Committee Meeting

Director Murdock joined the meeting at 9:32 am.

Director Goodmanson joined the meeting electronically at 9:33 am.

MOVED by Director Coleman, **SECONDED** by Director Tobias,
That the minutes of the Governance Committee meeting of August 2, 2023 be adopted as circulated.
CARRIED

4. Chair's Remarks

Chair Little spoke about the items on today's agenda and a future presentation from Director Tobias.

5. Presentations/Delegations

There were no presentations or delegations.

6. Committee Business

6.1. [23-709](#) Service Planning 2024 - Advocacy Community Need Summary

T. Robbins spoke to Item 6.1.

Discussion ensued on the following:

- lessons learned from previous board advocacy
- method of changing board priorities, re-prioritization and delivery expectations
- current level of support versus level of advocacy priorities
- rationale for decrease of outgoing advocacy letters

**MOVED by Director Plant, SECONDED by Director Brice,
The Governance Committee recommends the Committee of the Whole
recommend to the Capital Regional District Board:
The Appendix A, Community Need Summary - Advocacy, be approved as
presented and form the basis of the Provisional 2024-2028 Financial Plan.
CARRIED**

6.2. [23-711](#) Service Planning 2024 - People Community Need Summary

T. Robbins spoke to Item 6.2.

Discussion ensued on the following:

- budget projections on implications, future forecasting and funding sources
- accessibility advisory committee support and accessibility plan
- bc assessment folio count numbers versus incremental growth and taxable folio numbers
- current CRD staff complement and efficiency review
- priority impact and resource assessment
- efficiency gains and capacity of the organization

**MOVED by Director Brice, SECONDED by Director Tobias,
The Governance Committee recommends the Committee of the Whole
recommend to the Capital Regional District Board:
That Appendix A, Community Need Summary - People, be approved as
presented and form the basis of the Provisional 2024-2028 Financial Plan.
CARRIED**

6.3. [23-710](#) Service Planning 2024 - Open Government Community Need Summary

T. Robbins spoke to Item 6.3.

Discussion ensued on the following:

- citizen experience versus point specific surveys and survey results
- open data initiatives (ODI) compliance and standard
- audio visual updates for meeting facilities, associated costs and preliminary budget
- FOI requests and drivers relating to requests
- expedited feasibility of audio visual project

Director Murdock left the meeting at 11:00 am.

Director Tobias left the meeting at 11:04 am.

MOVED by Director Plant, SECONDED by Director Tobias,

The Governance Committee recommends the Committee of the Whole recommend to the Capital Regional District Board:

That Appendix A, Community Need Summary - Open Government be approved, with expediting the implementation timeline of Item 12b 4-1 Meeting Management improvements to 2024-2025 service planning cycle as amended, and form the basis of the Provisional 2024-2028 Financial Plan.

CARRIED

6.4. [23-712](#) Service Planning 2024 - Business Systems & Processes Community Need Summary

T. Robbins spoke to Item 6.4.

Director Jones left the meeting at 11:08 am.

MOVED by Director Coleman, SECONDED by Director Murdoch,

The Governance Committee recommends the Committee of the Whole recommend to the Capital Regional District Board:

That Appendix A, Community Need Summary - Business Systems & Processes be approved as presented and form the basis of the Provisional 2024-2028 Financial Plan.

CARRIED

6.5. [23-670](#) Legislative and General Administration Service - 2024 Operating and Capital Budget

N. Chan spoke to Item 6.5.

Discussion ensued on the following:

- reserve transfers and replenishment
- surplus estimates for provisional and final budget
- expenditure versus revenue guidance indicators

Director Murdock returned to the meeting at 11:18 am.

**MOVED by Director Brice, SECONDED by Director Coleman,
The Governance Committee recommends the Committee of the Whole
recommend to the Capital Regional District Board:
That Appendices A through O, the Legislative and General Government
Operating and Capital Budgets be approved as presented and form the basis of
the Provisional 2024-2028 Financial Plan.**

CARRIED

6.6. [23-717](#) Code of Conduct - Next Steps

**MOVED by Director Brice, SECONDED by Director Plant,
That this item be referred to the Governance Committee at the next regular
meeting or a special meeting called by the Chair.**

CARRIED

7. Notice(s) of Motion

There were no notice(s) of motion.

8. New Business

There was no new business.

9. Adjournment

**MOVED by Director Murdoch, SECONDED by Director Brice,
That the October 4, 2023 Governance Committee meeting be adjourned at 11:33
am.**

CARRIED

CHAIR

RECORDER



Making a difference...together

REPORT TO GOVERNANCE COMMITTEE MEETING OF WEDNESDAY, OCTOBER 04, 2023

SUBJECT **Code of Conduct – Next Steps**

ISSUE SUMMARY

To provide the Board with resources to assist in the continued development of a Board Code of Conduct and obtain direction on key elements that will guide staff in developing the Code.

BACKGROUND

On February 8, 2023, the CRD Board endorsed the following motion:

1. That the CRD Board endorse development of a code of conduct to establish shared expectations of responsible conduct and behavior of CRD Directors; and
2. That staff be directed to report back to governance Committee with resources and examples to facilitate development of the code of conduct.

This motion was made in response to new legislative requirements that came into effect in June of 2022 which require local governments to consider adopting or revising an existing code of conduct within six months of the first Board or council meeting post-election.

To assist in the development of a code of conduct, the UBCM Working Group on Responsible Conduct (WGRC) has developed a series of guides and useful materials. Attached at Appendix A is an annotated Model Code of Conduct that can be used as a baseline code of conduct for consideration.

During the committee discussion on the previous report, staff heard that Directors were interested in learning about the approach taken by local member municipalities and having a comparative analysis of what other jurisdictions have done. Staff have undertaken a local review, and reviewed the approach taken by other mid-sized and large local governments in the province, and have summarized the results in Appendix B. Note that not all CRD member municipalities have updated their codes of conduct and some are still under development.

To date, the CRD Board has functioned without a code of conduct for Board Directors. In the past when minor concerns over conduct have arisen, they have been addressed by the Board Chair with support from the Corporate Officer and CAO. There is a good probability that enforcement provisions within a code of conduct will not need to be utilized, however, there are benefits in setting out a clear framework with standards for conduct which has a process to address potential breaches. Doing so will increase accountability for Director conduct and ensure certainty on the process by which Directors will be held to those standards.

ALTERNATIVES

Alternative 1

The Governance Committee recommends to the Capital Regional District Board:

1. That staff report back with a draft Code of Conduct bylaw that includes the following elements:
 - a. Standards of conduct will be applicable to Board Directors, Alternate Directors, and elected members of CRD Committees and Commissions;
 - b. Allows for complaints to be made by Directors, Alternate Directors, and elected members on CRD Committees and Commissions;
 - c. Includes a clear process for filing complaints;
 - d. Allows for complaints to be referred to and adjudicated by a third-party investigator;
 - e. Has a preliminary screening mechanism, an informal and formal resolution process;
 - f. Allows for the imposition of remedies and sanctions;
 - g. Includes guidelines for confidentiality in investigations and provides for the public release of investigative reports;
 - h. Provides for the discretionary reimbursement of legal expenses.

Alternative 2

The Governance Committee recommends to the Capital Regional District Board:

That the report be referred back to staff for additional information, as directed.

IMPLICATIONS

Format of the Code

Codes of conduct can take the form of a bylaw or a policy. There are pros and cons to both approaches and both formats have been utilized in the codes of conduct included in the appendices. Saanich, Langford and Esquimalt all have enacted their codes of conduct in a policy. Sidney, Nanaimo, Surrey and Vancouver have codes of conduct in a bylaw. City of Victoria Council has indicated its intention to proceed by way of bylaw, though the development of its code is still underway.

The benefit of a policy is that it allows more flexibility if the Board wishes to enact changes in the future. However, the perceived flexibility may also be a drawback, leading Directors to interpret provisions more as guidelines. A bylaw has a more robust process required for adoption and can only be amended through the adoption of an amending bylaw. Codes of conduct with more extensive and formal sanctions, including enforcement provisions and powers to appoint a third-party investigator, tend to be bylaws rather than policies, and for that reason, staff recommend adopting a code in the form of a bylaw.

Inclusion of Value Statements

The *Principles for Codes of Conduct Regulation* sets out foundational principles that must be considered when establishing standards of conduct:

- members must carry out their duties with integrity;
- members are accountable for the decisions that they make, and the actions that they take in the course of their duties;
- members must be respectful of others;
- members must demonstrate leadership and collaboration.

The value statement is a high-level expression of the foundational principles set out in the code. The WGRC Model Code of Conduct at Appendix A includes examples of how the foundational principles can be defined and how they can be expanded upon to form the basis for establishing the standards of conduct.

Standards of Conduct

The example codes in the appendices demonstrate a range of options that are typically included as standards of conduct. These include:

- Compliance with applicable laws;
- Interactions with staff;
- Respect for procedural requirements;
- Communication and advocacy;
- Use of social media;
- Collection and handling of confidential information;
- Conflict of interest;
- Receipt of Gifts;
- Use of public resources.

While there are a wide range of potential provisions, there is benefit in ensuring the code is clear, direct and concise and not overly long and detailed. Staff recommend that the code not include provisions that would duplicate or overlap with existing CRD policies that are applicable to Directors. For example, the CRD's Respectful Workplace Policy applies to both Directors and staff and includes a dispute resolution mechanism for the handling of complaints which would allow a staff member to make a complaint against a Director, and vice versa.

A key distinction in approach taken to standards of conduct is whether the code will simply require adherence with the provisions of the *Community Charter* and the *Local Government Act* that govern the conduct of elected officials (for example, conflict of interest; the receipt of gifts; reporting of related party transactions; financial disclosure statements) or, whether the code will expand on those requirements to include a more detailed description of the offending conduct. When assessing the spectrum of options, Esquimalt's code does not expand on legislated provisions; Langford and Comox Valley minimally expand on the requirements; Nanaimo and Sidney include more detail, particularly with respect to guideline on how to declare a conflict of interest; Surrey's code is very extensive; and, City of Vancouver has detailed provisions on receipt of gifts. Staff recommend CRD's approach fall somewhere in the middle and take an approach similar to Sidney, to provide enough detail to allow Directors or the public to easily understand the standard of behavior without having to refer to the source legislation.

Scope of Application

The Board has discretion to determine how broadly it wishes the code of conduct to apply. The CRD has an extensive governance system that includes the three CRD Boards; standing, select and advisory committees; and over 78 committees and commissions. Membership on these bodies varies from elected CRD Directors; Alternate Directors who are elected officials; Alternate Directors who are not elected officials (for Electoral Areas); elected officials from other jurisdictions (i.e. Municipal Councilors who sit on delegated bodies like Regional Water Supply Commission or Recreation Commissions); Elected Local Community Commissioners; and non-elected volunteer committee and commission members appointed by the Board (for some advisory committees and most local area committees and commissions).

A clear distinction can be made between elected and non-elected individuals. Elected officials have statutory responsibilities that they must comply with, for example to avoid a conflict of interest or to maintain confidentiality of *in camera* information, which do not apply by legislation to non-elected individuals. In addition, it is not within the Board's discretion to terminate an elected official's appointment, which is otherwise a potential option to resolve undesirable conduct by a non-elected appointed committee or commission member.

While it may be desirable to have one code of conduct for all individuals responsible for CRD governance, including non-elected committee and commission members may cast too wide a net, particularly if those individuals were included in the complaint and formal dispute resolution process. This would expand the class of potential complainants and subjects to several hundred individuals. Currently when members of the public are appointed to CRD governance bodies, they are asked to sign a confidentiality and non-disclosure agreement and are provided an orientation on acceptable conduct. With introduction of the code, staff could revise these agreements to include a more robust list of standards of conduct that mirror the provisions of the code of conduct.

Alternate EA Directors are unique in that they are appointed directly by the elected EA Director and can be terminated at will by the Director. Though they are not elected, Alternate EA Directors act in the place of a Director, swear an oath of office, and receive remuneration for their services making their position akin to an elected official.

To ensure there is a consistent standard of conduct at the CRD Boards, standing committee and delegated commissions, staff recommend that Directors and Alternate Directors (both municipal and EA) be included in the code's scope of application. This approach would be consistent with the definition of "Members" in the CRD Board Procedure Bylaw which includes municipal and electoral area directors and alternates when acting in the place of the director. Staff further recommend that elected Local Community Commissioners be included in the scope as well as elected officials that are members of delegated commissions.

In terms of the context for application, staff recommend that the code include a statement that clarifies it will apply to actions taken in the member's capacity as a CRD representative, but not apply to personal activities except in so far as it would bring the CRD into disrepute.

Enforcement Process

Codes are intended to be self-enforcing and to encourage voluntary compliance. The goal is not to penalize breaches but rather to ensure they do not happen in the first place due to mutual respect for shared expectations of behavior. Enforcement provisions in a code typically include the following provisions:

Complaint – Informal Resolution – Formal review – Investigation – Resolution – Release of Findings

Complaints

There are a wide range of approaches to defining the eligible class of complainants under a code of conduct. The default is that those subject to the code are permitted to file a complaint. Some jurisdictions also allow complaints from staff, volunteers, committee members, or any member of the public.

Allowing complaints from members of the public has the advantage of providing a way to address breaches that other Directors may not be aware of. It also potentially reduces any insider bias that might discourage Directors from filing a complaint against their colleagues. That said,

broadening the class of complainants also has drawbacks. It may increase the number of complaints, particularly with a 24-member Board, and it has the potential to be used for political purposes. A code can include non-obstruction provisions and confidentiality clauses that will ensure an investigation is carried out in a fair and confidential way, however, those provisions do not apply to members of the public which could disadvantage the subject of the complaint. Additionally, members of the public have other avenues they can pursue if they are concerned about a Director's conduct, including making a complaint to the B.C. Office of the Ombudsperson or expressing their views through voting. For these reasons, staff recommend that the CRD code of conduct restrict the class of complainants to those individuals subject to the Code.

Informal and Formal Dispute Resolution Provisions

The majority of codes of conduct reviewed by staff include provisions that allow for early and informal resolution of complaints either by staff or a third-party investigator, that advance to a formal investigation process if it cannot be resolved within a specified timeframe. Many codes also include provisions to summarily dismiss frivolous or vexatious complaints without merit. Staff recommend following this approach for CRD's code of conduct. Breaches may be committed accidentally or as a result of a momentary lapse of judgement and not all infractions will be serious enough in nature to merit a full investigation and report. Taking this approach will ensure resources are not wasted on trivial or insignificant breaches.

Note that codes of conduct are not meant to address behavior that is criminal in nature (i.e. fraud) or that would be best dealt with through the courts (i.e. disgorging financial gain obtained from not declaring a pecuniary conflict of interest).

Adjudication of Complaints

There are two main approaches taken to adjudication of complaints: ad hoc appointment of a third-party investigator or retaining an Integrity Commissioner. Both approaches have the benefit of not involving staff in the investigation and adjudication of the complaints, which is key to avoiding any perception of bias and to preserve the relationship between staff and elected officials.

City of Vancouver and Surrey are two jurisdictions that have a standing integrity commissioner. Under this model, a commissioner serves in a standing role to administer the code of conduct. In some cases, the commissioner will provide pro-active, code-related training. Integrity commissioners are usually appointed for a term by the Board or Council and fully manage all code-related administration including receiving complaints and early screening, through to investigation and reporting out on findings.

Appointment of a third-party investigator is a more common approach and the preference of staff for CRD's code of conduct. Rather than this being a standing position, an investigator would be retained on receipt of a complaint. Under this model, the CAO or Corporate officer would be designated to receive complaints, then have the power to retain an investigator. The advantages of this approach are that it's more cost-effective than having a commissioner on retainer, particularly when it's uncertain whether any complaints will come forward. A potential drawback is that it requires the involvement of staff in choosing and retaining an investigator which could give rise to a perception of bias or create conflict with the subject of a complaint. To mitigate this risk, the Board could endorse a pre-approved list of potential investigators that may be called upon if a complaint is filed.

Resolution Provisions

One of the main benefits of a code of conduct is that it allows for the imposition of sanctions against elected officials that are otherwise not available in legislation. The process set out in most newer codes of conduct provides that at the conclusion of an investigation, the investigator will report out to the Board or council on their findings and recommend a potential resolution. Sanctions should not be pre-determined, rather the sanction imposed should be proportionate to the nature and degree of the breach. It will be a decision of the Board or council whether it wishes to impose a recommended sanction, which should be done by resolution. Potential sanctions (with some exceptions) do not need to be listed in the code of conduct, however listing them increases transparency and may help to refine the scope of possible options. Possible sanctions may include:

- Issuing a formal warning or written reprimand;
- Impose a requirement for training;
- Requesting a written apology;
- Restricting benefits or revoking appointments;
- Imposing a reducing on compensation;

The codes attached as appendices demonstrate the full range of potential options. It must be noted that there are legal requirements and limits to the types of sanctions that can be imposed. A sanction imposed under a code of conduct cannot prohibit an elected official from fulfilling their statutory obligations, like attending Board meetings or communicating with constituents. If the Board wished to impose a reduction on compensation, that must be done by bylaw. Subjects of a complaint also have a right to procedural fairness before sanctions are imposed, which includes advance notice prior to the meeting where sanctions will be discussed, and the right to be heard prior to a decision being made.

Transparency and Release of Findings

The trend in newer codes of conduct is to allow for the public release of investigation reports, after the Board has received the report in closed session and determined any applicable remedies. Release of reports is an important feature of transparency to the public and should be included in the CRD code of conduct. Note however that not all information considered in an investigation should be released to the public and there are some limitations under the *Freedom of Information and Protection of Privacy Act* on what can be disclosed, for example, the substance of *in camera* deliberations or personal information of third parties should not be made public. It may be advisable to only release a summary of the findings and any remedies imposed.

Reimbursement of Legal Fees

Most codes of conduct allow the subject of a complaint to request reimbursement of any legal fees they incur in the investigation process. Including such a provision would allow the Board to make a decision based on the circumstances of each individual case. Some codes of conduct include a cap on the amount that may be reimbursed (Sidney and Comox Valley), while others only allow reimbursement in cases where the complaint is unsubstantiated (Langford).

Many codes of conduct reference indemnification under section 740 of the *Local Government Act* or their own indemnification bylaws as a possible means to recover legal fees. Note that this is not an available option as it only applies to costs of “defending an action or prosecution” neither of which is applicable to a code of conduct investigation, which is an administrative process not a legal proceeding.

CONCLUSION

To advance next steps in drafting a CRD code of conduct, Board input is required on which provisions it would like to include in its code. Staff have undertaken a survey of the approaches taken by other jurisdictions and provide an analysis of pros and cons of the possible provisions. With additional direction from the Board, staff will have sufficient information to progress with a draft code of conduct that will be brought back to Governance Committee and the Board for further review and discussion.

RECOMMENDATION

The Governance Committee recommends to the Capital Regional District Board:

1. That staff report back with a draft Code of Conduct bylaw that includes the following elements:
 - a. Standards of conduct will be applicable to Board Directors, Alternate Directors, and elected members of CRD Committees and Commissions;
 - b. Allows for complaints to be made by Directors, Alternate Directors, and elected members on CRD Committees and Commissions;
 - c. Includes a clear process for filing complaints;
 - d. Allows for complaints to be referred to and adjudicated by a third-party investigator;
 - e. Has a preliminary screening mechanism, an informal and formal resolution process;
 - f. Allows for the imposition of remedies and sanctions;
 - g. Includes guidelines for confidentiality in investigations and provides for the public release of investigative reports;
 - h. Provides for the discretionary reimbursement of legal expenses.

Submitted by:	Kristen Morley, J.D., General Manager, Corporate Services & Corporate Officer
Concurrence:	Ted Robbins, B. Sc., C. Tech., Chief Administrative Officer

ATTACHMENT(S)

- Appendix A: UCBM Model Code of Conduct
- Appendix B: Code of Conduct Comparison Tables (CRD & BC Local Governments)
- Appendix C: Esquimalt Policy: Council Code of Conduct
- Appendix D: Langford Policy: Council Code of Conduct Policy
- Appendix E: Saanich Policy: Code of Conduct
- Appendix F: Sidney Bylaw: Council Code of Conduct Bylaw No. 2249, 2023
- Appendix G: Comox Valley Regional District Policy: Board Code of Conduct
- Appendix H: Nanaimo Bylaw: City of Nanaimo Bylaw No. 7348
- Appendix I: Surrey Bylaw: Council Code of Conduct Bylaw 2020, No. 20020
- Appendix J: Vancouver Bylaw: Code of Conduct No. 12886

MODEL CODE OF CONDUCT

Getting Started on a Code of Conduct for Your Council / Board

Produced by the Working Group on Responsible Conduct

Updated in October 2022



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The *Working Group on Responsible Conduct* is a joint initiative between the Union of BC Municipalities, the Local Government Management Association, and the Ministry of Municipal Affairs. The Group was formed to undertake collaborative research and policy work around issues of responsible conduct of local government elected officials.

INTRODUCTION & EXPLANATORY NOTES

What is a code of conduct?

- A code of conduct is a written document that sets shared expectations for conduct or behaviour. A local government council or board can adopt a code of conduct to establish shared expectations for how members should conduct themselves while carrying out their responsibilities and in their work as a collective decision-making body for their community.
- Responsible conduct of elected officials is not optional; it is essential to good governance. Responsible conduct refers to how government elected officials conduct themselves with their elected colleagues, with staff, and with the public. It is grounded in conducting oneself according to principles such as integrity, accountability, respect, and leadership and collaboration.
- A code of conduct is one tool that can be used by a local government council or board to promote or further responsible conduct. See the [Forging the Path to Responsible Conduct in Your Local Government](#) guide for complementary tools.

What is the purpose of this document?

- The purpose of this document is to provide local government council or board members with a model code of conduct which establishes a set of principles and general standards of conduct that can be used as a starting point to develop their own code of conduct.
- This model code of conduct may also be useful for councils or boards who already have a code of conduct in place but are required to consider updating their code following the 2022 general local elections.
- The Working Group on Responsible Conduct has also developed a “Companion Guide” to accompany this document that provides discussion questions, things to keep in mind, and other tips to facilitate a council or board’s conversation in developing a code of conduct.
- The general standards of conduct set out in this model code of conduct reflect the foundational principles of integrity, respect, accountability, and leadership and collaboration. Local governments are required to reflect on these principles when considering whether to establish or update a code of conduct.
- Councils or boards may choose to customize and expand on the general standards of conduct provided in this model code of conduct by:
 - Adding examples of specific behaviours or other details to further elaborate on the standards of conduct that are provided;
 - Including additional standards of conduct that address topics of importance to the council or board and which are not directly dealt with by the standards of conduct already provided;
 - Including additional provisions in the code of conduct to support compliance or to cover informal resolution processes, formal enforcement processes such as complaints investigation and final resolution, and sanctions; and/or

- Incorporating, referencing or attaching other policies that are generally related to responsible conduct (such as social media policies), where a council or board feels it is appropriate.

What are some considerations in developing and using a code of conduct?

- In developing a code of conduct, council or board members should consider not just the content of the code of conduct, but also how to make it meaningful for members, both as individuals and as a collective decision-making body. While there is no ‘right’ way to develop and use a code of conduct, councils or boards should consider the following to maximize the effectiveness of their code of conduct:
 - *Don’t overlook the importance of the process when developing and adopting a code of conduct:* How a code of conduct is developed and adopted matters; providing opportunities for council or board members to discuss not just the “what” but also the “why” of a code of conduct will help ensure its effectiveness.

To start with, understanding the context for developing and adopting a code of conduct is important – is the council or board being proactive or have there been particular incidents of concern; does the council or board need to consider its collective “blind spots”, such as identifying and airing subconscious assumptions or systemic barriers? Discussing the language and content of the code of conduct and how it can best be customized to meet the needs of the council or board and individual members is also important. Discussing shared expectations as a part of the orientation process for newly elected officials or including the code of conduct as an outcome of a strategic planning process (with dedicated follow-up opportunities for development) could be good ways of ensuring a code of conduct is adopted in a meaningful way.

- *Make the code of conduct meaningful:* Finding ways to integrate the code of conduct into the council or board’s ongoing governance will help ensure that it remains a relevant and effective living document. For instance, some councils or boards may choose to refer to the code of conduct at every meeting; others may have a copy included in every agenda package or framed on the wall in the meeting room or placed on the desk of each elected official as a regular point of reference.
- *Make sure the code of conduct is consistent with existing laws and policies:* Council or board members may include a variety of topics in their code of conduct. Where existing laws or policies deal with topics they choose to include in their code of conduct (i.e., privacy legislation; Human Resources policies; etc.), they must ensure that their code of conduct is consistent with those laws and policies.
- *Offer ongoing advice, education, and support:* A council or board will also want to consider how members can best be supported in working with their code of conduct. This could include, for example, general education around the purpose of codes of conduct, opportunities for members to receive specific advice on how the code of conduct should be interpreted and applied, as well as other ongoing opportunities for support and education – for example, orientation when new members join the council or board or regular debriefings following council or board meetings to discuss how effectively the code of conduct guided the discussion.
- *Revisit it regularly:* Council or board members should approach their code of conduct as a living document to be reviewed and amended from time to time, to ensure that it remains a relevant and

effective tool. At a minimum, councils and boards are required to consider updating their code of conduct following a general local election; however, it is encouraged that councils and board review it more often than once per term.

MODEL CODE OF CONDUCT ¹

A. INTRODUCTION

As local elected representatives (“members”), we recognize that responsible conduct is essential to providing good governance for the [city / municipality / regional district / district] of [name of local government].

We further recognize that responsible conduct is based on the foundational principles of integrity, accountability, respect, and leadership and collaboration.

In order to fulfill our obligations and discharge our duties, we are required to conduct ourselves to the highest ethical standards by being an active participant in ensuring that these foundational principles, and the standards of conduct set out below, are followed in all of our dealings with every person, including those with other members, staff, and the public.

B. HOW TO APPLY AND INTERPRET THIS CODE OF CONDUCT

This code of conduct applies to the members of [city / municipality / regional district / district] of [name of local government]. It is each member’s individual responsibility to uphold both the letter and the spirit of this code of conduct in their dealings with other members, staff, and the public.

Elected officials must conduct themselves in accordance with the law. This code of conduct is intended to be developed, interpreted and applied by members in a manner that is consistent with all applicable federal and provincial laws, as well as the bylaws and policies of the local government, the common law and any other legal obligations which apply to members individually or as a collective council or board.

¹ Some sections of this code of conduct include additional information in a shaded box. This information is for guidance and context only and is not intended to be included in a local government’s code of conduct.

C. FOUNDATIONAL PRINCIPLES OF RESPONSIBLE CONDUCT

Information about the Foundational Principles:

The foundational principles of integrity, respect, accountability and leadership and collaboration have been identified by the Working Group on Responsible Conduct as being important to promoting and furthering responsible conduct and should be incorporated into every code of conduct.

A high-level definition of each foundational principle, along with a general description of the type of conduct that upholds each principle, is provided below. These principles are intended to provide members with a shared understanding of responsible conduct and guide them in fulfilling their roles and responsibilities both as individual elected officials and as a collective council or board. Key standards of conduct are set out in subsequent sections of this model code of conduct to provide specific examples of the types of conduct that demonstrate the foundational principles.

These four principles, in conjunction with the key standards of conduct, can be used as a guide for elected officials against which to assess their own conduct.

1. **Integrity** – means conducting oneself honestly and ethically.
2. **Respect** – means valuing the perspectives, wishes, and rights of others.
3. **Accountability** – means an obligation and willingness to accept responsibility or to account for one’s actions.
4. **Leadership and Collaboration** – means an ability to lead, listen to, and positively influence others; it also means coming together to create or meet a common goal through collective efforts.

D. OPTIONAL: VALUE STATEMENTS

Information about including Value Statements:

A council or board may wish to customize their code of conduct to include ‘value statements’. These are high-level statements that identify the values that the council or board consider important and feels should be included for context in their code of conduct.

A council or board may find the “Companion Guide” to this code of conduct useful as they consider how ‘value statements’ may be incorporated into their own code of conduct.

E. STANDARDS OF CONDUCT

Information about the Standards of Conduct:

The following section provides general standards of conduct that reflect the foundational principles identified above. A council or board can customize their code of conduct by including additional standards of conduct, or by expanding on existing standards of conduct to more clearly demonstrate how a member can exemplify responsible conduct.

A council or board may find the “Companion Guide” to this code of conduct useful as they consider how these general standards of conduct may be customized to best fit their needs.

Integrity: Integrity is demonstrated by the following conduct:

- Members will be open and truthful in all local government dealings, while protecting confidentiality where necessary.
- Members will behave in a manner that promotes public confidence, including actively avoiding any perceptions of conflicts of interest, improper use of office, or unethical conduct.
- Members will act in the best interest of the public and community.
- Members will ensure actions are consistent with the shared principles, values, policies, and bylaws collectively agreed to by the council or board.
- Members will demonstrate the same ethical principles during both meetings that are open and closed to the public.
- Members will express sincerity when correcting or apologizing for any errors or mistakes made while carrying out official duties.

Respect: Respect is demonstrated through the following conduct:

- Members will treat elected officials, staff, and the public with dignity, understanding, and respect.
- Members will acknowledge that people’s beliefs, values, ideas, and contributions add diverse perspectives.
- Members will create an environment of trust, including displaying awareness and sensitivity around comments and language that may be perceived as offensive or derogatory.

- Members will refrain from any form of discriminatory conduct against another elected official, staff, or the public.
- Members will honour the offices of local government and fulfill the obligations of Mayor/Chair and Councillor/Director dutifully.
- Members will recognize and value the distinct roles and responsibilities of local government staff.
- Members will call for and expect respect from the community towards elected officials and staff.
- Members will ensure that public statements and social media posts that concern other elected officials, staff, and the public are respectful.

Accountability: Accountability is demonstrated through the following conduct:

- Members will be transparent about how elected officials carry out their duties and how council conducts business.
- Members will ensure any information and decision-making processes are accessible to the public while protecting confidentiality where necessary.
- Members will correct any mistakes or errors in a timely and transparent manner.
- Members will accept and uphold that the council/board is collectively accountable for local government decisions, and that individual elected officials are responsible and accountable for their behaviour and individual decisions.
- Members will listen to and consider the opinions and needs of the community in all decision-making and allow for public discourse and feedback.
- Members will act in accordance with the law, which includes, but is not limited to, the statutes, bylaws, and policies that govern local government.

Leadership and Collaboration: Leadership and collaboration is demonstrated through the following conduct:

- Members will demonstrate behaviour that builds public confidence and trust in local government.

- Members will provide considered direction on municipal policies and support colleagues and staff to do the same.
- Members will educate colleagues and staff on the harmful impacts of discriminatory conduct, and take action to prevent this type of conduct from reoccurring if necessary
- Members will create space for open expression by others, take responsibility for one’s own actions and reactions, and accept the decisions of the majority.
- Members will advocate for shared decision-making and actively work with other elected officials, staff, the public, and other stakeholders to achieve common goals.
- Members will foster positive working relationships between elected officials, staff, and the public.
- Members will commit to building mutually beneficial working relationships with neighbouring First Nations to further advance reconciliation efforts.
- Members will positively influence others to adhere to the foundational principles of responsible conduct in all local government dealings.

F. ENCOURAGED: ENFORCEMENT MECHANISMS

Information about including Enforcement Mechanisms:

A council or board may want to include enforcement mechanisms to support compliance of their code of conduct. These mechanisms may include informal resolution, administratively fair and formal complaint processes, third-party investigators, and sanctions. Local governments are always first encouraged to focus on continuous improvement to foster responsible conduct, maintain good governance, and resolve conduct issues informally. A council or board may want to consult the “Companion Guide” and the “Forging the Path to Responsible Conduct in Your Local Government” guide for tips and resources that support the development of practical enforcement mechanisms.

G. OPTIONAL: ADDITIONAL POLICIES

Information about including Additional Policies:

A council or board may choose to include additional policies as part of their code of conduct. These additional policies may be useful in addressing matters of importance that require deeper attention or that are connected to the four foundational principles. Some examples of the types of policies that a council or board could include are provided below.

A council or board may want to consult the “Companion Guide” for tips and resources for including additional policies.

Policies About Communications

- *Use of social media by members.*
- *How members communicate as representatives of the local government.*

Policies About Personal Interaction

- *Interactions between members and others, such as the public, staff, bodies appointed by the local government, and other governments and agencies (e.g., respectful workplace policies).*
- *Roles and responsibilities of staff and elected officials.*

Policies About How Information is Handled

- *Proper handling and use of information, including information which is confidential or otherwise protected and is made available to members in the conduct of their responsibilities.*
- *Retention and destruction of records.*
- *How and when information that was relevant to the decision making process is made publicly available.*

Policies About Other Matters

- *Creation, use, and retention of the local government’s intellectual property.*
- *Personal use of local government resources.*
- *Receipt of gifts and personal benefits by members.*
- *Provision of remuneration, expenses, or benefits to members in relation to their duties as members.*

TABLE 1: Code of Conduct Comparison Table - CRD Municipalities

Code of Conduct Criteria	CRD Municipalities			
	Esquimalt	Langford	Saanich	Sidney
Bylaw/Policy	Policy: "Council Code of Conduct" (Appendix C)	Policy: "Council Code of Conduct Policy" (Appendix D)	Policy: "Code of Conduct" (Appendix E)	Bylaw: "Council Code of Conduct Bylaw No. 2249, 2023" (Appendix F)
Complainant	Council Member, Advisory Body Member, or Staff.	Council Members	Council Members and Staff.	Council Members and Staff.
Code applies to...	Members of Council and Advisory bodies	Council Members	Council Members Staff	Mayor and Council
Report of Findings	Confidential, unless it is determined by Council resolution to be a public matter.	Public. Council shall rise and report on the resolution at the next available Council meeting.	Confidential. The Mayor and the CAO or designates shall consider whether the Report or an executive summary of the Report should be presented to Council.	Public. Within 30 days of Council's final decision about an investigation, it must, subject to the Town's obligations under FIPPA, release publicly the investigation report or a summary and release a summary of Council's decision.
Investigator	< 30 days CAO and Mayor will try to resolve. After 30 days if issue not resolved, a third party investigator will be agreed to by both parties	Mayor and CAO may attempt to facilitate and seek a mutually beneficial resolution between parties but may identify multiple independent third-party investigators	< 30 days CAO and Mayor will try to resolve. After 30 days if issue not resolved, a third party investigator will be appointed.	Third party investigator selected by CAO, CO or Solicitor.
Preliminary Assessment	Yes, within 30 days.	Yes, within 30 days.	Yes, no timeline identified.	Yes, by the Towns solicitor. No timeline identified.

Note: Table is provided for convenience only and does not include every local government that has an adopted policy or bylaw.

TABLE 1: Code of Conduct Comparison Table - CRD Municipalities

Code of Conduct Criteria	CRD Municipalities			
	Esquimalt	Langford	Saanich	Sidney
Election Period Moratorium	Yes Will not be received in the period from the first day of the nomination period to the general voting day. Complaint is closed if Member is not re-elected.	No	No	Yes Complaints accepted and held in abeyance when submitted from the first day of the nomination period to the general voting day. At that time, complaints shall only proceed if they relate to a Council Member who was re-elected in that election year. For certainty, if the Council Member who is the subject of the complaint is not re-elected, the complaint must be rejected.
Penalties	Yes "Accountability"	Yes "Remedies"	Not specifically listed, policy includes two templates for Letters of Apologies	Yes "Remedies"
Obstruction Clause	Yes	Yes	No	Yes
Legal Fees	Yes, shall indemnify Council Members, Staff, or Advisory Body Members to reimburse reasonable costs.	Yes, shall reimburse reasonable legal fees when there is no breach found.	Yes, may reimburse for Council (indemnify) and Staff.	Yes, Council may reimburse if Council Member has not previously been found to breach the Code, and does exceed \$10,000.

Note: Table is provided for convenience only and does not include every local government that has an adopted policy or bylaw.

TABLE 2: Code of Conduct Comparison Table - Other BC Local Governments

Code of Conduct Criteria	Other Local Governments			
	Comox Valley RD	City of Nanaimo	Surrey	Vancouver
Bylaw/Policy	Policy: "Board Code of Conduct" (Appendix G)	Bylaw: "City of Nanaimo Bylaw No. 7348" (Appendix H)	Bylaw: "Council Code of Conduct Bylaw 2020, No. 20020" (Appendix I)	Bylaw: "Code of Conduct No. 12886" (Appendix J)
Complainant	Any Board Member or Staff.	Council Member, Committee Member, or Staff	Any person who has witnessed or experienced conduct by a Council Member.	Any person may submit a complaint to the Integrity Commissioner.
Code applies to...	All elected and appointed CVRD Directors, Alternate Directors and the Chief Administrative Officer	Council Members and Committee Members	Council Members	Council Members and Advisory Board Members
Report of Findings	Public. When the Board deliberates and votes on the investigation report, it will do so in a public meeting and the investigation report must be made available to the public.	Public	Confidential, provided within 10 working days of the closed meeting.	Public, Council deliberates and votes on the investigation report in a public meeting and the investigation report must be made available to the public.
Investigator	CAO and the Chair shall review the material information provided. Where appropriate, may engage the [Ethics] Commissioner or appoint another third party to assist in resolving the complaint or at their discretion.	Ethics Commissioner	Ethics Commissioner (formal resolution) Advisor is City Manager or designate (informal resolution)	Integrity Commissioner
Preliminary Assessment	Yes, by the Ethics Commissioner	Yes. On receipt of a Complaint, the Commissioner must conduct a preliminary assessment.	No. Mutual resolution (i.e. informal) is recommended as a first step if possible. Commissioner will have 10 working days to help resolve the matter informally and if not will begin investigation.	Yes, no timeline identified.

Note: Table is provided for convenience only and does not include every local government that has an adopted policy or bylaw.

TABLE 2: Code of Conduct Comparison Table - Other BC Local Governments Appendix B

Code of Conduct Criteria	Other Local Governments			
	Comox Valley RD	City of Nanaimo	Surrey	Vancouver
Election Period Moratorium	Yes Any formal complaint against a Board member received after August 1 in a general election year shall be held in abeyance until the new Board has been sworn in following the election. If the respondent is not re-elected in that election, the CAO must notify the complainant and respondent in writing that the complaint is closed on this basis.	Yes The Commissioner must reject a Complaint received regarding a Council Member seeking re-election in the period from the first day of the nomination period to the general voting day.	No	Yes The Integrity Commissioner must reject a complaint received regarding a Council member seeking re-election in the period from the last day of the nomination period to the general voting day. In the period 90 days prior to general voting day, may suspend any investigation underway until the day after the general voting day.
Penalties	Yes "Remedies"	Yes "Remedies"	Yes "Council Determination of Measures"	Yes "Remedies"
Obstruction Clause	Yes	Yes	Yes	Yes (also applies to staff as part of investigation)
Legal Fees	Yes, Council may reimburse when first formal complaint in 4-year term and do not exceed \$10,000.	Yes, Council may reimburse	Yes, for Council Member (and staff when complainant)	Yes, Council may reimburse

Note: Table is provided for convenience only and does not include every local government that has an adopted policy or bylaw.



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

COUNCIL POLICY

TITLE: Council Code of Conduct	NO. ADMIN – 80				
<p><u>1. POLICY:</u></p> <p>The purpose of this Policy is to identify standards for responsible conduct by Elected Officials, establish the complaint submission and dispute resolution processes, and provide options for sanctions for any breaches of the Code of Conduct for those situations not provided for in other enactments such as, but not limited to, the <i>Community Charter</i> and <i>Local Government Act</i>.</p> <p>To fulfill obligations and discharge the duties of Elected Officials, Council members are required to conduct themselves to the highest ethical standards by being active participants in ensuring that these foundational principles, and the standards of conduct detailed in this policy, are followed in all dealings with every person, including those with other Council members, Staff, and the public.</p> <p><u>2. SCOPE:</u></p> <p>This Code of Conduct applies to all Council members of the Township of Esquimalt and all Members of the Township’s Advisory Bodies. It is each member’s individual responsibility to uphold both the letter and the spirit of this Code of Conduct in their dealings with other Council members, Staff, and the public.</p> <p>Elected Officials must conduct themselves in accordance with the law. This Code of Conduct is intended to be developed, interpreted and applied by Council members in a manner that is consistent with all applicable federal and provincial laws, as well as the bylaws and policies of the Township of Esquimalt, the common law and any other legal obligations which apply to Council members individually or as a collective Council.</p> <p><u>3. DEFINITIONS:</u></p> <p>In this Policy:</p> <p>Acting Mayor means the acting Mayor, as established under Council Procedure Bylaw, 2022, No. 3081, as amended or replaced from time to time.</p> <p>Advisory Body means a Township committee, commission, board, or other advisory body established by Council.</p> <p>Advisory Body Member means a Council appointed member of an Advisory Body.</p> <p>Chair means the chair of an Advisory Body.</p> <p>Complaint means a formal allegation that a member has breached this Code of Conduct.</p>					
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Complainant means a person who has submitted a complaint under this Policy.

Council means the Municipal Council of the Township of Esquimalt.

Elected Officials means those individuals elected to the office of Mayor or Councillor for the Township.

Investigator means the third-party appointed to investigate and report on the findings through the complaint resolution process established under this Policy.

Member means a member of Council or an Advisory Body.

Personal Information means recorded information about an identifiable individual other than contact information as defined in the *Freedom of Information and Protection of Privacy Act*.

Respondent means a Council or Advisory Body Member whose conduct is the subject of a complaint.

Staff means an employee of the Township of Esquimalt.

Township means the Corporation of the Township of Esquimalt.

4. FOUNDATIONAL PRINCIPLES OF RESPONSIBLE CONDUCT:

- 4.1 There are four foundational principles established under this Code of Conduct:
1. Integrity means conducting oneself honestly and ethically.
 2. Respect means valuing the perspectives, wishes, and rights of others.
 3. Accountability means an obligation and willingness to accept responsibility or to account for one's actions.
 4. Leadership and Collaboration means an ability to lead, listen to, and positively influence others: it also means coming together to create or meet a common goal through collective efforts.

5. STANDARDS OF CONDUCT:

- 5.1 Integrity is demonstrated by Members through:
- Being open and truthful in all local government dealings, while protecting confidentiality where necessary.
 - Behaving in a manner that promotes public confidence, including actively avoiding any perceptions of conflicts of interest, improper use of office, or unethical conduct.
 - Acting in the best interest of the public and the community.
 - Ensuring actions are consistent with the shared principles, values, policies, and bylaws collectively agreed to by Council.
 - Employing the same ethical principles during both meetings that are open and closed to the public.
 - Expressing sincerity when correcting or apologizing for an errors or mistakes made while carrying out official duties.

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5.2 Respect is demonstrated by Members through:

- Treating Elected Officials, Staff, and the public with dignity, understanding, and respect.
- Acknowledging that people’s beliefs, values, ideas, and contributions add diverse perspectives.
- Creating an environment of trust, including displaying awareness and sensitivity around comments and language that may be perceived as offensive or derogatory.
- Refraining from any form of discriminatory conduct against another Member(s), Staff, or the public.
- Honouring the offices of local government and fulfilling the obligations of Mayor/Chair and Councillor dutifully.
- Recognizing and valuing the distinct roles and responsibilities of Township Staff.
- Calling for and expecting respect from the community towards Elected Officials and Staff.
- Ensuring that public statements and social media posts that concern other Members, Staff, and the public are respectful.

5.3 Accountability is demonstrated by Members through:

- Being transparent about how Elected Officials carry out their duties, and how Council conducts business.
- Ensuring any information and decision-making processes are accessible to the public while protecting confidentiality and Personal Information where necessary.
- Correcting any mistakes or errors in a timely and transparent manner.
- Accepting and upholding that Council is collectively accountable for Township decisions, and that individual Members are responsible and accountable for their behaviour and individual decisions.
- Listening and considering the opinions and need of the community in all decision-making and allowing for public discourse and feedback.
- Acting in accordance with the law, which includes, but is not limited to, the statutes, bylaws, and policies that govern local government.

5.4 Leadership and Collaboration is demonstrated by Members through:

- Demonstrating behaviour that builds public confidence and trust in local government.
- Providing considered direction on municipal policies and supporting Members and Staff to do the same.
- Educating colleagues and Staff in the harmful impacts of discriminatory conduct, and take action to prevent this type of conduct from reoccurring if necessary.
- Creating space for open expression by others, taking responsibility for one’s own actions and reactions, and accepting the decisions of the majority.
- Advocating for shared decision-making and actively working with other Elected Officials, Staff, Advisory Body Members, and other stakeholders to achieve common goals.
- Fostering positive working relationships between Elected Officials, Staff, Advisory Body Members, and the public.
- Committing to building mutually beneficial working relationships with neighbouring First Nations to further advance reconciliation efforts.
- Positively influencing others and adhering to the foundational principles of responsible conduct in all Township dealings.

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6. COMPLAINT PROCEDURES:

- 6.1 Complaints in good faith concerning a breach of the Code of Conduct may be submitted by a Council Member, Advisory Body Member, or Staff.
- 6.2 Complaints must be submitted in writing to both the Mayor and the Chief Administrative Officer within 90 days of the last alleged breach. Either the Mayor or the Chief Administrative Officer may authorize an extension to this timeframe if, in their opinion, the circumstances warrant an extension.
- 6.3 If the Mayor is the subject of, or implicated in the complaint, the complaint shall be addressed to the Acting Mayor and the Chief Administrative Officer, unless that individual is also the subject of, or implicated in the complaint.

In the event that the Chief Administrative Officer is the subject of, is in conflict of interest related to the complaint or is implicated in the complaint, the complaint shall be addressed to the Director of Human Resources and Community Relations unless that individual is the subject of or implicated in the complaint.

In the event that each of the Mayor, Acting Mayor, Chief Administrative Officer and Director of Human Resources and Community Relations are the subject of or implicated in the complaint, the Mayor and the Chief Administrative Officer shall appoint a Council Member and a Staff member to serve as designates for the purposes of the complaint.

- 6.4 Upon receipt of a complaint submitted under section 6.1, the Mayor and the Chief Administrative Officer or one or both of their designates if section 6.3 applies shall review the Policy and the complaint and shall attempt to resolve the matter informally. The role of the Mayor and CAO, or designates, is to be the keeper of the process, not to adjudicate the complaint. Their role is to facilitate and seek a mutually beneficial resolution between the parties. Information from both parties should be obtained, reviewed, and options for resolution canvassed.
- 6.5 Complaints regarding a Council Member seeking re-election will not be received in the period from the first day of the nomination period to the general voting day.
- 6.6 Where a complaint is made against a Member who, during the course of the investigation, ceases to hold office, the Mayor and Chief Administrative Officer, or designates, shall close the complaint and notify the Complainant(s) and the Respondent(s) of this decision.
- 6.7 Where a complaint is made against a Council Member and the complaint procedure overlaps with a municipal election and the Member is not re-elected in that election, the CAO must notify the Complainant(s) and the Respondent(s) in writing that the investigation has stopped on this basis and that the complaint is closed.

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6.8 Any individual covered by this Code of Conduct who makes an allegation or complaint under this Policy that is subsequently found to have been made in a deliberately vexatious or malicious manner, or otherwise to have been made in bad faith, will be subject to appropriate disciplinary action, which action may include, but is not limited to, in the case of Council members, sanctions described in section 8.1, in the case of Advisory Body Members, termination of the respective appointment(s), and in the case of Staff, the CAO may consider appropriate measures in respect of the complaint.

7.0 RESOLUTION PROCESS

7.1 General

7.1.1 Members must abide by the requirements of the Code of Conduct and agree to resolve disputes in good faith.

7.1.2 Members and Staff shall not obstruct the investigation process.

7.1.3 No Members or Staff will tamper with or destroy documents or electronic records related to any matter under investigation or refuse to respond when questioned regarding an investigation.

7.1.4 Throughout the informal or formal investigation, either party can have legal counsel present to assist them. This legal counsel will be required to maintain the confidentiality of all aspects of the investigation process.

7.1.5 In the 90 days prior to General Voting Day, Council may, by majority vote, suspend any investigation underway.

7.2 Informal Complaint Resolution Process

7.2.1 Members are encouraged to use the Informal Complaint Process specified in 7.2.2 as a first step in resolving a complaint.

7.2.2 Any member who has identified or witnessed conduct by another Member that they reasonably believe, in good faith, is in contravention of this Code of Conduct may address the prohibited conduct by requesting the Mayor and CAO to assist in informal discussion of the alleged complaint with the other Member(s) in a mediated attempt to resolve the issue. If the Mayor or CAO is the subject of, or implicated in a complaint, the appropriate designates under section 6.3 will be asked to assist.

7.2.3 A Member who is unsatisfied with the outcome of the Informal Complaint Process may escalate the complaint to the Formal Complaint Process.

7.2.4 Despite subsection 7.2.1, a Member may refer a complaint directly to the Formal Complaint Process without undertaking the Informal Complaint Process.

7.3 Formal Complaint Resolution Process

7.3.1 Complaints of breaches under the Code of Conduct may be submitted, in writing, to both the Mayor and the CAO within 90 days of the last alleged breach. If the Mayor or CAO is the subject of, or implicated in a complaint, the complaint shall be submitted to the appropriate designates specified in 6.3. The Mayor or the CAO, or their designates, are authorized to extend this 90 day deadline if circumstances are deemed to warrant an extension.

7.3.2 Within 30 days of receipt of a complaint, the Mayor and CAO, or their designates, will attempt to resolve the matter informally. If the matter is not resolved after 30 days, an independent Third-Party Investigator shall be agreed to by the parties. The investigator will possess the necessary professional skills, knowledge, and experience to investigate the complaint and be acceptable to all parties.

7.3.3 If the parties cannot agree on the choice of investigator, a nominee of the Complainant(s) and the Respondent(s) shall jointly select a suitable Third-Party Investigator.

7.3.4 If the Complainant(s) or the Respondent(s) refuse to participate in a formal investigation, the investigation may continue without the individuals' participation. The Third-Party Investigator will make their determination based on the information they are provided. Not participating in the process as outlined in sections 7.1, 7.2 and 7.3 may also be considered grounds for a complaint under this Policy.

7.4 Third-Party Investigator

7.4.1 The appointed Third-Party Investigator shall conduct an independent and impartial investigation that is fair, timely, and confidential.

7.4.2 Within 30 days of appointment, the third-party investigator shall provide a preliminary assessment of the complaint and determine whether to continue investigating or make written recommendation regarding the dismissal of the complaint on the grounds that it is either unfounded, beyond the jurisdiction of the Township, or unlikely to succeed and the Complainant(s), Respondent(s), and Council shall be so advised with reasons provided therefore.

7.4.3 Notwithstanding subsection 7.4.2, the Third-Party Investigator may request further information from the Complainant(s) before determining whether or not there are sufficient grounds for determining whether a breach of this Policy occurred.

7.4.4 Investigation updates will be provided to all involved parties at least every 30 days.

7.4.5 Within 90 days of the appointment the Third-Party Investigator shall conclude the investigation and provide a written, confidential report of the findings of the investigation to the Mayor and CAO, or their designates, including their findings as to whether there has been a breach of this Policy. If the Third-Party Investigator determines that concluding the investigation and providing the report within 90 days is not practicable, in which case the Third-Party Investigator must notify the Complainant(s) and Respondent(s) of the delay and provide a revised decision date. The revised decision date may be extended by periods of up to 30 days on provision of written notice to the Complainant(s) and Respondents(s).

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7.4.6 An investigation report must only disclose such matters as in the investigator's opinion are necessary for the purpose of the investigation report.

7.5 Council Deliberation

7.5.1 The CAO, or designate, shall include the report received under subsection 7.4.5 to the next closed meeting of Council and shall not discuss the contents of the report with any Members prior to the closed meeting.

7.5.2 After receiving the confidential report, Council members must not discuss the contents of the report with anyone, except for their legal counsel, prior to the closed Council meeting at which the report is to be discussed.

7.5.3 Members who are subject to the complaint and investigation must be afforded procedural fairness, including an opportunity to respond to the conclusions of the investigation before Council makes the decision on culpability or remedies.

7.5.5 If Council determines that any member(s) has not complied with this Code of Conduct, any of the remedies outlined in section 8.1 may be imposed by a majority vote of Council.

7.5.6 Any recommendations arising from the investigator's report and any actions taken in response will remain confidential, unless it is determined by Council resolution to be a public matter.

8.0 ACCOUNTABILITY MEASURES

8.1 If any Member(s) are found to be in contravention of this Code of Conduct, Council may choose by 2/3 majority to impose any of the following sanctions, providing they do not prevent the Member(s) from fulfilling their legislated duties of elected office:

- a) Written declaration from the Member(s) in contravention of the Code of Conduct promising immediate and ongoing compliance with the Code of Conduct;
- b) A letter of reprimand to the Member(s) in contravention of the Code of Conduct;
- c) Request that a letter of apology be issued from the Member(s) found to be in contravention to the affected individual;
- d) Publication of a letter of reprimand or request for apology, and the Member's response;
- e) Recommend that the Member(s) in contravention of the Code of Conduct attend counselling or training;
- f) Suspension or removal of the appointment of the Member(s) as Acting Mayor, including the loss of related remuneration if applicable;
- g) Suspension or removal from some or all internal and external Committees and Bodies to which Council or the Mayor has the right to appoint Members, including the loss of related remuneration if applicable;
- h) Restricting the Council member(s) from attending events as a representative of Council;
- i) Imposing further limits on Township-funded travel and expenses beyond those set out in Township policies;
- j) Limiting access to certain municipal facilities or portions thereof;
- k) Restricting how and when documents are provided to the Member(s); and
- l) Any other sanctions deemed reasonable and appropriate by Council.

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9.0 REPRISALS AND OBSTRUCTION

- 9.1 Members or Staff must not threaten or undertake any active reprisal against any Complainant(s) or against a person who provides information in the context of an investigation.
- 9.2 Any individual covered by this Policy who is found to have engaged in any reprisal or retaliation in violation of this Policy will be subject to the appropriate disciplinary action, which may include, and is not limited to, the sanctions outlined in section 8.4 of this Policy, or in the case of Staff, the CAO may consider appropriate measures in respect of the complaint.

10. REIMBURSEMENT

- 10.1 Council members, Staff, or Advisory Body Members who retain legal counsel to represent them in proceedings under this Policy may request in writing that the Township indemnify them for their reasonable costs of representation, in accordance with section 740 of the *Local Government Act* and the Officers, Employees and Members of Council Indemnification Authorization Bylaw, 1988, No. 1878.

11. REVIEW

- 11.1 This Code of Conduct shall be brought forward for review at the beginning of each year and at any other time at the direction of Council to ensure that it remains current and continues to accurately reflect the standards of responsible conduct expected of Members.

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City of Langford

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<p>Policy Name: Council Code of Conduct Policy</p> <p><input checked="" type="checkbox"/> New <input type="checkbox"/> Amendment</p>	<p>DEPARTMENT: Administration</p> <p>SP Governance/Corporate Policy and Planning/Policies and Procedures</p> <p>POLICY NO: POL-0169-ADMIN</p>
<p>Purpose</p> <p>1. The Council Code of Conduct Policy (the Policy) establishes a minimum set of standards and expectations with respect to the conduct, decorum, and behaviour of Council members.</p> <p>Application</p> <p>2. The Policy applies to all Council members.</p> <p>Statutory provisions</p> <p>3. Council members shall act and comport themselves in accordance with the law including, but not limited to:</p> <ul style="list-style-type: none"> a. <i>Local Government Act;</i> b. <i>Community Charter;</i> c. <i>Freedom of Information and Protection of Privacy Act; and</i> d. <i>Human Rights Code of British Columbia;</i> <p>Guiding principles</p> <p>4. Council members must carry out their duties with integrity, demonstrating honesty and high ethical standards that promotes public confidence in local government.</p> <p>5. Council members must be accountable, accepting responsibility for their behaviours, words, actions, and decisions.</p> <p>6. Council members must be respectful of others, conducting themselves with politeness and care shown toward others by demonstrating due regard, deference, and consideration for different perspectives.</p> <p>7. Council members must demonstrate leadership and collaboration by actively listening and encouraging people to come together to meet and work around a common goal or objective, or to resolve conflict through collective means and efforts.</p> <p>8. Council members must strive to represent all City businesses and residents equally and without bias, acting in the best interest of the City.</p> <p>General conduct</p> <p>9. Council members shall not contravene any City bylaw or policy.</p> <p>10. Council members shall not deliberately mislead staff, other Council members, or the public about any issue of City concern.</p> <p>Conduct at meetings</p> <p>11. Council members must act with decorum at Council and Committee meetings and in accordance with the Council Procedure Bylaw.</p> <p>12. Council members shall not interrupt other speakers or disturb the conduct of a meeting, except to make a point of order.</p>	

Conflict of interest

13. Council members shall comply with the conflict of interest provisions as set out in the *Community Charter*.
14. Council members must be free from undue influence and not act or appear to act in order to gain financial or other benefits for themselves, family, friends, or business.

Gifts

15. Council members must comply with the provisions regarding gifts as set out in the *Community Charter*.
16. Council members must not accept a fee, gift, or personal benefit that is connected with the performance of the duties of office, unless of they are of nominal values, are received as a matter of protocol or common business hospitality, or otherwise authorized by law.

Information management

17. Council members must collect, use, and disclose information acquired in the course of their duties, in accordance with the *Freedom of Information and Protection of Privacy Act*.
18. Council members must keep the following confidential:
 - a. Third-party personal information;
 - b. Information that constitutes the proprietary information of a third party, individual, or group;
 - c. Information that might reasonably be regarded as having been disclosed to a Council member in confidence; and
 - d. Information from in-camera Council or Committee meetings, including specific detail on whether an individual voted for or against an issue, unless Council has authorized the release of such information.
19. Council members shall not send emails or messages pertaining to City businesses from personal accounts or devices.

Use of public resources

20. Council members must not make unauthorized use of City resources.
21. Council members must not use City resources for election campaign purposes.
22. Council members must ensure that any City property in their care is properly secured and protected at all times.

Communication with the public

23. When interacting with the public, Council members shall accurately communicate Council decisions, even if they disagree with the majority decision, and by so doing, affirm the respect for and integrity in Council decision-making process.
24. Council members who disagreed with the majority decision shall refrain from making disparaging comments about other Council members or about Council's decisions.
25. When presenting their individual opinions and positions, members shall make it clear that they do not represent Council or the City.

Interactions with staff

26. Council members shall direct questions to the Chief Administrative Officer (CAO) or the Director of the appropriate department and refrain from directing staff.
27. Council members shall not instruct the City's contractors or service providers regarding City business.
28. Council members must treat staff professionally and with respect and must not publicly attack or disparage staff.
29. Comments about staff performance shall be made to the CAO through private correspondence or conversation.

30. Council members shall not attempt to influence human resources decisions regarding the decision to hire, transfer, promote, demote, discipline, or terminate staff.

Informal complaint procedure

31. Council members are encouraged to follow the informal complaint procedure under section 32 as the first means of remedying conduct that is believed to violate this Policy; however, Council members are not required to complete the informal complaint procedure prior to pursuing the formal complaint procedures.
32. A Council member who reasonably believes, in good faith, that another Council member's conduct is in violation of this Policy may:
 - a. Advise the Council member that the conduct violates this Policy and encourage the Council member to stop;
 - b. Request the Mayor (or Acting Mayor if the issue pertains to the Mayor) to assist in informal discussion with the Council member to resolve the issue.

Formal complaint procedure

33. A Council member who reasonably believes, in good faith, that another Council member's conduct is in violation of this Policy may submit a written complaint to the Mayor and CAO within six months of the alleged breach, or in the event that the Mayor or the CAO is implicated in the complaint, the Acting Mayor or the Director of Corporate Services, respectively.
34. Upon receipt of a complaint under section 33, the Mayor (or Acting Mayor) and the CAO (or Director of Corporate Services) may attempt to facilitate and seek a mutually beneficial resolution between the parties.
35. Upon receipt of a complaint under section 33 and if a resolution has not been achieved pursuant to section 34, the Mayor (or Acting Mayor) and the CAO (or Director of Corporate Services) shall identify multiple independent third-party investigators.
36. The complainant(s) and respondent(s) shall review the skills, background, and qualifications of the independent third-party investigators under section 35 and agree to appoint an investigator.
37. If the complainant(s) and respondent(s) cannot agree on the choice of an investigator, the complainant(s) and respondent(s) shall agree on a nominee who will appoint an investigator.
38. If the complainant(s) or respondent(s) refuses to participate in a formal complaint process, the process may continue without that individual's participation.
39. Council members shall not comment on the allegations until Council resolve to make information on the investigation public.

Third-party investigator

40. The third-party investigator appointed under sections 36 or 37 shall conduct an independent and impartial investigation of the complaint in a manner that is fair, timely, confidential, and accords with the principles of due process and natural justice.
41. The third-party investigator shall provide an initial update of the investigation within 30 days of his or her appointment to the Mayor (or Acting Mayor) and the CAO (or Director of Corporate Services) and to the complainant(s) and respondent(s).
42. Within 90 days of the appointment and as expeditiously as possible, the third-party investigator shall conclude the investigation and provide a written, confidential report of the findings of the investigation to the CAO (or Director of Corporate Services), including findings as to whether there has been a breach of this Policy.
43. The confidential report under section 42 shall include recommendations on the appropriate resolution of the complaint, which may include dismissal of the complaint or remedies under section 48.

44. Within 30 days after the conclusion of the investigation process, the third-party investigator shall destroy all notes that were taken or documents that were provided throughout the process of the investigation.

Council deliberation

45. The CAO (or Director of Corporate Services) shall include the report received under section 42 to an agenda of the earliest closed Council meeting that can be practicably scheduled and shall not discuss the contents of the report with any Council members prior to the closed Council meeting.
46. After receiving the confidential report, Council members must not discuss the contents of the confidential report with anyone, except for their legal counsel, prior to the closed Council meeting at which the confidential report will be discussed.
47. Council members who are subject to the complaint and investigation must be afforded procedural fairness, including an opportunity to respond to the conclusions of the investigation before Council makes the decision on culpability or remedies.

Remedies

48. Upon a finding by a third-party investigator that a Council member has breached this Policy, Council may resolve to:
 - a. Issue a letter of reprimand addressed to the Council member;
 - b. Issue a motion of censure;
 - c. Request that the Council member issue a letter of apology to the affected individuals or that the letter of apology be made public;
 - d. Require the Council member to attend remedial education and training;
 - e. Rescind the Council member's appointment as the Acting Mayor;
 - f. Remove the Council member from internal and external Council committees and bodies to which Council has the right to appoint Council members;
 - g. Refer the issue to a prosecutor or police; and
 - h. Impose any other sanction Council deems reasonable and appropriate, provided that the sanction does not prevent the Council member from fulfilling the legislated duties of a Council member and the sanction is not contrary to legislation.
49. Council shall rise and report on the resolution made under section 48 at the next available Council meeting.

Legal counsel

50. Throughout the complaint process under the Policy, the complainant(s) and respondent(s) may have legal counsel present to assist.
51. Council shall reimburse reasonable legal fees of the respondent(s) where there is a finding that there has not been a breach of the Policy.

COUNCIL POLICY

NAME:	CODE OF CONDUCT	
ISSUED:	November, 2016	INDEX REFERENCE:
AMENDED:	May 27, 2019 June 1, 2020	COUNCIL REFERENCE: 16/CNCL

PURPOSE:

To set minimum expectations for the behaviour of Council officials in carrying out their functions.

SCOPE:

All Council officials and the Chief Administrative Officer.

DEFINITIONS:

Advisory Body Member: a person sitting on an advisory committee, task force, commission, board, or other Council-established body.

Confidential Information: Confidential Information includes information that could reasonably harm the interests of individuals or organizations, including the District of Saanich, if disclosed to persons who are not authorized to access the information, as well as information to which section 117 of the *Community Charter* applies.

Council official: the Mayor and members of Council

Personal Information: has the same meaning as in the *Freedom of Information and Protection of Privacy Act*

Staff: an employee or contract employee of the District of Saanich, and includes staff that supports Advisory Bodies.

Municipal Officer: a member of staff designated as an officer under section 146 of the *Community Charter* or a bylaw under that section.

INTERPRETATION:

- (a) In this policy, a reference to a person who holds an office includes a reference to the persons appointed as deputy or appointed to act for that person from time to time.
- (b) This Code of Conduct applies to the use of social media by Council officials in relation to District related matters.

POLICY STATEMENTS:**1. Key Principles**

- 1.1. **Integrity:** Council officials are keepers of the public trust and must uphold the highest standards of ethical behaviour. Council officials are expected to:
 - make decisions that benefit the community;
 - act lawfully and within the authorities of the *Community Charter, Local Government Act* and other applicable enactments; and
 - be free from undue influence and not act, or appear to act, in order to gain financial or other benefits for themselves, family, friends or business interests.
- 1.2. **Accountability:** Council officials are obligated to answer for the responsibility that has been entrusted to them. They are responsible for decisions that they make. This responsibility includes acts of commission and acts of omission. In turn, decision-making processes must be transparent and subject to public scrutiny; proper records must be kept.
- 1.3. **Leadership:** Council officials must demonstrate and promote the key principles of the Code of Conduct through their decisions, actions and behaviour. Their behaviour must build and inspire the public's trust and confidence in local government. Council officials will provide leadership to District staff through the Chief Administrative Officer.
- 1.4. **Respect:** Council officials must conduct public business efficiently and with decorum. They must treat each other and others with respect at all times. This means not using derogatory language towards others, respecting the rights of other people, treating people with courtesy and recognition of the different roles others play in local government decision making.
- 1.5. **Openness:** Council officials have a duty to be as open as possible about their decisions and actions. This means communicating appropriate information openly to the public about decision-making processes and issues being considered; encouraging appropriate public participation; communicating clearly; and providing appropriate means for recourse and feedback.

2. General Conduct

- 2.1. Council officials must adhere to the key principles and provisions of the Code of Conduct.
- 2.2. Council officials must act lawfully and within the authorities of the *Community Charter, Local Government Act* and other applicable enactments and exercise a reasonable degree of care and diligence in carrying out their functions.
- 2.3. Council officials have an obligation to consider issues and exercise powers, duties and functions in a manner that avoids arbitrary and unreasonable decisions.
- 2.4. Council officials must avoid behaviour that could constitute an act of disorder or misbehaviour. Specifically, Council officials must avoid conduct that:
 - contravenes this policy;
 - contravenes the law, including the *BC Human Rights Code*, and other enactments, and District Bylaws; and
 - is an abuse of power or otherwise amounts to improper discrimination, intimidation, harassment or verbal abuse of others.

3. Collection and Handling of Information

- 3.1. Council officials must:
 - Collect and use personal information in accordance with *Freedom of Information and Protection of Privacy Act* legislation and the Protection of Privacy Policy and guidelines as established in Saanich;
 - Protect information that is specifically marked confidential, that is Personal Information and other material identified or understood to be confidential in nature;
 - Refrain from discussing or disclosing any Confidential Information with or to Staff, or with persons outside the organization except as authorized;
 - Refrain from discussing or disclosing any Personal Information with or to other Council Officials, Staff, or with persons outside the organization except in a manner consistent with the duty to protect Personal Information under the *Freedom of Information and Protection of Privacy Act*.

- Take reasonable care to prevent the examination of confidential material or access to Personal Information by unauthorized individuals;
 - Not use Confidential Information except for the purpose for which it is intended to be used;
 - Only release information in accordance with established District policies and procedures and in compliance with the *Freedom of Information and Protection of Privacy Act* (British Columbia);
 - Not disclose decisions, resolutions or report contents forming part of the agenda for or from an in-camera meeting of Council until a corporate decision has been made for the information to become public; and
 - Not disclose details on Council's in-camera deliberations or specific detail on whether individual Councillors voted for or against an issue.
- 3.2. Except in the normal course of duties, Council officials must not in any way change or alter District records or documents.
- 3.3. When dealing with Personal Information, Council officials must comply fully with the provisions of the *Freedom of Information and Protection of Privacy Act*. All reasonable and necessary measures must be taken to ensure that the personal or private business information of individuals is protected. Personal information includes information or an opinion about a person whose identity is apparent, or can be determined from the information or opinion.

4. Conflict of Interest

- 4.1. Council officials are expected to make decisions that benefit the community. They are to be free from undue influence and not act or appear to act in order to gain financial or other benefits for themselves, family, friends, or business interests.
- 4.2. Council officials must appropriately resolve any conflict or incompatibility between their personal interests and the impartial performance of their duties in accordance with statutory requirements of the *Community Charter*.

5. Interactions of Council officials with Staff and Advisory Body Members

- 5.1. Council is the governing body of the District of Saanich. It has the responsibility to govern the District in accordance with the *Community Charter* and other legislation.

- 5.2. The Mayor is the head and chief executive officer of the District and has a statutory responsibility to provide leadership to the Council and to provide general direction to municipal officers respecting the municipal policies, programs and other directions of the council as set out in the *Community Charter*.
- 5.3. Council officials are to contact staff including Municipal Officers, according to the procedures authorized by Council and the District Chief Administrative Officer regarding the interaction of Council officials and staff. As a general principle, the District adopts the one employee model where Council's point of contact with staff is the Chief Administrative Officer.
- 5.4. Council officials are to direct inquiries regarding departmental issues or questions to the District's Chief Administrative Officer or the Department Head (Director) of the appropriate department and refrain from contacting other staff without first discussing the issue with the Department Head.
- 5.5. Advice to Council from staff will be vetted, approved and signed by the Chief Administrative Officer.
- 5.6. Council officials will invite the Chief Administrative Officer to be present at any meeting between a Council official and a member of staff where such attendance is requested by the staff member.
- 5.7. Council officials are not to issue instructions to any of the District's contractors, tenderers, consultants or other service providers.
- 5.8. Council officials must not make public statements attacking or disparaging staff or Advisory Body Members and shall show respect for the professional capacities of staff. Council officials must not involve staff in matters for political purposes.
- 5.9. Council officials must not publish or report information or make statements attacking or reflecting negatively on staff or Advisory Body Members except to the Chief Administrative Officer as appropriate to bring a complaint to the attention of the Chief Administrative Officer for follow up.
- 5.10. Significant information provided to any member of Council, which is likely to be used in Council or in political debate, should also be provided to all other Council officials, and to the Chief Administrative Officer.
- 5.11. Council officials must treat members of the public, other Council officials, Advisory Body Members and staff appropriately, and without bullying, abuse or intimidation in order to preserve a workplace free from harassment.

6. Council Officials Use of Social Media

- 6.1. It is not the role of individual Council officials to report directly on District related business. Council officials will use caution in reporting decision-making by way of their social media profiles and websites ensuring that any material they publish is accurate, precise and communicates the intent of Council
- 6.2. Council officials will include an "in my opinion", or similar disclaimer, either within the banner of their individual social media site(s) or separately when making follow up posts to the District's social media postings and when creating original posts pertaining to District related business.

(Sample Disclaimer – “Opinions expressed are my own and do not reflect the view or opinions of the District of Saanich”)

- 6.3. Council officials will refrain from using or permitting use of their social media accounts for purposes that include generating or recirculating:
- defamatory remarks, obscenities, profane language or sexual content;
 - negative statements disparaging other members of council;
 - negative statements disparaging staff or calling into question the professional capabilities of staff;
 - content that endorses, promotes, or perpetuates discrimination or mistreatment on the basis of race, religion or belief, age, gender, marital status, national origin, physical or mental disability or sexual orientation;
 - statements that indicate an actual attitudinal bias in relation to a matter that is to be the subject of a statutory or other public hearing;
 - promotion of illegal activity;
 - information that may compromise the safety or security of the public or public systems.
- 6.4. Council officials must regularly monitor their social media accounts and immediately take measures to remove messages or postings by others that violate this Code of Conduct.

7. Interactions with the Public and the Media

- 7.1. Council officials will accurately communicate the decisions of the Council, even if they disagree with the majority decision of Council, and by so doing affirm the respect for and integrity in the decision-making processes of Council.
- 7.2. When discussing the fact that he/she did not support a decision, or voted against the decision, or that another Council official did not support a decision or voted against a decision, a Council official will refrain from making disparaging comments about other Council officials or about Council's processes and decisions.

8. Gifts and Personal Benefits

The receipt and reporting of gifts and personal benefits is dealt with under sections 105 and 106 of the *Community Charter*. Ultimately, the interpretation of those sections is a matter for the courts. However, the general language used in those sections creates some level of uncertainty and this Code of Conduct is intended to provide some guidance to Council officials.

8.1. What are Gifts and Personal Benefits?

- 8.1.1. Gifts and personal benefits are items or services of value that are received by Council officials for personal use. These would include, but are not limited to, cash, gift cards, tickets to events, items of clothing, jewellery, pens, food or beverages, discounts or rebates on purchases, free or subsidized drinks or meals, entertainment, invitations to social functions, etc.
- 8.1.2. The following are not to be considered gifts or personal benefits:
 - Compensation authorized by law (see section 105(2)(b) of the *Community Charter*).
 - Reimbursement for out of pocket costs incurred for authorized travel, living and accommodation expenses associated with attendance at an event or in connection with an authorized travel.
 - A lawful contribution made to a Council official who is a candidate for election conducted under the *Local Government Act*.

8.2. What Gifts and Personal Benefits may be Accepted?

- 8.2.1. Section 105(1) of the *Community Charter* prohibits Council officials from directly or indirectly accepting a fee, gift or personal benefit connected with the official's performance of the duties of office.
- 8.2.2. In accordance with section 105(2), a Council official may accept gifts and personal benefits received as an incident of the protocol or social obligations that normally accompany the responsibilities of elected office.
- 8.2.3. Gifts and personal benefits received in accordance with section 105(2)(a) of the *Community Charter* as referenced in section 8.2.2 must be reported and disclosed in accordance with section 106 to the Corporate Officer.
- 8.2.4. Where a gift or personal benefit that may be accepted under the *Community Charter* has a value in excess of \$100.00, the Council official who receives the gift will do so on behalf of the District and turn over the gift to the District, except as otherwise permitted by Council.
- 8.2.5. Council officials must not accept a gift or personal benefit that could reasonably be expected to result in a real or perceived conflict of interest, and to assist in avoiding that situation, Council officials will not accept gifts or personal benefits from business or commercial enterprises having a value that exceeds \$50.00 or, where the total value of such gifts and benefits, received directly or indirectly from one source in any twelve (12) month period, would exceed \$250.00.

8.3. How Must Gifts and Personal Benefits be Reported?

- 8.3.1. Council officials must disclose to the Corporate Officer gifts and personal benefits in accordance with section 106 of the *Community Charter*.
- 8.3.2. If a Council official receives a gift or personal benefit that they do not wish to accept, regardless of value, they may immediately relinquish the gift or personal benefit to the District, in which case a disclosure form would not be required. If the gift or personal benefit is not immediately relinquished to the District, then the Council official must file a disclosure form.
- 8.3.3. The content of the disclosure must comply with section 106(2) of the *Community Charter* and must be filed "as soon as reasonably practicable".

- 8.3.4. It is the responsibility of Council officials to be familiar with the provisions in the *Community Charter* relating to acceptance and disclosure of gifts and to ensure that they comply with these requirements as contemplated by the statute.
- 8.4. How are Gifts and Personal Benefits Valued?
- 8.4.1. For the purposes of this Code, the value of each gift or personal benefit shall be determined by its replacement cost, i.e., how much it would cost to replace the item?
- 8.5. Procedure for Dealing with Relinquished Gifts and Personal Benefits
- 8.5.1. Where a gift or personal benefit is relinquished to the District, the Corporate Officer will record the receipt of the item, nature of the gift or personal benefit, source (including the addresses of at least two individuals who are directors, in the case of a corporation), when the gift was received, and the circumstances under which it was given and accepted.

9. Breaches, Complaint Handling and Disciplinary Action

General

- 9.1. This section, Breaches, Complaint Handling and Disciplinary Action, is for internal use only. Council officials and staff within the District of Saanich can use this section to lodge a complaint against a member of Council in relation to their own interactions with that Council official.
- 9.2. Council officials are to abide by the requirements of the *Community Charter* and this Code of Conduct, and shall endeavour to resolve interpersonal disputes in good faith, recognizing that interpersonal rancour does not facilitate good governance.

Council Officials

- 9.3. Alleged breaches of this Code of Conduct by Council Officials shall be submitted in a written complaint (as per the Breach Template (Template1)) addressed to the Mayor and the Chief Administrative Officer within six (6) months of the last alleged breach

In the event that the Mayor is the subject of, is in a conflict of interest related to the complaint or is implicated in the complaint, the complaint shall be addressed

to the current Acting Mayor unless that individual is the subject of, or implicated in the complaint.

In the event that the Chief Administrative Officer is the subject of, is in a conflict of interest related to the complaint or is implicated in the complaint, the complaint shall be addressed to the Director of Corporate Services unless that individual is the subject of or implicated in the complaint.

- 9.4. Upon receipt of a complaint under section 9.3, the Mayor or designated Councillor, and the Chief Administrative Officer or designate (Director, Corporate Services) shall review the Policy and the details of the alleged breach.

The role of the Mayor and CAO (or designates) is to be the keeper of the process, not to adjudicate the complaint. Their role is to facilitate and seek a mutually beneficial resolution between the parties. Information from both parties should be obtained, reviewed and options for resolution canvassed. There is no ability for the Mayor / CAO or designates to give advice about the processing or quality of resolution of the complaint.

- 9.5. If the situation is not able to be resolved through the informal process within thirty (30) days, the Mayor and the Chief Administrative Officer or designates will work to appoint an independent third party. Numerous third party investigators will be identified. The Complainant(s) and Respondent(s) will be provided with the resumes of the identified parties. The Complainant(s) and Respondent(s) have the ability to agree or disagree that the proposed parties have the necessary professional skills, knowledge and experience to investigate the complaint (the "Third Party Investigator").

The Complainant(s) and Respondent(s) will notify the Mayor and CAO or designated if they have a conflict of interest with any of the proposed Third Party Investigators.

The Third Party Investigators will then be contacted and the individual with the next available opening in their schedule will be appointed to the matter.

- 9.6. If the parties cannot agree on the choice of investigator, a nominee of the Complainant(s) and the Respondent(s) shall jointly select a suitable Third Party Investigator.
- 9.7. If the Complainant(s) or Respondent(s) refuse to participate in a formal investigation, the investigation may continue without that individuals' participation. The Third Party Investigator will make their determination based on the information they are provided.

Not participating in the processes as outlined in sections 9.3 and 9.5 may also be considered grounds for a complaint under the policy.

9.8. Throughout both the informal or formal investigation, either party can have legal counsel present to assist them. This legal counsel will be required to follow any rules of in-camera or procedural bylaw process that are applicable.

9.9. As confidentiality is key, information provided to the Respondent(s) will be limited to the Breach Template completed by the Complainant.

9.10. The Third Party Investigator:

9.10.1. May conduct a preliminary assessment of the complaint, at the conclusion of which the investigator may determine to continue the investigation or make a written recommendation that the complaint be dismissed as unfounded, beyond jurisdiction or unlikely to succeed;

If the Third Party Investigator determines to continue the complaint, the Third Party Investigator shall:

9.10.2. Conduct an independent and impartial investigation of the complaint in a manner that is fair, timely, confidential and otherwise accords with the principles of due process and natural justice;

9.10.3. Provide an investigation update within ninety (90) days of his or her appointment to the Mayor and the Chief Administrative Officer or designates, as applicable, and to the Complainant and the Respondent;

9.10.4. Provide a written, confidential report (the "Report") of the findings of the investigation, including findings as to whether there has been a breach of this Code of Conduct, to the Mayor and the Chief Administrative Officer or designates, as applicable;

9.10.5. Provide recommendations regarding if a copy of or selected sections of the final Report should be provided to the Complainant and the Respondent; and

9.10.6. Provide recommendations in the Report as to the appropriate resolution of the complaint, which recommendations may include:

- dismissal of the complaint; or
- public censure of the Council Official or Officials for misbehaviour or a breach of this Code of Conduct; ¹

- a recommendation that a Council Official or Officials apologize to any person adversely affected by a breach of this Code of Conduct;
 - counselling of a Council Official or Officials; and/or
 - such other recommendations as are deemed appropriate in the professional judgment of the Third Party Investigator.
- 9.11. The Mayor and the Chief Administrative Officer or designates shall consider whether the Report or an executive summary of the Report should be presented to Council.
- 9.12. The Director of Corporate Services will receive and retain all reports prepared related to the complaint.
- 9.13. At the conclusion of the process the Third Party Investigator will destroy all notes that were taken or documents that were provided throughout the process of the investigation.
- 9.14. Where a Council Official alleges a breach of this Code of Conduct by a fellow Council Official, all Council Officials shall refrain from commenting on such allegations at open meetings of Council pending the conclusion of the Report and any decision of Council on the Report.
- 9.15. Council Officials who retain legal counsel to represent them in proceedings under this section may request in writing that the District indemnify them for their reasonable costs of representation, in accordance with section 740 of the *Local Government Act*.
- 9.16. Staff who retain legal counsel to represent themselves in proceedings under this section may request, in writing, reimbursement of reasonable costs from the District.

1. There is no defined or prescribed process related to public censure. The common law rules of natural justice would apply, meaning the right to a fair hearing, which includes the right to know the case against oneself, the right to be heard, the right to have an impartial adjudicator, and sometimes (but not always) the right to be represented by legal counsel.

10. Attachments

10.1. Attached to this document are two templates that could be utilized as part of the information resolution process:

- Proactive Apology by Council Member (Template 2)
- Apology by Council Member if held by Council to have violated the Code of Conduct (Template 3)

10.2. Please note: British Columbia's Apology Act provides that an "apology" made by or on behalf of a person in connection with any matter does not constitute an express or implied admission or acknowledgement of fault or liability. "Apology" is defined as "an expression of sympathy or regret, a statement that one is sorry or any other words or actions indicating contrition or commiseration, whether or not the words or actions admit or imply an admission of fault." The Act further provides that an apology does not void, impair or otherwise affect any insurance coverage that is available, or that would, but for the apology, be available to the person in connection with the matter. Evidence of an apology made by or on behalf of a person in connection with any matter is not admissible in any court as evidence of the fault or liability of the person in connection with that matter and must not be taken into account in any determination of fault or liability.

TEMPLATE 1 – Complaint

DATE OF COMPLAINT: _____

NAME OF COUNCIL OFFICIAL MAKING THE COMPLAINT: _____

NAME OF COUNCIL OFFICIAL WHO THE COMPLAINT IS AGAINST: _____

DATE OF THE BREACH: _____

SECTIONS OF THE COUNCIL CODE OF CONDUCT THAT HAVE BEEN BREACHED:

DETAILED DESCRIPTION OF INCIDENT AND HOW THE CODE OF CONDUCT WAS BREACHED

HAVE YOU APPROACHED THE OTHER COUNCIL OFFICIAL TO LET THEM KNOW ABOUT YOUR CONCERNS?

Y____ N____

WHAT IS THE RESOLUTION THAT YOU ARE SEEKING?

TEMPLATE 2 – Proactive Apology by Council Member

[DATE]

PERSONAL AND CONFIDENTIAL

[Name of Recipient]

[Title]

District of Saanich

[Address]

[City, Province Postal Code]

Dear [title] [last name]:

Re: Apology [subject]

As you know, on **[date]**, I **[briefly set out the nature of the offending conduct. It is recommended you provide dates, times and a description of the conduct at issue as you understand it].**

On **[date]**, you confronted me about my behaviour/conduct and expressed **[describe briefly the conduct complained of and how it affected the offended person].** I acknowledge that my conduct / actions made you feel **[describe how it affected the offended person]** and I admit that my **[actions / conduct]** were **[reformulate why your actions were wrong in your own words – ex: offensive, derogatory, belittling, in poor taste, defamatory, wrong, discriminatory, callous, harmful to your reputation etc.].**

Having reflected on **[your complaint / our conversation]**, I take full responsibility for my **[actions / conduct]** and wish to apologize for the harm that I have caused you. My behaviour was not in keeping with the key principles of our Council's Code of Conduct. In particular, I acknowledge that my conduct was in violation of **[identify the section(s) of the Code of Conduct breached].**

Going forward, I commit to being more careful in my **[words / actions]** and to making better efforts to respect and abide by my obligations set out in the Code of Conduct. Please accept my heartfelt apology.

Sincerely,

[name]**[title]**

TEMPLATE 3 - If held by Council to have violated the Code of Conduct

[DATE]

PERSONAL AND CONFIDENTIAL

[Name of Recipient]

[Title]

District of Saanich

[Address]

[City, Province Postal Code]

Dear [title] [last name]:

Re: Apology [subject]

As you know, on **[date]**, I **[briefly set out the nature of the offending conduct. It is recommended you provide dates, times and a description of the conduct at issue as you understand it]**.

On **[date]**, you confronted me about my behaviour/conduct and expressed **[describe briefly the conduct complained of and how it affected the offended person]**. In light of Council having concluded that my conduct constituted a violation of the District's Council Code of Conduct, I acknowledge that my conduct / actions made you feel **[describe how it affected the offended person]** and I admit that my **[actions / conduct]** were **[reformulate why your actions were wrong in your own words – ex: offensive, derogatory, belittling, in poor taste, defamatory, wrong, discriminatory, callous, harmful to your reputation etc.]**

Having reflected on **[the decision of Council]**, I take full responsibility for my **[actions / conduct]** and wish to apologize for the harm that I have caused you. My behaviour was not in keeping with the key principles of our Council's Code of Conduct. In particular, I acknowledge that my conduct was in violation of **[identify the section(s) of the Code of Conduct breached]**.

Going forward, I commit to being more careful in my **[words / actions]** and to making better efforts to respect and abide by my obligations set out in the Code of Conduct. Please accept my heartfelt apology.

Sincerely,

[name]**[title]**

TOWN OF SIDNEY

BYLAW NO. 2249

A BYLAW TO REGULATE THE CONDUCT FOR ELECTED OFFICIALS.

The Council of the Town of Sidney, in open meeting assembled, enacts as follows:

Title

This bylaw may be cited as “**Town of Sidney Council Code of Conduct Bylaw No. 2249, 2023**”.

PART 1 – COUNCIL CONDUCT

Purpose and Interpretation

- (1) This Bylaw sets out the rules Council Members must follow in fulfilling their duties and responsibilities as elected officials.
- (2) The residents of the Town of Sidney are entitled to have a fair, ethical and accountable municipal Council that acts in the public interest, conducting its business with integrity and in a fair, honest and open manner.
- (3) The public expects that Council Members will adhere to the highest standards of professional conduct. Honesty, integrity, respect, transparency, leadership, collaboration, and accountability are the core ethical values reflected in this Code. Council Members are expected to perform their functions of office faithfully and to the best of their knowledge and ability, in accordance with these core ethical values.
- (4) The provisions of this Bylaw are to be interpreted broadly and in a manner that is consistent with the *Community Charter*.
- (5) The intention of Council in enacting this Code is not to stifle Council Members or to limit their ability to fully perform the governmental and advocacy functions that their position entails, with all the vigour, flair and freedom that is typical of a well-functioning democratic institution, but instead to guide Council Members to undertake those functions in a manner that accords with sound ethical principles.

Definitions

- (6) In this Bylaw:

“**Council Member**” means the Mayor and Councillors for the Town of Sidney;

“**FIPPA**” means the *Freedom of Information and Protection of Privacy Act* (British Columbia); and

“**Staff**” means an officer or employee of the Town of Sidney, but does not include contractors.

Application

- (7) This Code applies to all Council Members, inclusive of their actions in their capacity as members of various boards, committees, and other discretionary appointments.
- (8) For clarity, the provisions of this Code apply without limitation to a Council Member's use of personal and professional social media accounts.

Comply with all Laws

- (9) Council Members shall comply with all applicable federal, provincial and municipal laws in the performance of their public duties, including but not limited to:
 - (a) the *Local Government Act*,
 - (b) the *Community Charter*,
 - (c) FIPPA;
 - (d) the *Financial Disclosure Act*, and
 - (e) all bylaws and policies of the Town.

General Conduct

- (10) Council Members shall not engage with others, including residents, Staff, committee members or other Council Members, in a manner that is abusive, bullying, intimidating or derogatory.
- (11) Council Members shall not use their office to attempt to gain personal benefits for themselves, their family members or their friends.

Respect for Process

- (12) Council Members shall perform their duties in accordance with the policies, procedures and rules of order established by Council from time to time.

Interactions with Staff

- (13) Council Members shall direct questions and inquiries regarding departmental issues to the Chief Administrative Officer ("CAO") and shall refrain from contacting Staff directly, unless the communication is minor and for the purpose of seeking administrative clarity.
- (14) Council Members shall not interfere with, hinder, or obstruct Staff in the exercise or performance of their roles, responsibilities, powers, duties, or functions, nor shall they impair the ability of municipal officers or Staff to implement Council policy decisions in accordance with section 153 of the *Community Charter*.
- (15) Council Members shall not request or require that Staff undertake personal or private work for or on behalf of a Council Member.

- (16) Council Members shall not request or require that Staff engage in political activities, or subject them to reprisal of any kind for refusing to engage in such activities.

Interactions with the Public and Media

- (17) In an effort to promote respect and integrity for Council decision-making, Council Members will accurately communicate the decisions of the Council, even if they disagree with the majority decision of Council.
- (18) Council Members shall refrain from making any disparaging comments about other Council Members.

Advocacy

- (19) Council Members shall represent the official policies or positions of Council to the best of their ability when designated as a delegate for this purpose. When presenting their individual opinions and positions, Council Members shall explicitly state that it is their own personal view and that they do not represent Council or the Town in those views.

Conduct of Meetings

- (20) Council Members shall prepare themselves for meetings, listen courteously and attentively to all discussions before the body, and focus on the business at hand. Council Members shall not interrupt other speakers, make personal comments not germane to the business of the body, or otherwise interfere with the orderly conduct of a meeting.

Handling of Confidential Information

- (21) Council Members shall keep information and records prohibited from release under section 117 of the *Community Charter* in strict confidence.
- (22) Without limiting the generality of section (21), Council Members shall not disclose:
 - (a) information or records concerning the property, personnel, legal affairs, or other information of the Town distributed for the purposes of, or considered in, a closed Council meeting;
 - (b) resolutions or Staff report contents from a closed meeting of Council unless and until a Council decision has been made for the information to become public; or
 - (c) details on Council's closed meeting deliberations or how individual Council Members voted on a question in a closed meeting.
- (23) Council Members shall not use confidential information to advance, directly or indirectly, their own personal, financial or other private interests.

Conflict of Interest

- (24) Council Members shall not participate in discussion of a matter, or vote on a question in respect of that matter, if the Council Member has a conflict of interest.

- (25) In respect of each matter before Council, Council Members shall:
- (a) assess whether they have a conflict of interest; and
 - (b) determine whether it is necessary to seek independent legal advice at their own cost, except where the CAO approves the cost, with respect to any situation that may result in a conflict of interest.
- (26) If a Council Member believes that they have a conflict of interest in respect of a matter in a Council or committee meeting, the Council Member shall:
- (a) prior to the matter's consideration, notify the Mayor or Chair of the meeting that they have a conflict of interest, stating in general terms why they consider that to be the case;
 - (b) leave any meeting if the matter is discussed and not return until the discussion has ended or voting has been concluded;
 - (c) refrain from discussing the matter with any other Council Member publicly or privately; and
 - (d) refrain from attempting in any way to influence the voting on any question in respect of the matter.

Gifts

- (27) Council Members shall not accept a gift or personal benefit, except in accordance with section 105 of the *Community Charter*.
- (28) Council Members shall disclose a gift or personal benefit, received in accordance with section 105 of the *Community Charter*, as per section 106 of the *Community Charter*.

Use of Public Resources

- (29) Council Members shall not use Town public resources such as Staff time, equipment, technology, supplies, facilities or other property for private gain, personal purposes, or election-related purposes.
- (30) Council Members shall not undertake municipal election campaign related activities at the Town Office or on other premises owned by the Town during regular working hours, unless such activities are organized by the Town.

PART 2 – INVESTIGATION, COMPLIANCE AND ENFORCEMENT

Implementation

- (31) As an expression of the standards of conduct for Council Members expected by the Town, this Code is intended to be self-enforcing. This Code therefore becomes most effective when Council Members are thoroughly familiar with it and embrace its provisions. For this reason, this Code shall be provided as information to all candidates for Council.

Staff Requests

- (32) If a Staff member believes that they have observed a Council Member engaging in conduct that would breach this Bylaw, and they wish to file a complaint, they must approach the CAO on a confidential basis and inform the CAO of the alleged breach.
- (33) Upon receipt of the confidential information in section (32), the CAO may:
 - (a) determine that no breach has occurred and inform the Staff member of that determination;
 - (b) attempt to address the alleged breach with the Council Member and, if the circumstances warrant, the Staff member; or
 - (c) request that the Staff member file a complaint in accordance with sections (42) and (43).

Council Requests

- (34) If a Council Member believes that they have observed another Council Member engaging in conduct that would breach this Bylaw, they must attempt to resolve the complaint directly with the other Council Member, if possible.
- (35) If the Council Member is unable to resolve the issue pursuant to section (34), they must bring the matter to the attention of the CAO.
- (36) The CAO or, if the CAO refers the matter to the Solicitor, the Solicitor may:
 - (a) with the agreement of the parties, engage a Mediator of their choosing to assist in the resolution of the matter;
 - (b) determine that no breach has occurred and inform the Council Member of that determination; or
 - (c) request that the Council Member file a complaint in accordance with sections (42) and (43).

Mediation

- (37) The Mediator must attempt to resolve the matter and in doing so may employ whatever methods they consider appropriate, including culturally appropriate and transformative or restorative justice approaches.
- (38) The parties can decline to participate in the mediation at any time.
- (39) The Mediator will assess the suitability of the matter for settlement or resolution on an on-going basis and may decline to assist at any point.

- (40) If the parties reach a mediated resolution, the Mediator must notify the CAO or Solicitor in writing of the terms of the resolution, upon receipt of which the CAO or Solicitor shall close the matter.
- (41) If the parties cannot reach a mediated resolution within 60 days of the commencement of mediation, the Mediator must refer the complaint back to the CAO or Solicitor to make a determination under section (36)(b) or (c). The Mediator may request that the CAO or Solicitor extend the mediation by periods of 30 days, if the circumstances warrant.

Complaint Procedure

- (42) Subject to compliance with sections (32) to (41), a Council Member or Staff member may submit a complaint to the CAO. Alternatively, if the complainant is the CAO or the complaint involves the CAO, then complaints may be submitted to the Corporate Officer.
- (43) A complaint must be in writing, must be submitted within 60 days of: the alleged breach, the notification to the CAO under section (33), or the failure to resolve the matter by mediation under section (41), as applicable, and must include, with sufficient detail:
 - (a) the name of the complainant;
 - (b) the name of the respondent Council Member(s);
 - (c) the conduct that the complainant alleges was in breach of the Code;
 - (d) the date of the alleged conduct;
 - (e) the parts of the Code the alleged conduct breached;
 - (f) the basis for the complainant's knowledge of the conduct; and
 - (g) if a complaint is submitted by a Council Member, whether the Council Member attempted to resolve the complaint informally under section (34).
- (44) A complaint may be accepted notwithstanding that it does not comply with all of the requirements of section (43), if the CAO or the Corporate Officer determines that there has been substantial compliance or if the circumstances otherwise warrant acceptance.
- (45) A complaint submitted outside the time limits set out in section (36) must be rejected, except that the CAO or Corporate Officer may grant an extension of no more than 30 further days if the circumstances of the complaint are sufficiently serious.
- (46) In an election year, complaints submitted from the first day of the nomination period to the general voting day must be accepted and held in abeyance until after the new Council has taken office. At that time, complaints shall only proceed if they relate to a Council Member who was re-elected in that election year. For certainty, if the Council Member who is the subject of the complaint is not re-elected, the complaint must be rejected.

Preliminary Assessment

- (47) On receipt of a complaint, the CAO or Corporate Officer shall conduct a preliminary assessment of the complaint or forward the complaint to the Town's Solicitor to conduct a preliminary assessment. If the CAO, Corporate Officer, or Solicitor determines that any of the following circumstances apply, then they must notify the complainant and respondent Council Member in writing that the complaint will be closed, stating the reasons for the closure:
- (a) the complaint is not with respect to a breach of this Bylaw;
 - (b) the complaint is frivolous, vexatious, or not made in good faith;
 - (c) the complaint would be more appropriately addressed through another process;
 - (d) the complaint was not in compliance with sections (35) and (36), and the respondent Council Member will be prejudiced by the complainant's failure to comply;
 - (e) the complainant wishes to withdraw the complaint, and it would be appropriate to allow the complaint to be withdrawn;
 - (h) the complaint was submitted by a Council Member, and the Council Member ought to have first attempted to resolve the complaint informally under section (32); or
 - (f) there are no possible grounds on which to conclude that a violation of this Bylaw has occurred.

Referral to Third-Party Investigator

- (48) If the CAO, Corporate Officer or Solicitor determines, after conducting a preliminary assessment, that the complaint should be accepted for investigation, they shall refer the complaint to a neutral and independent third-party Investigator of their choosing to conduct an investigation and notify the complainant and respondent Council Member of the referral.
- (49) The Investigator shall, at all times during an investigation, have all of the same powers to dismiss a complaint on a preliminary basis as set out in section (40).
- (50) An Investigator, once retained, may only be dismissed for cause.

Criminal Conduct

- (51) If, at any stage in the complaint procedure, the CAO, Corporate Officer, Solicitor or Investigator determines that there are reasonable grounds to believe that there has been a contravention of the *Criminal Code*, or learns that there is an ongoing police investigation into the conduct that gave rise to the complaint, then they must immediately refer the matter to the appropriate authorities and suspend any investigation into the complaint until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to Council, the complainant, and the respondent Council Member.

- (52) For certainty, a complaint must be suspended while the respondent is on a mandatory leave of absence under section 109.3(1) of the *Community Charter*, and may be recommenced only once the mandatory leave of absence ends pursuant to section 109.3(1)(b) of the *Community Charter*.

Formal Resolution

- (53) Once retained, the Investigator shall deliver the complaint to the respondent Council Member, along with a request that the respondent Council Member provide a written response to the complaint, together with any submissions that the respondent Council Member chooses to make, within 10 days, subject to the Investigator's discretion to reasonably extend the timeline.
- (54) The Investigator may, at their discretion, deliver the respondent Council Member's written response and submissions to the complainant and request a reply in writing within 10 days, subject to the Investigator's discretion to reasonably extend the timeline.
- (55) The Investigator may:
- (a) speak to anyone relevant to the complaint;
 - (b) request disclosure of documents relevant to the complaint; and
 - (c) access any record in the custody or control of the Town, within the meaning of FIPPA, with the exception of records subject to solicitor-client privilege.
- (56) The Investigator has discretion to conduct the investigation as they see fit, but must ensure that the investigation complies with the rules of procedural fairness and natural justice required in the circumstances of the complaint.

Adjudication and Reporting

- (57) The Investigator must conclude the investigation and make a determination regarding the alleged breach within 90 days of referral under section (41), unless the Investigator determines that doing so is not practicable, in which case the Investigator must notify the complainant and respondent Council Member of the delay and provide a revised decision date. The revised decision date may be extended by periods of up to 30 days at a time on provision of written notice to the complainant and respondent Council Member.
- (58) If, after reviewing all the material information, the Investigator determines that a Council Member did not violate this Bylaw, then the Investigator shall:
- (a) prepare a written investigation report providing reasons for their determination, which shall include a determination of whether the complaint was submitted frivolously, vexatiously or in bad faith; and
 - (b) deliver a copy of the investigation report to the complainant, respondent Council Member, and Council.

- (59) If, after reviewing all the material information, the Investigator determines that a Council Member did violate this Bylaw, then the Investigator shall:
- (a) prepare a written investigation report providing reasons for their determination, which must include:
 - i. a summary of the factual findings of the Investigator;
 - ii. an application of the Bylaw, and any other applicable law, to the facts;
 - iii. a recommendation of the appropriate sanction, subject to subsection (iv); and
 - iv. if applicable, a determination of whether the respondent Council Member took all reasonable steps to avoid the breach or whether the breach was trivial, inadvertent or due to an error in judgment made in good faith, in which case the Investigator may recommend that no sanction be imposed;
 - (b) deliver a copy of the investigation report to the respondent Council Member; and
 - (c) 48 hours after the delivery of the investigation report to the respondent Council Member, deliver a copy of the investigation report to Council.

Final Determination by Council

- (60) Council must, within 45 days of the Investigator's delivery of the investigation report, decide on the appropriate measures, if any, that are warranted by a breach of this Bylaw;
- (61) Prior to making any decision regarding the findings and recommendations set out in the investigation report, the respondent Council Member must be provided with an opportunity, either in person or in writing, to comment to Council on the Investigator's determinations and recommendations.
- (62) Investigation reports may, subject to section 90 of the *Community Charter*, be considered in a closed meeting.
- (63) Within 30 days of Council's final decision about an investigation, it must, subject to the Town's obligations under FIPPA:
- (a) advise the complainant of the outcome of the complaint;
 - (b) to the extent possible, release publicly the investigation report or a summary thereof; and
 - (c) release a summary of Council's decision.

Remedies

- (64) Remedies that may be imposed by Council for a violation of this Bylaw include the following:
- (a) a letter of reprimand from Council, addressed to the respondent Council Member;
 - (b) a recommendation from the Council that the respondent Council Member issue a letter of apology;
 - (c) the publication of the letters contemplated in subsections (a) and (b), along with the respondent Council Member's response, if any;
 - (d) directions to the CAO regarding the method of providing documents that contain confidential information to the respondent Council Member;
 - (e) a recommendation that the respondent Council Member attend specific training or counselling;
 - (f) limitations on access to certain Town facilities;
 - (g) prohibition from representing the Town at events and/or attending conferences;
 - (h) suspension or removal of the respondent Council Member from the Acting Mayor rotation;
 - (i) public censure of the respondent Council Member; or
 - (j) any other sanction recommended by the Investigator, so long as that sanction is within the authority of Council.
- (65) Council must consider the following factors when determining whether to impose a sanction on a Council Member:
- (a) the degree and nature of the conduct;
 - (b) whether the contravention was a single or repeated act;
 - (c) whether the Council Member knowingly contravened the Code;
 - (d) whether the Council Member took steps to mitigate or remedy the contravention;
 - (e) the Council Member's history of other contraventions; and
 - (f) if applicable, the Investigator's finding that the respondent Council Member took all reasonable steps to avoid the breach, or that the breach was trivial or done inadvertently or because of an error in judgment.

Confidentiality of Investigation

- (66) The CAO, Corporate Officer, Solicitor and Investigator must make all reasonable efforts to process and investigate complaints in a confidential manner.
- (67) The Investigator and every person acting under the Investigator's instructions must preserve confidentiality with respect to all matters that come into the Investigator's knowledge in the course of any investigation or complaint, except as otherwise required by law.

Obstruction

- (68) No Council Member or Staff member will obstruct the Investigator, Solicitor, CAO or Corporate Officer in relation to the administration of this Bylaw or the investigation of a complaint. Without limitation, the following shall constitute obstruction:
 - (a) uttering of threats against any person involved in the complaint;
 - (b) destruction of relevant records or documents; and
 - (c) refusal to cooperate with the Investigator.
- (69) A person who is found to have obstructed the Investigator, CAO, Solicitor or Corporate Officer will be subject to appropriate disciplinary action, which may include, but is not limited to:
 - (a) in the case of Council Members, sanctions and remedies as described in this Bylaw;
 - (b) in the case of Staff, disciplinary action or termination of employment for just cause, as applicable; or
 - (c) in the case of any complainant, prohibition from filing complaints under this Code for a specified period of time.

Reimbursement of Costs

- (70) A Council Member may make a request to Council for reimbursement of the costs of legal advice and representation in responding to the formal complaint process outlined in this Bylaw. If appropriate, after considering all of the circumstances, Council may resolve to reimburse legal fees reasonably incurred by a Council Member, provided that all of the following are met:
 - (a) the Council Member's has not previously been found to have breached the Code; and
 - (b) the amount claimed does not exceed \$10,000.

Frivolous and Vexatious Complaints

- (71) A person covered by this Bylaw who makes a complaint that is subsequently found to have been made in a deliberately frivolous, vexatious or malicious manner, or otherwise

made in bad faith, will be subject to appropriate disciplinary action, which may include, but is not limited to:

- (a) in the case of Council Members, sanctions and remedies as described in this Bylaw;
- (b) in the case of Staff, disciplinary action or termination of employment for just cause, as applicable; or
- (c) in the case of any complainant, prohibition from filing complaints under this Code for a specified period of time.

Read a first time the _____ day of _____, 2023.

Read a second time the _____ day of _____, 2023.

Read a third time the _____ day of _____, 2023.

Adopted the _____ day of _____, 2023.

MAYOR

CORPORATE OFFICER

Policy Title: Board Code of Conduct	Policy Number: P78
Policy Category: Administration	
Approval Date: August 25, 2020	Policy Owner: Corporate Services
Approved by: CVRD Board	File Reference: 0340-50

PREAMBLE

1. As local elected representatives the Board recognizes that responsible conduct is essential to providing good governance for the Comox Valley Regional District.
2. Board members are required to conduct themselves to the highest ethical standards by being an active participant in ensuring that the foundational principles, and the standards of conduct set out below, are followed in all dealings with every person, including those with other members, staff, and the public.

PRINCIPLES

3. The Board recognizes that responsible conduct is based on the foundational principles of integrity, accountability, leadership, responsibility, respect, openness and collaboration.
 - Integrity – Board members must carry out their responsibilities to the highest standard of integrity and are expected to:
 - make decisions that benefit the community;
 - act lawfully and within the authorities of the Comox Valley Regional District;
 - be free from undue influence and not act, or appear to act, in order to gain financial or other benefits for themselves, family, friends or business interests.
 - Accountability – Board members are obligated to answer for a responsibility that has been entrusted to them. They are responsible for the decisions they make.
 - Leadership – Board members must demonstrate and promote the key principles of the Code of Conduct through their decisions, actions and behaviour. Their behaviour must build and inspire the public's trust and confidence in the Regional District.
 - Responsibility – Board members must act responsibly, within the law and within the authorities of the *Local Government Act*. They must follow the letter and spirit of policies and procedures, and exercise all conferred power strictly for the purpose for which the powers have been conferred.
 - Respect – Board members must conduct public business efficiently, with decorum and with proper attention to the Comox Valley Regional District's diversity. They must treat each other and others with respect at all times. This means not using derogatory

language towards others, respecting the rights of other people, treating people with courtesy and recognizing the different roles others play in local government decision making;

- Openness – Board members have a duty to be as open as possible about their decisions and actions while respecting the need to keep confidential matters confidential; and
- Collaboration – The social fabric of communities and the health and wellbeing of citizens depend on solid and sustainable community partnerships. Board members shall seek to collaborate whenever possible and appropriate and shall utilize this principle to guide their work and conduct.

PURPOSE

4. The purpose of this Policy is to:
 - i. establish standards for the ethical conduct of elected officials relating to their roles and obligations as representatives of the Comox Valley Regional District; and
 - ii. provide clarity to the public as to the behaviour they can expect from CVRD elected officials.

SCOPE

5. All elected and appointed CVRD Directors, Alternate Directors and the Chief Administrative Officer.

DEFINITIONS

Board members: all Directors and Alternate Directors of the Comox Valley Regional District

CAO: Means the Chief Administrative Officer for the Comox Valley Regional District.

Commissioner: Means the person appointed as the Ethics Commissioner by the Board to fulfill the duties and responsibilities assigned to that position as set out in this Policy or an ad hoc Commissioner appointed by the CAO to administer this Policy in respect of an individual complaint.

POLICY

General Conduct

6. All Board members must adhere to the key principles and provisions of the Code of Conduct.
7. Board members must act lawfully and within the authorities of the Local Government Act and Community Charter, and exercise a reasonable degree of care and diligence in carrying

out their functions.

8. Board members have an obligation to consider issues consistently and fairly.
9. Board members must avoid behaviour that could constitute an act of disorder or misbehaviour. Specifically, Board members must avoid conduct that:
 - (1) Contravenes the law, including the BC Human Rights Code, the Local Government Act, the Community Charter, CVRD Bylaws, associated regulations, and CVRD Policies;
 - (2) Is an abuse of power or otherwise amounts to discrimination, intimidation, harassment, verbal abuse, or the adverse treatment of others;
 - (3) Prejudices the provision of a service or services to the community.
10. Board members are obliged to question any request to act or make a decision that they think may be unethical or unlawful.

Conflict of Interest

11. Board members are expected to make decisions that benefit the community. They are to be free from undue influence and not act or appear to act in order to gain financial or other benefits for themselves, family, friends, or business interests.
12. Board members must appropriately resolve any conflict or incompatibility between their personal interests and the impartial performance of their duties in accordance with statutory requirements of the Community Charter.

Meetings

13. Members will recognize the importance of the role of the chair of meetings, and treat that person with respect at all times.
14. Board members shall prepare themselves for meetings, listen courteously and attentively to all discussions before the body, and focus on the issues and the facts.
15. The diverse perspectives of each director, as they reflect the interests of their own communities, will be respected.
16. When making decisions, Board members must consider all relevant facts, opinions and analyses of which they should be reasonably aware.
17. Strong disagreements and conflicts will be seen as a natural part of board and committee work. Such disagreements will not be taken personally, nor made personal.

18. Board members can expect courteous behaviour from each other. Directors shall not interrupt other speakers, make personal comments or comments not germane to the business of the body, or otherwise disturb a meeting. Meetings shall provide an environment for transparent and healthy debate on matters requiring deliberation by the Board.
19. Board members, when speaking publicly and at board and committee meetings, will avoid inflammatory language. They are expected to speak in an objective manner.

Policy Role of the Board

20. Members shall respect and adhere to the Board-CAO structure of government as practiced at the Comox Valley Regional District. In this structure, the Board determines the policies of the CVRD with the advice, information and analysis provided by the public, committees, and CVRD staff. Members, therefore, shall not interfere with the administrative functions of the CVRD or with the professional duties of staff; nor shall they impair the ability of staff to implement Board policy decisions.

Use of Public Resources

21. Members shall not use public resources, which are not available to the public in general, such as staff time, equipment, supplies or facilities, for private gain or personal purposes.

Communication and Media Relations

22. The Regional District Board Chair is the spokesperson for the Regional District on Board matters.
23. Board members will accurately communicate the decisions of the Board, even if they disagree with the majority decision of the Board. Board members will refrain from making disparaging comments about other Directors, the Board's decision itself or individual staff and by doing so will affirm the respect for and integrity of the decision making process of the Regional District Board.

Gifts and Personal Benefits

24. Board members shall not accept any money, property, position or favour of any kind whether to be received at the present or in the future, from a person having, or seeking to have dealings with the CVRD, save for appropriate refreshments or meals, except where such a gift or favour is authorized by law, or where such gifts or favours are received as an incident of the protocol, social obligation or common business hospitality that accompany the duties and responsibilities of the member.

Informal Complaint Procedure

25. If disputes arise under this Policy, Board members shall endeavour to resolve them promptly and in good faith.
26. Any Board member or member of staff who considers that they have been subjected to or has identified or witnessed behavior or an activity by a Board member that they believe, in good faith, is in contravention of this Policy may address the prohibited conduct by:
 - (1) advising the Board member that the conduct violates this Policy and request that the contravention cease immediately; or
 - (2) requesting the CAO and Board Chair to assist in discussion of the alleged complaint with the Board member in an attempt to resolve the matter.
27. Where appropriate, the informal complaint process described in section 26 is encouraged as the first means of remedying conduct that may be violation this Policy, however, it is not a prerequisite to pursuing a formal complaint.

Formal Complaint Procedure

28. Any Board member or member of staff who considers that they have been subjected to or has identified or witnessed behavior or an activity by a Board member that they believe, in good faith, is in contravention of this Policy may file a formal complaint and seek resolution in accordance with the following procedure:
 - (1) All complaints must be delivered in writing to the CAO, be dated and signed and contain the particulars of the complaint, including the date on which the conduct that is the subject of the complaint occurred and the part or parts of this Policy that the complainant alleges has or have been breached;
 - (2) The CAO must not accept multiple complaints concerning the same matter. In the event that the CAO receives multiple complaints concerning the same matter, the CAO must proceed with the first complaint accepted, but may expand the complaint and/or add complainants for the purpose of seeking resolution of the complaint and where required, the conduct of the preliminary assessment and formal investigation by the Commissioner.
 - (3) Upon receipt of a complaint the CAO shall inform the respondent, share a copy of the complaint and request a written response within 10 days to assist in the initial review of the complaint.
 - (4) The CAO and the Chair shall review the material information provided and meet with the complainant and the respondent to seek resolution of the complaint. Where appropriate, the CAO or the Chair may engage the Commissioner or appoint another third party to assist in resolving the complaint or at their discretion.
 - (5) If the complaint cannot be resolved, the Commissioner shall conduct a preliminary assessment;

- (6) As part of the preliminary assessment of the matter the Commissioner may request further information from the complainant and respondent.
- (7) Based on the preliminary assessment the Commissioner must determine whether the complaint should be pursued further through a formal investigation. The following are some of the potential reasons why a complaint may not be pursued:
 - (a) the allegations are not within jurisdiction of the Policy;
 - (b) the complaint is deemed to be frivolous or vexatious or not made in good faith;
 - (c) the complaint would be more appropriately addressed through another process;
 - (d) there is insufficient evidence or information for concluding that a violation of this Policy has occurred;
 - (e) an extensive delay or unreasonable delay (i.e. more than six months) has occurred;
- (8) If a complaint is not rejected or closed the Commissioner must proceed with a formal investigation.
- (9) The Commissioner must notify the complainant, the respondent and the Chair and CAO in writing of the findings of the preliminary assessment and set out the reasons therefore.
- (10) If a formal investigation is determined appropriate, the Commissioner shall take all such steps as may be considered appropriate, including:
 - (a) speaking to anyone relevant to the complaint;
 - (b) seeking legal advice;
 - (c) requesting disclosure of documents relevant to the complaint; or
 - (d) accessing any record in the possession or control of the CVRD, except a record that is subject to privilege.
- (11) All proceedings of the investigation shall be confidential and comply with the rules of procedural fairness and natural justice required in the circumstances.
- (12) Within 30 days of making a decision to proceed with a formal investigation, the Commissioner shall provide the complainant, respondent and the Board a written report containing the results of the investigation and a determination of whether a contravention occurred. The report may also include considerations respecting the imposition of a sanction if contravention has been found;
- (13) A Board member who is the subject of an investigation shall be afforded an opportunity to respond to the allegations at the time of receipt by the Board of the Commissioner's report and is entitled to be represented by legal counsel;
- (14) The Commissioner's report provided to the Board may be considered in a closed meeting for the purpose of receiving legal advice, or other valid reason, however, when the Board deliberates and votes on the investigation report, it will do so in a public meeting and the investigation report must be made available to the public.
- (15) The Commissioner must ensure that the investigation report as drafted complies with the CVRD's obligations regarding disclosure of personal information

set out in the Freedom of Information and Protection of Privacy Act, or ensure that appropriate redactions are applied prior to release to the public.

29. For clarity, if the CAO or the Commissioner, at any stage in the complaint procedure, determines that there are reasonable grounds to believe that there has been a contravention of the *Criminal Code*, the CAO or Commissioner must immediately refer the matter to the appropriate authorities and suspend the complaint process until any resulting police investigation and charge have been finally disposed of.
30. In the event that Board Chair or CAO is a direct party to a complaint under this Policy, they shall remove themselves from any role other than that of complainant or responder. In cases involving the CAO, all references to CAO contained within this Policy shall be deemed to be the Deputy CAO. In the case of a complaint against the Chair, all references to Chair contained within this Policy shall be deemed to be the Vice-Chair.
31. Nothing in this Policy precludes the complainant from taking measures that the complainant is entitled to take under law, including but not limited to filing a human rights complaint, a grievance or other applicable process under a collective agreement, a complaint with WorkSafe BC, or other proceedings, as applicable.

Election Period

32. Any formal complaint against a Board member received after August 1 in a general election year shall be held in abeyance until the new Board has been sworn in following the election. If the respondent is not re-elected in that election, the CAO must notify the complainant and respondent in writing that the complaint is closed on this basis.

Remedies

33. The Board shall decide on which appropriate measures, if any, are warranted by a contravention of this Policy. In determining the appropriate measure, the Board shall consider the following factors:
 - (a) the degree and nature of the conduct;
 - (b) whether the contravention was a single or repeated act;
 - (c) whether the Board member was told that the conduct was unwelcome or offensive, and nonetheless continued the conduct;
 - (d) the nature of the work relationship of the complainant and the respondent, and whether the Board member was in a position of authority over the complainant, such that the degree and nature of the conduct was thereby exacerbated by an abuse of power;
 - (e) the impact of the contravention on the complainant;
 - (f) the Board member's acknowledgment of wrongdoing; and
 - (g) the Board member's history of other contraventions.

34. After considering the prescribed factors and upon the finding that the Board member has breached this Policy, the Board may impose sanctions including the following:
- (a) letter of reprimand addressed to the Member;
 - (b) motion of censure;
 - (c) a request that the Member issue a letter of apology;
 - (d) publication of a letter of reprimand or request for apology and the elected official's response;
 - (e) recommendation to attend training;
 - (f) suspension or removal from some or all internal and external Board committees and bodies to which the Board has the right to appoint members;
 - (g) restricting the Member from attending events as a representative of the Board;
 - (h) imposing further limits on Board-related travel or expenses beyond those set out in CVRD bylaws or policies;
 - (i) requiring the return of regional district property provided for convenience;
 - (j) limiting access to certain regional district facilities;
 - (k) restricting how documents are provided to the member;
 - (l) referral to a prosecutor or police; and
 - (m) any other sanction the Board deems reasonable and appropriate in the circumstances, provided that the sanction does not prevent a Board member from fulfilling the legislated duties of an elected official and the sanction is not contrary to provincial legislation.
35. For clarity, failure or refusal to comply with a Board imposed sanction(s) shall be considered a contravention of this Policy.

Reprisals and Obstruction

36. No Board Member or staff will threaten or undertake any active reprisal against a complainant or against a person who provides information in the context of an investigation under this policy.
37. No Board Member or staff will tamper with or destroy documents or electronic records related to any matter under investigation under this Policy or refuse to respond to the Commissioner when questioned regarding an investigation.
38. Any individual covered by this Policy who is found to have engaged in any reprisal or retaliation in violation of this Policy will be subject to appropriate disciplinary action, which action may include, and is not limited to, the sanctions and remedies described above, or in the case of staff, disciplinary action up to and including the termination of employment for just cause, as applicable.

Reimbursement of Costs

39. For clarity, actions by Board Members as outlined in Bylaw No. 237 being “Comox Valley Regional District Elected Officials, Directors, Officers and Employees Indemnification Bylaw No. 237”, as replaced or amended from time to time, do not apply to this policy.
40. A Board Member may make a request to the Board for reimbursement for the costs of legal advice and representation in responding to the formal complaint process outlined in this Policy. If appropriate after considering all circumstances, the Board may resolve to reimburse legal fees reasonably incurred by a Board Member, provided that all of the following are met:
- (a) the Commissioner ultimately does not determine that the Board member acted with dishonesty, gross negligence, or malicious or willful misconduct;
 - (b) it is the Board member’s first formal complaint process within a given four-year term of office; and
 - (c) such legal costs do not exceed \$10,000.

Vexatious Allegations and Complaints

41. Any individual covered by this Policy who makes an allegation or complaint under this Policy that is subsequently found to have been made in a deliberately vexatious or malicious manner, or otherwise to have been made in bad faith, will be subject to appropriate disciplinary action, which action may include, but is not limited to:
- (a) in the case of Board Members, sanctions and remedies described in Section 34.
 - (b) in the case of staff, the termination of employment for just cause, as applicable.

ROLES AND RESPONSIBILITIES

Implementation and Review

42. The Board Code of Conduct is intended to be self-enforcing. Members should view the Code as a set of guidelines that express collectively the standards of conduct expected of them. It, therefore, becomes most effective when Members are thoroughly familiar with the Code and embrace its provisions. For this reason, the Code of Conduct shall be reviewed on an annual basis at the inaugural meeting or at another duly convened meeting at the discretion of the Board Chair. The Code of Conduct shall also be reviewed in detail at orientation sessions for new and returning directors following each general local election.

REVISION HISTORY

Approval Date	Approved By	Description of Change
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January 24, 2023	Board	Inclusion of complaints and enforcement process

CITY OF NANAIMO

BYLAW NO. 7348

A BYLAW TO REGULATE THE CONDUCT FOR COUNCIL AND COMMITTEE MEMBERS

WHEREAS Council and Committee Members are keepers of the public trust and must uphold the highest standards of ethical behaviour in order to build and inspire the public's trust and confidence in local government;

AND WHEREAS Council and Committee Members are expected to:

- (a) make decisions that benefit the community;
- (b) act lawfully and within the authorities of the *Community Charter, Local Government Act* and other applicable enactments; and
- (c) be free from undue influence and not act to gain financial or other benefits for themselves, family, friends or business interests;

AND WHEREAS Council and Committee Members wish to conduct its business in a transparent, efficient, accountable and respectful fashion;

AND WHEREAS it is to the benefit of the community for Council and Committee Members to conduct their business in accordance with the City's guiding principles of integrity, accountability, respect, leadership and collaboration;

AND WHEREAS Council and Committee Members intend to demonstrate their leadership in ethical behaviour and to promote the principles of transparency, accountability and civility through their decisions, actions and behaviour;

THEREFORE BE IT RESOLVED that the Council of the City of Nanaimo in open meeting assembled, hereby ENACTS AS FOLLOWS:

PART I – GENERAL

1.1 Title

This Bylaw may be cited as "Code of Conduct Bylaw 2022 No. 7348".

1.2 Definitions

In this bylaw:

"CAO"	Means the Chief Administrative Officer for the City of Nanaimo.
"Bully and Harass"	Includes, without limitation, any unwelcome or objectionable conduct or comment by a Council or Committee Member that causes that individual to be humiliated or intimidated, including verbal aggression or insults, making derogatory comments, including questioning the professional competence of a Committee Member, Volunteer, Municipal Officer, or Staff, calling someone derogatory names, hazing

	or intimidation practices, vandalizing personal belongings or spreading malicious and untrue rumours.
“Committee Member”	Means a person appointed to a committee, sub-committee, task force, commission, board, or other Council established body under the <i>Community Charter – Division 4 – Committees, Commissions and Other Bodies</i> or the <i>Local Government Act</i> .
“Complaint”	Means a formal allegation that a Member has breached this Bylaw in accordance with the complaint procedure set out in Part 4 of this Bylaw.
“Complainant”	Means a person who has submitted a complaint under Part 4 of this Bylaw.
“Confidential Information”	Means information or records held in confidence by the City, including to which Section 117 of the <i>Community Charter</i> applies. For clarity, this includes all information and records from closed meetings of Council until publicly released.
“Conflict of Interest”	Refers to pecuniary and non-pecuniary conflicts of interest governed by the <i>Community Charter, S.B.C., 2003, c. 36</i> and the common law.
“Council Member”	Means the Mayor and Councillors for the City of Nanaimo.
“Commissioner”	Means the person appointed as the Ethics Commissioner by Council to fulfill the duties and responsibilities assigned to that position as set out in this Bylaw or an <i>ad hoc</i> Commissioner appointed by the CAO to administer this Bylaw in respect of an individual complaint.
“Gifts and Personal Benefits”	Means an item or service of value that is received by Council and Committee Members for personal use. This would include, but is not limited to, cash, gift cards, tickets to events, items of clothing, jewellery, pens, food or beverages, discounts or rebates on purchases, free or subsidized drinks or meals, entertainment and admission fees to social functions.
“Member”	Means a Council Member or a Committee Member.
“Municipal Officer”	Means a member of Staff designated as an officer under Section 146 of the <i>Community Charter</i> .
“Personal Information”	As defined in the <i>Freedom of Information & Protection of Privacy Act</i> .
“Respondent”	Means a Council or Committee Member whose conduct is the subject of a complaint.
“Staff”	Means an employee of the City.
“Volunteer”	Means a person serving the City who is not a Council Member, Committee Member.

1.3 Purpose and Interpretation:

- 1.3.1 This Bylaw sets out the rules Members must follow in fulfilling their duties and responsibilities as elected or appointed officials, and the powers and procedures of the Commissioner in exercising oversight over Council Members.
- 1.3.2 The provisions of this Bylaw are to be interpreted broadly and in a manner that is consistent with the *Community Charter* S.B.C. 2003, c. 36.
- 1.3.3 For clarity, the provisions of this bylaw that reference Committee Members only are intended to apply also to Council Members.

1.4 Application:

- (a) This Bylaw applies to Council Members and Committee Members.
- (b) This Bylaw does not apply to a Member's conduct in their personal life, except to the extent that such conduct reasonably undermines public confidence in City governance.
- (c) This Bylaw does not apply to Staff.
- (d) In the event of a conflict between this Bylaw and another City bylaw or Council policy governing Member conduct, this Bylaw prevails.
- (e) In this Bylaw, a reference to a person who holds an office includes a reference to the persons appointed to act for that person from time to time.

1.5 Severability:

If any definition, section, subsection, paragraph, subparagraph, clause or phrase in this Bylaw is held invalid by a Court of competent jurisdiction, the invalid definition, section, subsection, paragraph, subparagraph, clause or phrase must be severed and the remainder of this Bylaw is deemed to have been adopted without the severed definition, section, subsection, paragraph, subparagraph, clause or phrase.

PART 2 – STANDARDS AND VALUES

2.1 Foundational Principles

These guiding principles provide a basis for how Members fulfill their roles and responsibilities, including in their relationships with each other, Staff and with the public.

- (a) Integrity: being honest and demonstrating strong ethical principles.

Members are expected to act with integrity by:

- i. Behaving in a manner that promotes public confidence in the City, including actively avoiding any Conflicts of Interest, improper use of office or unethical conduct.
- ii. Being truthful, honest and open in all dealings.
- iii. Upholding the public interest and making decisions in the best interests of the community.
- iv. Following through on commitments, engaging in positive communication with the community and correcting errors in a timely and transparent manner.

- v. Acting lawfully and within the authority of the *Community Charter, Local Government Act, Workers Compensation Act of B.C. and B.C. Human Rights Code.*

- (b) **Accountability:** an obligation and willingness to accept responsibility or to account for one's actions.

Members are expected to act with accountability by:

- i. Being transparent in how they individually and collectively conduct business and carry out their duties.
- ii. Ensuring information is accessible, and that citizens can view the process and rationale behind each decision and action, while protecting confidentiality where appropriate or necessary.
- iii. Accepting that they are collectively accountable for local government decisions, and that individual Members are responsible and accountable for the decisions they make in fulfilling their roles.
- iv. Listening to and considering the opinions and needs of the community in all decision making, and allowing for respectful discourse and feedback.

- (c) **Respect:** having due regard for others' perspectives, wishes and rights; displaying deference to the offices of local government, and the role of local government in community decision-making.

Members are expected to act with respect by:

- i. Treating every person, including other Members, Staff and the public with dignity.
- ii. Showing consideration for colleagues and Staff.
- iii. Creating an environment of trust, including displaying awareness and sensitivity around comments and language that may be perceived as derogatory.
- iv. Valuing the role of diverse perspectives and debate in decision-making.
- v. Acting in a way that is respectful of the roles and responsibilities of the office of Mayor and Council.
- vi. Valuing the distinct roles and responsibilities of local government Staff and the community in local government considerations and operations, and committing to fostering a positive working relationship between Staff, the public and elected officials.

- (d) **Leadership and Collaboration:** an ability to lead, listen to, and positively influence others; coming together to create or meet a common goal through collective efforts.

Members are expected to demonstrate leadership and collaboration by:

- i. Demonstrating behaviour that builds and inspires public trust and confidence in local government.
- ii. Calmly facing challenges and providing considered direction of the issues of the day, and enabling colleagues and Staff to do the same.
- iii. Creating space for open expression by others, taking responsibility for one's own actions and reactions and accepting the decisions of the majority.
- iv. Accepting that it is the equal responsibility of the Council and Committee Members individually and collectively to work together to achieve common goals.
- v. Being an active participant in ensuring these Foundational Principles and the standards of conduct are followed.

2.1.1 Interpretation

The standards and values above are to inform the interpretation of the substantive provisions of this Bylaw and are not to be standalone bases for Complaints.

2.2 Roles and Responsibilities

- (a) Council is the governing body of the City. It has the responsibility to govern the City in accordance with Part 5 of the *Community Charter* and other applicable legislation.
- (b) The Mayor is the head and chief executive officer of the City and has a statutory responsibility to provide leadership to the Council and to provide general direction to Municipal Officers respecting City policies, programs and other directions of the Council as set out in Part 5 of the *Community Charter*.
- (c) Staff provide professional advice to the Council and carry out decisions in an effective, efficient and non-partisan manner. The CAO is Council's one employee.



PART 3 – CONDUCT OF ELECTED OFFICIALS

3.1 General Conduct

3.1.1 A Member shall not:

- (a) contravene this Bylaw, as amended or replaced from time to time;
- (b) contravene any other City bylaw or policy, as amended or replaced from time to time;

- (c) contravene a law of British Columbia or Canada, including the British Columbia *Human Rights Code* or the *Freedom of Information and Protection of Privacy Act*;
- (d) Bully or Harass a Member, Staff, or Volunteer;
- (e) defame a Member, Staff, or Volunteer.

3.1.2 A Member shall treat other Council Members, Committee Members, Staff, and Volunteers with respect and dignity.

3.1.3 A Council Member shall not:

- (a) breach their oath sworn upon taking office as a Council Member; or
- (b) abuse their office.

3.2 Interactions with Staff, Volunteers and Committee Members

3.2.1 A Member must direct inquiries regarding departmental issues or questions to the CAO, General Manager, or department Director of the appropriate department and refrain from contacting Staff directly unless the communication is minor and of a day-to-day operational nature.

3.2.2 Members must not interfere with, hinder or obstruct Staff, Volunteers or Committee Members in the exercise or performance of their roles, responsibilities, powers, duties or functions, nor shall they impair the ability of Municipal Officers and Staff to implement Council policy decisions in accordance with Section 153 of the *Community Charter*.

3.2.3 Members must not request or require Staff to undertake personal or private work on behalf of a Member.

3.2.4 If a Council Member has information about Staff or a Volunteer that the Council Member wishes to bring to the attention of the City for the purposes of a review or investigation into the conduct or an omission of the individual, the Council Member may only do so by delivering the information in writing to the CAO. On receipt of such information, the CAO shall conduct a review or investigation and address the matter in accordance with the City's employment agreements, bylaws and policies and with the applicable employment law or professional responsibility enactments.

3.2.5 Members must not publish statements attacking Members, Staff, or Volunteers.

3.2.6 Information obtained by any Council Member, which is likely to be used in a Council or political debate, must be provided to all other Council Members, and to the CAO.

3.3 Interactions with the Public and Media

3.3.1 Members must not communicate on behalf of the City unless authorized to do so by Council resolution or by virtue of a position or role the Member has been authorized to undertake by Council.

3.3.2 Without limiting the ability of the Council Member to hold a position on an issue and respectfully express their opinions, a Council Member must:

- (a) ensure that their communications relating to Council business are accurate and not issue any communication that the Member knows, or ought to have known, to be false; and
- (b) ensure that all communications by, and on behalf of a Member, including communications made via social media, are respectful and do not discriminate against, harass, or defame any Member, Staff, or Volunteer.

3.3.3 Members are not to issue instructions to any of the City's contractors, tenderers, consultants or other service providers unless expressly authorized to do so.

3.3.4 Outside of a Council or committee meeting, a Member shall not communicate with a tenderer or proponent regarding the subject matter of the procurement.

3.4 Public Meetings

3.4.1 A Member must act with decorum at Council and Committee meetings in accordance with the Council Procedure Bylaw 2018 No. 7272, as amended or replaced from time to time.

3.5 Collection and Handling of Information

3.5.1 A Member must:

- (a) comply with the provisions of the *Freedom of Information and Protection of Privacy Act* and the policies and guidelines as established by the City;
- (b) comply with section 117 of the *Community Charter*, including by protecting, and not disclosing publicly, Confidential Information;
- (c) only access information held by the City for City business, and not for personal purposes; and
- (d) not alter City records unless expressly authorized to do so.

3.6 Use of Social Media

3.6.1 The provisions of this Bylaw apply, without limitation, to the use of a Member's personal and official social media accounts.

3.6.2 Members must regularly monitor their social media accounts and immediately take measures to deal with the publication of messages or postings made by others on their behalf that violate the terms of this Code of Conduct Bylaw.

3.7 Conflict of Interest

3.7.1 A Member shall not participate in discussion of a matter, or vote on a question in respect of that matter, where the Member has a Conflict of Interest.

3.7.2 In respect of each matter before Council, a Council Member shall:

- (a) assess whether they have a Conflict of Interest, if necessary, with the advice of the Commissioner; and
- (b) determine whether it is necessary to seek independent legal advice, at their own cost except where the CAO approves the cost, with respect to any situation which may result in a Conflict of Interest.

3.7.3 If a Member believes they have a Conflict of Interest in respect of a matter in a Council or Committee meeting, the Member shall:

- (a) notify the Mayor or the Chair of the meeting that the Member has a Conflict of Interest prior to the matter being considered, and the Member shall restate the Conflict of Interest each time the matter arises before Council;
- (b) refrain from discussing the matter with any other Member publicly or privately; and
- (c) leave the meeting room if the matter is discussed and not return until the discussion has ended or voting on the matter has been concluded.

3.8 Use of Influence

3.8.1 A Member must not attempt to influence a decision of Council, a Committee, Municipal Officer, or Staff if the Member has a pecuniary Conflict of Interest in relation to that decision.

3.8.2 A Member must not use their office to provide preferential treatment to any person or organization except as warranted by the ordinary and lawful discharge of their duties.

3.8.3 A Member must not intimidate, improperly influence, threaten, or coerce Staff.

3.9 Gifts and Personal Benefits

3.9.1 A Council Member must not accept a Gift or Personal Benefit, unless accepted in accordance with section 105 of the *Community Charter*.

3.9.2 A Council Member must disclose a Gift or Personal Benefit, received in accordance with section 105 of the *Community Charter*, as per section 106 of the *Community Charter*.

3.9.3 Committee Members must comply with 3.9.1 and 3.9.2 as though they were Council Members.

PART 4 – COMPLAINT AND RESOLUTION PROCEDURES

4.1 Council Members

4.1.1 Confidential Requests

- (a) If a Council Member, Committee Member, or Staff believes that they have been subject to conduct by a Council Member in breach of this Bylaw, that person may approach the Commissioner on a confidential basis, without the need to file a Complaint, to request that the Commissioner inform the Council Member of the alleged breach. Upon receipt of the confidential request, the Commissioner may attempt to address the conduct with the Council Member.
- (b) The Commissioner must protect the confidentiality of a person making a request under 4.1.1(a) unless the person making the request consents to disclosure.

4.1.2 Complaint Procedure:

- (a) Any Council Member, Committee Member, or Staff may submit a Complaint to the Commissioner.
- (b) A Complaint must be in writing and describe with sufficient detail:
 - i. the name of the Complainant;
 - ii. the name of the Respondent;
 - iii. the conduct that the Complainant alleges to have breached the Code;
 - iv. the date of the alleged conduct;
 - v. the part or parts of this Bylaw that the Complainant alleges has or have been breached; and
 - vi. the basis for the Complainant's knowledge about the conduct.
- (c) A Complainant may specify in the Complaint if they are willing to participate in an informal resolution of the Complaint.
- (d) The Commissioner may accept a Complaint notwithstanding that the form of the Complaint does not comply with all of the requirements set out in Section 4.1.2 (b) if, in the Commissioner's opinion, the circumstances warrant.
- (e) The Commissioner must not accept multiple Complaints concerning the same matter. In the event that the Commissioner receives multiple Complaints concerning the same matter, the Commissioner must proceed with the first Complaint accepted, but may expand the Complaint and/or add Complainants for the purpose of conducting the investigation and preparing the investigation report.
- (f) The Commissioner must reject a Complaint received more than 90 days after the Complainant knew or reasonably ought to have known of the alleged breach of this Bylaw. The Commissioner is authorized to extend this 90 day deadline up to a further 90 days if circumstances warrant an extension.
- (g) The Commissioner must reject a Complaint received regarding a Council Member seeking re-election in the period from the first day of the nomination period to the general voting day.
- (h) In the 90 days prior to general voting day, the Commissioner may suspend any investigation underway.

4.1.3 Dismissal or Suspension of Complaint

- (a) If a Complaint is submitted that, on its face, is not made with respect to a breach of this Bylaw, or if a Complaint would be more appropriately addressed through another process, including if the Complaint is:
- i. with respect to non-compliance with the *Freedom of Information and Protection of Privacy Act*;
 - ii. with respect to non-compliance with a more specific Council policy or bylaw with a separate Complaint procedure; or
 - iii. with respect to a matter that is subject to another outstanding process, such as a court proceeding or human rights complaint,

the Commissioner may reject the Complaint, or part of the Complaint, and must notify the Complainant in writing that the Complaint is not within the jurisdiction of this Bylaw, or that the Complaint would be more appropriately addressed through another process, as the case may be, and set out any additional reasons and referrals the Commissioner thinks appropriate.

- (b) If the Commissioner, at any stage in the Complaint procedure, determines that there are reasonable grounds to believe that there has been a contravention of the *Criminal Code* (Canada), the Commissioner must immediately refer the matter to the appropriate authorities and suspend the inquiry until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to Council.
- (c) Where a Complaint is made against a Council Member who, during the course of the Complaint procedure, ceases to hold office, the Commissioner may close the Complaint and notify the Complainant and Respondent of this decision.

4.1.4 Preliminary Assessment

- (a) On receipt of a Complaint, the Commissioner must conduct a preliminary assessment and if at that time, or any time thereafter, the Commissioner is of the opinion that:
- i. the statement is not with respect to a breach of this Bylaw;
 - ii. the Complaint is frivolous, vexatious, or not made in good faith;
 - iii. the investigation is, or might be, hampered, or the Council Member might be prejudiced by the Complainant's failure to provide a Complaint in compliance with Section 4.1.2(b), or otherwise cooperate with the investigation;
 - iv. the Complainant wishes to withdraw the Complaint, and it would be appropriate in the circumstances to allow the withdrawal; or
 - v. there are no grounds or insufficient grounds for concluding that a violation of this Bylaw has occurred,

the Commissioner must notify the Complainant and the Respondent in writing that the Commissioner is closing the Complaint, set out the reasons therefore, and close the Complaint.

- (b) Notwithstanding Section 4.1.4 (a), the Commissioner may request further information from the Complainant before determining whether or not there are sufficient grounds for believing that a breach of this Bylaw may have occurred.

4.1.5 Informal Resolution:

- (a) When the Commissioner has decided to proceed with a Complaint, the Commissioner must determine whether the Complaint requires a formal investigation, or whether the Complaint may be resolved informally. In the latter case, the Commissioner may either attempt to resolve the Complaint directly, or refer the Complaint to the CAO.
- (b) When determining whether the Complaint may be resolved informally, the Commissioner may consider culturally appropriate, or transformative or restorative justice approaches, and may engage a third party to assist the Commissioner for this purpose.
- (c) Where the Commissioner refers the Complaint in accordance with Section 4.1.5(a) the CAO may agree to assist in resolving the Complaint directly, or may appoint a third party to assist in resolving the Complaint at their discretion.
- (d) The person assisting in the informal resolution of a Complaint will assess the suitability of the Complaint for settlement or resolution on an on-going basis and may decline to assist at any point.
- (e) The Complainant, or the Respondent, can decline to participate in an informal resolution at any time.
- (f) If a Complaint is resolved informally, the person assisting in resolving the Complaint must notify the Commissioner in writing of the terms of the resolution, upon receipt of which, the Commissioner must close the Complaint.
- (g) If a Complaint cannot be resolved informally, the person assisting in resolving the Complaint must refer the Complaint back to the Commissioner for a formal investigation.

4.1.6 Formal Resolution:

- (a) If a Complaint is not rejected, closed, or resolved informally, the Commissioner must proceed with a formal investigation.
- (b) The Commissioner must serve the Complaint on the Respondent with a request that the Respondent provide a written response to the Complaint together with any submissions the Respondent chooses to make within 10 days, subject to the Commissioner's discretion to extend the timeline.
- (c) The Commissioner may serve the Complainant with the Respondent's written response together with any submissions, on a strictly confidential basis, and request a reply in writing within 10 days, subject to the Commissioner's discretion to extend the timeline.

- (d) The Commissioner may:
 - i. speak to anyone relevant to the Complaint;
 - ii. request disclosure of documents relevant to the Complaint; or
 - iii. access any record in the possession or control of the City, except a record that is subject to privilege.
- (e) The Commissioner must ensure that the formal investigation complies with the rules of procedural fairness and natural justice required in the circumstances.
- (f) Notwithstanding 4.1.6(a), nothing prohibits the Commissioner from summarily dismissing a Complaint where it becomes apparent, after some investigation, that the Complaint has no chance of success.
- (g) If the Commissioner summarily dismisses a Complaint at the Formal Resolution stage, the Commissioner shall report to the Complainant and Respondent in the manner set out in 4.1.4(a).

4.1.7 Adjudication and Reporting:

- (a) The Commissioner must make a decision within 90 days of making the determination to proceed with a formal investigation, unless the Commissioner determines that doing so is not practicable, in which case the Commissioner must notify the Complainant and Respondent of the delay and provide a revised decision date. The revised decision date may be extended by periods of up to 30 days on provision of written notice to the Complainant and the Respondent.
- (b) A notification issued pursuant to sections 4.1.3(a), 4.1.3(b), 4.1.4(a), or 4.1.7(a) is confidential and must not be disclosed except in the following circumstances:
 - i. to Council for the purpose of considering a resolution for reimbursement of legal fees pursuant to section 4.4.2; and
 - ii. the Respondent may disclose the fact that the Complaint has been closed, or that a finding has been made that the Respondent did not breach this Bylaw.
- (c) If after reviewing all material information, the Commissioner determines that the Respondent did not violate this Bylaw, then:
 - i. the Commissioner must prepare a written investigation report providing reasons for their determination that the Council Member did not breach the Bylaw;
 - ii. the Commissioner must deliver a copy of the investigation report or, where appropriate, a summary thereof, to the Complainant, Respondent and Council; and
 - iii. in consultation with Staff, the Commissioner shall produce and make publicly available a summary of the investigation report, in compliance with the *Freedom of Information and Protection of Privacy Act*.

- (d) If after reviewing all the material information, the Commissioner determines that a Council Member did violate this Bylaw, then:
 - i. the Commissioner must prepare a written investigation report providing reasons for their determination that the Council Member breached this Bylaw;
 - ii. the investigation report must make recommendations as to the appropriate sanction for the breach;
 - iii. if the Commissioner determines that a Council Member did breach this Bylaw, but that the Council Member took all reasonable steps to prevent it, or that it was trivial or done inadvertently or because of an error in judgment made in good faith, the Commissioner will so state in the investigation report and may recommend that no sanction be imposed;
 - iv. the Commissioner must deliver, on a strictly confidential basis, a copy of the investigation report to the Respondent; and
 - v. the Commissioner must deliver a copy of the investigation report to the Complainant and Council forty eight (48) hours after delivery of the investigation report to the Respondent.

4.1.8 Report to be Public

- (a) Where the Commissioner has determined that a Council Member did violate this Bylaw, after the Commissioner has delivered a copy of the investigation report to the Complainant and Council, the City must make the investigation report available to the public.
- (b) The City will ensure that the investigation report complies with the City's obligations regarding disclosure of personal information set out in the *Freedom of Information and Protection of Privacy Act*, and ensure that appropriate redactions are applied prior to release to the public.

4.1.9 Final Determination by Council

- (a) Council must, within 30 days of delivery of the investigation report pursuant to Section 4.1.7(d)(v), or a longer period if approved by a 2/3 vote of Council, decide on the appropriate measures, if any, that are warranted by the breach of this Bylaw, and will take such actions as Council considers appropriate in the circumstances.
- (b) Prior to Council making any decision regarding the findings and recommendations set out in the investigation report, the Respondent must be provided with an opportunity, either in person or in writing, to comment on the decision and any recommended censure, sanctions or corrective actions.
- (c) While an investigation report provided to Council may be considered in a closed meeting for the purpose of receiving legal advice, or other valid reason, when Council deliberates and votes on the investigation report, it will do so in a public meeting and the investigation report must be made available to the public in a form that complies with section 4.1.8 (b).

- (d) Notwithstanding section 4.1.9(c), Council may deliberate on and vote on a report in a closed meeting where there is a valid reason to close the meeting under section 90 of the *Community Charter*.

4.1.10 Remedies

Sanctions that may be imposed for a violation of this Bylaw include the following:

- (a) a letter of reprimand from Council addressed to the Council Member;
- (b) a request from Council that the Council Member issue a letter of apology;
- (c) the publication of the letters contemplated in subsections (a) and (b), along with the Council Member's written response, if any;
- (d) directions to the CAO regarding the provision of documents, including documents containing Confidential Information, to the Council Member;
- (e) a recommendation that the Council Member attend specific training or counselling;
- (f) limitations on access to certain City facilities;
- (g) suspension or removal of the Council Member from some or all Council committees and bodies to which the Council Member was appointed by Council;
- (h) prohibition from representing the City at events and/or attending conferences and seminars;
- (i) suspension or removal of the appointment of a Council Member as the Acting Mayor;
- (j) public censure of a Council Member;
- (k) reduction in compensation in accordance with the Council Spending and Amenities Policy; and
- (l) any other sanction recommended by the Commissioner, so long as that sanction is within the authority of Council.

4.1.11 Confidentiality of the Investigation

The Commissioner must make all reasonable efforts to investigate Complaints in confidence.

- (a) The Commissioner and every person acting under the Commissioners' instructions must preserve confidentiality with respect to all matters that come into the Commissioner's knowledge in the course of any investigation or Complaint except as required by law.
- (b) An investigation report must only disclose such matters as, in the Commissioner's opinion, are necessary for the purpose of the investigation report.
- (c) At the conclusion of the process, the Commissioner will destroy all the notes that were taken throughout the process of the investigation.

4.1.12 Interpretation

For clarity, and despite section 4.2, the procedure in section 4.1 is to apply to all allegations against Council Members including in their capacity as Committee Members.

4.2 Committee Members

4.2.1 Alleged breaches of this Bylaw by Committee Members shall be submitted simultaneously in writing addressed to the Mayor and CAO within 90 days of the last alleged breach.

4.2.2 A Complaint must comply with the standards set out at section 4.1.1.

4.2.3 The Mayor shall consider alleged breaches of this Code by Committee Members, direct that any enquiries they consider appropriate or desirable be undertaken, including a referral to the Commissioner, and recommend appropriate disciplinary action to Council.

- (a) The Mayor may recommend that Council take any actions provided for in the Code that the Mayor considers reasonable in the circumstances.
- (b) Where Council finds that a Committee Member has breached this Code, Council may decide by resolution to:
 - i) Require the Committee Member to apologize to any person adversely affected by the breach;
 - ii) Counsel the Committee Member;
 - iii) Terminate the Committee Member's appointment; or
 - iv) Implement such other measures as Council deems appropriate.

4.3 Reprisals and Obstruction

4.3.1 No Council Member, Committee Member, or Staff will obstruct the Commissioner in the carrying out of their duties or responsibilities.

4.3.2 No Council Member, Committee Member, or Staff will threaten or undertake any active reprisal against a Complainant or against a person who provides information to the Commissioner in the context of an investigation.

4.3.3 No Council Member, Committee Member, or Staff will tamper with or destroy documents or electronic records related to any matter under investigation under this Bylaw or refuse to respond to the Commissioner when questioned regarding an investigation.

4.3.4 Any individual covered by this Bylaw who is found to have engaged in any reprisal or retaliation in violation of this Bylaw will be subject to appropriate disciplinary action, which action may include, and is not limited to, the sanctions and remedies described above, or in the case of Staff, disciplinary action up to and including the termination of employment for just cause, as applicable.

4.4 Reimbursement of Costs

4.4.1 For clarity, actions by Council Members as outlined in Indemnification Bylaw 2005 No. 7002, as replaced or amended from time to time, do not apply to this Bylaw.

4.4.2 A Council Member may make a request to Council for reimbursement for the costs of legal advice and representation in responding to the formal complaint process outlined in this Bylaw. If appropriate after considering all circumstances, Council may resolve to reimburse legal fees reasonably incurred by a Council Member, provided that all of the following are met:

- (a) It is the Council Member's first formal complaint process; and
- (b) The amount does not exceed \$10,000.

4.5 Vexatious Allegations and Complaints

4.5.1 Any individual covered by this Bylaw who makes an allegation or Complaint under this Bylaw that is subsequently found to have been made in a deliberately vexatious or malicious manner, or otherwise to have been made in bad faith, will be subject to appropriate disciplinary action, which action may include, but is not limited to:

- (a) in the case of Council Members, sanctions and remedies described in Section 4.1.7.
- (b) in the case of Committee Members, termination of the Committee Member's appointment.
- (c) in the case of Staff, the termination of employment for just cause, as applicable.

PART 5 – ENACTMENT

Effective Date

This bylaw comes into force and effect on 2022-OCT-15.

PASSED FIRST READING: 2022-MAY-16
PASSED SECOND READING: 2022-MAY-16
PASSED THIRD READING: 2022-MAY-16
ADOPTED: 2022-MAY-30

L. E. KROG

MAYOR

K. ROBERTSON

DEPUTY CITY CLERK

SCHEDULE A

COMMITTEE MEMBER STATEMENT

As a City of Nanaimo Committee Member, I agree to uphold the Code of Ethics adopted by the City of Nanaimo and conduct myself by the following model of excellence. I will:

- Recognize the diversity of backgrounds, interests and views in our community;
- Help create an atmosphere of open and responsive government;
- Conduct public affairs with integrity, in a fair, honest and open manner;
- Respect one another and the unique role and contribution each of us has in making the City of Nanaimo a better place to work, live, and play;
- Strive to keep the decision making processes open, accessible, participatory, understandable, timely, just and fair;
- Avoid and discourage conduct which is not in the best interests of the City of Nanaimo;
- Avoid any real or perceived Conflict of Interest and declare at the earliest opportunity, any interest that is or may be in conflict with the business of the body of the City of Nanaimo in which I am participating;
- Respect and uphold confidentiality requirements; and
- Treat all people with whom I come in contact in the way I wish to be treated.

I affirm that I have read and understand the City of Nanaimo Code of Conduct Bylaw.

Signature: _____

Date: _____

Name (please print): _____

Committee: _____

CITY OF SURREY



Council Code of Conduct Bylaw, 2020, No. 20020

Council Code of Conduct Bylaw, 2020, No. 20020

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CITY OF SURREY

BYLAW NO. 20020

A bylaw to regulate the conduct of Council members
.....

WHEREAS Council Members are keepers of the public trust and must uphold the highest standards of ethical behaviour in order to build and inspire the public's trust and confidence in local government;

AND WHEREAS Council Members are expected to:

- (a) make decisions that benefit the community;
- (b) act lawfully and within the authorities of the Community Charter, Local Government Act and other applicable enactments; and
- (c) be free from undue influence and not act, or appear to act, to gain financial or other benefits for themselves, family, friends or business interests;

AND WHEREAS Council wishes to conduct its business in a transparent, efficient, accountable and respectful fashion;

AND WHEREAS it is to the benefit of the community for Council to conduct its business in accordance with the City's values of community, innovation, integrity, service and teamwork;

AND WHEREAS Council Members intend to demonstrate their leadership in ethical behaviour and to promote the principles of transparency, accountability and civility through their decisions, actions and behaviour;

NOW THEREFORE The Council of the City of Surrey ENACTS AS FOLLOWS:

Definitions

1. In this Bylaw

"Advisory Body" means a committee, task force, commission, board or other body established or appointed by Council or by the Mayor;

"Advisory Body Member" means a person sitting on an Advisory Board, and includes a Council Member appointed to the body;

"Bully and Harass" includes:

- (a) any conduct that would be contrary to the City's Respectful Workplace Policy;

- (b) any unwelcome or objectionable conduct or comment that would be considered discriminatory under the *Human Rights Code* if the conduct or comment was in respect of any of the following prohibited grounds:
- (i) race,
 - (ii) conviction for an offence,
 - (iii) colour,
 - (iv) ancestry,
 - (v) physical disability,
 - (vi) place of origin,
 - (vii) mental disability,
 - (viii) political belief,
 - (ix) sex,
 - (x) religion,
 - (xi) age,
 - (xii) marital status,
 - (xiii) sexual orientation,
 - (xiv) family status;
- (c) Sexual Harassment;
- (d) any other unwelcome or objectionable conduct or comment by a Council Member toward another Council Member, an Advisory Board Member, Volunteer or Staff that causes that individual to be humiliated or intimidated, including verbal aggression or insults, making derogatory comments, including questioning the professional competence of an Advisory Board Member, Volunteer or Staff, calling someone derogatory names, hazing or initiation practices, vandalizing personal belongings or spreading malicious and untrue rumours;

"Campaign Period" means the period commencing the first of October immediately preceding a general election and ending on the day of the general election;

"Child" means a person toward whom a Responsible Adult has demonstrated a settled intention to treat as a child of his or her family and includes a child born within or outside marriage, an adopted child, step-child or grandchild;

"City" means the City of Surrey;

"City Business" means any City program, activity, policy, process, project or undertaking;

"City Manager" means the Municipal Officer position of the City manager;

"City Solicitor" means the Municipal Officer position of the City solicitor;

"City Record" includes anything on which information is recorded or stored by graphic, electronic, mechanical or other means in any format, but does not include a computer program or any other mechanism that produces records;

"City Record System" means a system used by the City of Surrey to manage City Records from creation through to disposal or long-term preservation;

"Commissioner" means the City of Surrey Ethics Commissioner;

"Confidential Information" means information or a record that is marked confidential by Council or Staff, that is Personal Information, that could reasonably harm the interests of individuals or organizations including the City if disclosed to persons who are not authorized to access the information, or information or a record to which section 117 of the *Community Charter* applies, including, without limitation, any:

- (a) decisions, resolutions or report contents forming part of the agenda for or from an *in-camera* meeting of Council until a Council decision has been made for the information to become public or otherwise released; and
- (b) details on Council's in camera deliberations or specific detail on whether an individual Council Member voted for or against a matter;

"Corporate Officer" means the Municipal Officer position of City Clerk that has been designated the corporate officer under section 148 of the *Community Charter*;

"Council Member" means the Mayor or a Councillor;

"Family Member" means a Spouse, a Child, a Responsible Adult, and siblings;

"Lobbying" means any communication with a Council Member by an individual who is paid or who represents a business or financial interest with the goal of trying to influence any legislative action including development decisions, business licence decisions, introduction, passage, defeat, amendment or repeal of a bylaw, motion, resolution, or development approval, zoning bylaw amendment, or termination of a City policy, program, directive, guideline, or the outcome of a decision on any matter before Council, an Advisory Body, or Staff;

"Municipal Officer" means a member of staff designated as an officer under section 146 of the *Community Charter* or a bylaw under that section;

"Personal Information" has the same meaning as in the *Freedom of Information and Protection of Privacy Act*;

"Responsible Adult" means a person who has demonstrated a settled intention to treat a Child as a member of his or her family whether or not that person is the biological parent of the Child;

"Sexual Harassment" is any verbal, written or physical conduct, comment, gesture or contact of a sexual nature that may cause offence or humiliation to a Council Member, Staff, Advisory Body Member, Volunteer or a member of the public or that might reasonably be perceived by Staff, an Advisory Body Member or Volunteer as placing a condition of a sexual nature on employment or on any opportunity for training or promotion, and examples of sexual harassment may include but are not limited to:

- (a) unwelcome remarks, questions, jokes, innuendo or taunting, about a person's body or sex, including sexist comments or sexual invitations;
- (b) verbal abuse and threats of a sexual nature;
- (c) leering, staring or making sexual gestures;
- (d) display of pornographic or other sexual materials in the form of degrading pictures, graffiti, cartoons or sayings;
- (e) unwanted physical contact such as touching, patting, pinching, hugging;
- (f) intimidation, threat or actual physical assault of a sexual nature;
- (g) sexual advances with actual or implied work-related consequences;

"Spouse" means a person to whom the person is married or with whom the person is living in a marriage-like relationship, and includes a former spouse;

"Staff" means a Municipal Officer or employee, a contractor, consultant or other service provider;

"Volunteer" means a person serving the City who is not a Council Member, member of Staff or an Advisory Board Member;

"Workplace" includes, but is not limited to, work sites owned, operated or controlled by the City, including the municipal hall, operations centres, fire hall, parks locations and buildings, construction or maintenance sites, business related social functions, work locations away from the foregoing venues, work related conferences and training sessions, work related travel, telephone conversations, voice mail or electronic messaging.

Interpretation

2. In this Bylaw, a reference to the Mayor, a chair, or Staff includes, in the absence of the Mayor, chair or Staff member, a reference to the person appointed as deputy or appointed to act in the place of that person from time to time.
3. Without limitation, this Bylaw applies in respect of the Workplace and elsewhere, and without limitation applies to the use of social media by a Council Member.

PART 1 – CONDUCT OF ELECTED OFFICIALS

General Conduct

4. A Council Member shall not:
 - (a) contravene this Bylaw, as amended or replaced;
 - (b) contravene any other City bylaw or policy, as amended or replaced;
 - (c) breach their oath sworn upon taking office as a Council Member;
 - (d) contravene a law of British Columbia or Canada, including the *British Columbia Human Rights Code* or the *Freedom of Information and Protection of Privacy Act*;
 - (e) Bully or Harass another person;
 - (f) defame another person;
 - (g) abuse their office.
5. A Council Member shall treat other Council Members, Staff, Advisory Body Members, Volunteers, and the public with respect and dignity.
6. A Council Member shall align their conduct with the City's values of integrity, innovation, service, teamwork and community.

Interactions of Council Members with Staff, Volunteers and Advisory Body Members

7. A Council Member shall not issue instructions or directions to Staff regarding City Business except through the City Manager or the appropriate department manager.
8. Before, during or after a procurement process, a Council Member shall not issue instructions or directions to a contractor, tenderer, proponent, consultant or other service provider. Outside of a Council or committee meeting, a Council Member shall not communicate with a tenderer or proponent regarding the subject matter of the procurement.
9. A Council Member shall not interfere with, hinder or obstruct Staff, a Volunteer or an Advisory Board Member in the exercise or performance of their roles, responsibilities, powers, duties or functions.

10. If a Council Member has information about Staff, a Volunteer or an Advisory Board Member that the Council Member wishes to bring to the attention of the City for the purposes of a review or investigation into the conduct or an omission of the individual, the Council Member may only do so by delivering the information in writing to the City Manager. On receipt of such information, the City Manager shall conduct a review or investigation and address the matter in accordance with the City's employment agreements, bylaws and policies and with the applicable employment law or professional responsibility enactments.

Conduct at Council and Advisory Board Meetings

11. A Council Member must act with decorum at Council and Advisory Body meetings in accordance with the *Council Procedure By-law*, No. 15300, as amended or replaced from time to time.
12. Council Members shall make every effort to participate diligently in the activities of Council and Advisory Bodies or other bodies to which they are appointed by the City or by virtue of being an elected official, including intergovernmental meetings. To "participate diligently" means that a Council Member shall not be absent from meetings of Council or Advisory Body meetings, or from those of other bodies to which they are appointed by virtue of their status as a Council Member, without reasonable justification (such as illness of the Council Member, family circumstance, regional government business) for more than four consecutive scheduled meetings, for a period of 60 consecutive days, or on a regular basis.

Improper Use of Influence

13. A Council Member shall only use the influence of their office in the good faith exercise of their official duties.

Election Activities

14. A Council Member shall not participate in any civic events requiring them to perform official ceremonial duties between the last day of the nomination period and the voting day, as defined in the *Local Government Act*, unless authorized by a resolution of Council.
15. A Council Member shall comply with the *Local Government Act* and the *Local Elections Campaign Financing Act* when undertaking election campaign activities and fundraising.

16. A Council Member shall not use the City's employees, property or resources for election campaign or fundraising activities at any point during a term of office, unless those resources are similarly available to all candidates and the fees associated with the use of the employees, property or resources has been paid for with election campaign funds. Without limiting the generality of the foregoing, this prohibition applies to:
 - (a) data sets and Personal Information collected and maintained by the City;
 - (b) office space; and
 - (c) City websites or external websites paid for by the City.
17. A Council Member may include a link on his or her campaign website to the City's website or an external website paid for by the City.
18. During the Campaign Period, a Council Member shall not:
 - (a) deliver City funded newsletters or conduct open houses funded by the City;
 - (b) distribute mass e-mails from the Council Member's City e-mail address, unless the communication arises from an emergency and the communication is authorized by the City Manager;
 - (c) update websites that are either City hosted or paid for by the City;
 - (d) use social media and internet resources such as Twitter, Facebook or Instagram in the Council Member's personal name, unless those accounts include a disclaimer that they are not City-funded and do not reflect City policy; nor
 - (e) request that City employees work on an election campaign during hours in which the employee receives compensation from the City, unless the work both unavoidably overlaps with the regular duties of the employee and is minor and infrequent, such as coordinating campaign schedules with the Council Member's calendar or redirecting citizens with campaign questions to campaign staff.
19. Council Members and their staff may take unpaid leave from the Council Member's office to work on an election campaign.

Conflicts of Interest

20. A Council Member shall rigorously avoid situations which may result in claims of pecuniary interest, conflict of interest or bias.
21. A Council Member must disclose any conflict of interest in accordance with section 100 of the *Community Charter* and, if conflicted, must refrain from participating in a meeting in accordance with section 101 of the *Community Charter*.

22. In respect of each matter before Council, a Council Member shall:
 - (a) assess whether they have a conflict of interest, if necessary, with the advice of the Commissioner; and
 - (b) determine whether it is necessary to seek independent legal advice, at their own cost except where the City Manager approves the cost if concerned about the validity of an affected bylaw or resolution, with respect to any situation which may result in a conflict of interest.
23. If a Council Member believes they may have or may reasonably be perceived to have a conflict of interest in respect of a matter in a Council or committee meeting, the Council Member shall:
 - (a) notify the Mayor or the Chair of the meeting that the Council Member has a conflict of interest prior to the matter being considered, and the Council Member shall restate the conflict of interest each time the matter arises before Council;
 - (b) refrain from discussing the matter with any other Council Member publicly or privately; and
 - (c) leave the meeting room if the matter is discussed and not return until discussion has ended or voting on the matter has been concluded.

Conduct Respecting Lobbyists

24. Lobbying is a permitted but regulated activity in the City.
25. A Council Member shall follow the City's rules respecting Lobbying.
26. A Council Member shall report any such violation or attempted violation of the City's rules respecting Lobbying to the Municipal Official responsible for Lobbying or to the Commissioner, unless the Council Member believes in good faith that the violation or attempted violation was inadvertent or insignificant.

Outside Activities and Business Relations

27. A Council Member who engages in another profession, business or occupation concurrently with holding office shall not allow such outside employment to affect the Council Member's integrity, independence or competence. Without restricting the scope of this duty, the following shall be a contravention of this part of the Code of Conduct:
 - (a) acting as an officer or director for a business that receives municipal funds in the form of grants or payments for goods or services;
 - (b) acting as an officer or director for a business that lobbies the City;

- (c) allowing the prospect of future employment by a person other than the City to affect the Council Member's performance of his or her duties to the City;
 - (d) borrowing money from any person who regularly does business with the City, unless such person is an institution or company whose shares are publicly traded and who is regularly in the business of lending money, such as a credit union;
 - (e) acting as a paid agent before Council or an Advisory Body;
 - (f) receiving compensation for referrals to a specific business;
 - (g) receiving compensation that is dependent on the business being awarded a contract with the City;
 - (h) subject to sections 40 through 43, providing advice for remuneration to any person who is involved in litigation or lobbying against the City, unless the Council Member first gives written notice of the relationship to the Commissioner.
28. A Council Member may obtain advice from the Commissioner on whether a new profession, business or occupation is compatible with their obligations under section 27 of this Bylaw. Provided that the Council Member made full and frank disclosure to the Commissioner at the time they sought advice, the Commissioner's opinion shall be the final determination of whether a Council Member has contravened section 27 of this Bylaw.

Council Members' Use of Municipal Assets and Services

29. A Council Member shall not use, or permit the use of, City land, facilities, equipment, supplies, services, property, employees or other resources for activities other than City Business unless the use or the permission is on the same terms and conditions that the land, facilities, equipment, supplies, services, property, employees or other resources are available to the general public. Accordingly, a Council Member shall not obtain personal gain from the use or sale of City-developed intellectual property, including all discoveries, inventions, know-how, improvements, developments, processes, technology, compositions, designs, techniques, methods, industrial designs, compositions, prototypes, models, literary work, research, drawings, software and trade secrets whether or not capable of patent, industrial design, copyright or trademark protection, or any other type of protection. Council Members acknowledge and do not dispute that all such property that a Council Member may prepare, use or encounter while holding office will be and remains the City's exclusive property.
30. A Council Member shall not request Staff to undertake personal or private work on behalf of the Council Member, nor shall a Council Member accept such work from Staff.

Employment of Council Family Members

31. A Council Member shall not attempt to influence personnel decisions regarding the decision to hire, transfer, promote, demote, discipline, or terminate an Advisory Board Member, a Volunteer or Staff. This prohibition includes giving references to any person applying for a position at the City and forwarding copies of an applicant's resume to any person hiring for any position at the City.
32. A Council Member shall not attempt to obtain a benefit from the City for a Family Member.

Gifts

33. For the purpose of sections 33 through 39 of this Bylaw, a gift or benefit is an item or service of value that is received by a Council Member for their personal use, including, but is not limited to money, gift cards, tickets to events, clothing, jewelry, pens, food or beverages, discounts/rebates on personal purchases, free or subsidized drinks or meals, entertainment, participation in sport and recreation activities, and invitations to social functions.
34. A Council Member must comply with the restrictions on accepting gifts in section 105 of the *Community Charter* and must disclose any permitted gifts over \$250 in accordance with section 106 of the *Community Charter*.
35. A gift or benefit provided to a Council Member's Family Member or staff in relation to City Business is deemed to be a gift or benefit to that Council Member.
36. If a Council Member is required to disclose to a Municipal Officer the nature of the gift or benefit, the Council Member shall also include a description of its source, including if the gift is from a corporation, the full names and addresses of at least two individuals who are directors of the corporation; when it was received; and the circumstances under which it was given and accepted.
37. The Municipal Officer shall provide a copy of this disclosure under section 36 to the Commissioner.
38. On receiving the disclosure statement, the Commissioner shall examine it to ascertain whether the receipt of the gift or benefit might, in her or his opinion, create a conflict between a private interest and the public duty of the Council Member. If the Commissioner makes that preliminary determination, the Commissioner shall call upon the Council Member to justify the receipt of the gift or benefit.

39. If the Commissioner considers the receipt was in contravention of this Bylaw or the *Community Charter*, the Commissioner may direct the Council Member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, or forfeit the gift.

Collection and Handling of Information

40. A Council Member shall not release any Confidential Information unless the Council member is specifically authorized to release it by:
- (a) a resolution of Council to use or release the Confidential Information, and then only to the extent of the Council authorization;
 - (b) authorized discussion of the Confidential Information at a meeting that is open to the public; or
 - (c) lawful authorization under separate legal authority.
41. A Council Member must not discuss or disclose Personal Information of others to any person, except in a manner that complies with the duty to protect Personal Information under the *Freedom of Information and Protection of Privacy Act*.
42. A Council Member shall take reasonable care to prevent unauthorized access to Confidential Information or Personal Information by unauthorized persons. If a Council Member learns of unauthorized access to Confidential Information or Personal Information, the Council Member shall report this information to the City Manager as soon as possible.
43. A Council Member shall comply with the directions of the Corporate Officer respecting the use of the City Record System.

Council Members' Use of Social Media

44. A Council Member shall not publish Confidential Information on social media, unless authorized in accordance with the provisions of section 40 of this Bylaw.
45. A Council Member shall not publish information or an opinion on social media about City Business, unless the publication republishes the information that has been released by the City without alteration or the opinion includes a statement to the effect that the "opinion expressed is my own and does not necessarily reflect the view or opinions of the City of Surrey or other members of Surrey Council".

46. Without limiting any other obligation imposed by this Bylaw, a Council member shall not use or allow the use of their social media account for purposes that include content that:
- (a) Bullies and Harasses another Council Member, an Advisory Board Member, a Volunteer, Staff or a member of the public;
 - (b) evidences bias or a reasonable apprehension of bias in relation to a matter that is the subject of a statutory or other public hearing;
 - (c) promotes or constitutes illegal activity;
 - (d) may compromise the safety or security of the public.
47. A Council Member shall take steps to remove from their social media account any publication by another person of content that violates this Bylaw.

Communication Protocol

48. Council may appoint the spokesperson on City Business. Once a spokesperson has been appointed, a Council Member that is not appointed as the spokesperson shall ensure that inquiries from the public and media on the City's position are directed to the spokesperson. A Council Member communicating their own opinion shall ensure that the communication clearly indicates that it is the Council Member's own position. Nothing in this section prevents Council from appointing multiple spokespersons or changing the appointed spokesperson. Where no spokesperson has been appointed, the Mayor shall act as the spokesperson.

Interactions with the Public and the Media

49. A Council Member shall accurately communicate the decisions of the Council, even if they disagree with the majority decision of Council.
50. When discussing the fact that they did not support a decision, or voted against the decision, or that another Council Member did not support a decision or voted against a decision, a Council Member shall refrain from making disparaging comments about other Council Members or about Council's processes and decisions.
51. Nothing in this Bylaw is intended to affect rights under the *Charter of Rights and Freedoms*.

Orientation and Training Attendance

52. After first being elected, a Council Member shall attend all sessions of orientation training on City Business that are identified as mandatory by the Commissioner unless doing so is not practically possible.

53. A Council Member shall attend any sessions of training on City Business that are identified as mandatory by Council, the City Manager, the City Solicitor, the Corporate Officer or the Commissioner, unless doing so is not practically possible.

PART 2 – PROCESS FOR COMPLAINTS

Individual Steps to Resolution

54. If a Council Member, an Advisory Board Member or Staff considers that they have been subjected to a contravention of this Bylaw by a Council Member and if they are comfortable discussing the matter directly with the Council Member, they may inform the Council Member of the alleged contravention and request an apology and, if applicable, that the contravention cease immediately.
55. If the complainant is unable to discuss the matter directly with the Council Member, or if after discussion the contravention continues, the complainant may inform the City Manager of the allegation. The City Manager may then agree to act as an advisor to aid the complainant or appoint an advisor as the City Manager deems suitable.
56. The advisor acting under section 55 shall assist the complainant, including discussing the alleged contravention with the Council Member to resolve the complaint.
57. If the complainant is not satisfied with the outcome after the advisor has finished assisting the complainant under section 56, the complainant may proceed to Mutual Resolution by filing a written record of the allegation with the Commissioner within 10 days of being informed by the advisor of the outcome.
58. Nothing in this Bylaw precludes the complainant from making reasonable efforts in good faith to address the complaint internally and informally without resort to the Mutual Resolution or Formal Resolution procedures set out in this Bylaw.
59. Nothing in this Bylaw precludes the complainant from taking measures that the complainant is entitled to take under law, including but not limited to filing a human rights complaint, a grievance or other applicable process under a collective agreement, a complaint with WorkSafe BC, or other proceedings, as applicable.
60. Discussions regarding the complainant's concerns are confidential, advisory and informal in nature. The only exception to the Commissioner or an advisor maintaining confidentiality is if they deem the complaint to indicate a possible physical threat to any person. In that case, the advisor must immediately inform the City Solicitor of the complaint and inform the complainant of this requirement to do so. The City Solicitor must then promptly request the Commissioner to initiate an investigation and inform the complainant of this request and may take any additional steps deemed appropriate to deal with the possible physical threat.

Mutual Resolution

61. If the Individual Steps to Resolution process is unsuccessful in resolving the complaint, at the request of the complainant and with the agreement of the Council Member, a third party will be selected under section 62 to act as a mediator to assist the individuals in resolving the complaint through mediation. If the parties cannot agree to resolve the complaint through Mutual Resolution, then the complainant may elect to proceed to Formal Review.
62. The role of the mediator is to help the complainant and the Council Member come to an agreement, and not to advocate a position or impose a decision. The mediator will be selected by agreement of the complainant and the Council Member, with the Commissioner retaining the right to select a mediator if the complainant and the Council Member are unable to agree.
63. Both the complainant and the Council Member may be accompanied by a representative of their choice, including a lawyer or if the complainant is a member of a union, a union representative or a lawyer on behalf of the union, or both. If the complaint is resolved through Mutual Resolution, a written record of the complaint and the resolution will be given to the complainant, the Council Member and the Commissioner. If the mediator has recommendations for the City to consider, the mediator will forward these recommendations to the Commissioner and the City Solicitor. The resolution and recommendations must be kept in confidence by the Commissioner, City Solicitor and the parties, unless the parties agree in writing to disclose the information.
64. If Mutual Resolution is not successful in resolving the complaint, the complainant may pursue other options by confirming in writing his or her election to the Commissioner within ten working days of receiving the mediator's report.

Other Processes

65. Failing Mutual Resolution, a breach of this Bylaw can be determined for the purposes of proceeding with a Council measure under section 74 by way of:
 - (a) an admission by the Council Member;
 - (b) an agreement with the Council Member;
 - (c) a report from a standing or select committee invested with investigation powers under section 134 of the *Community Charter*;
 - (d) a Formal Review.

Complaints

66. Any person who has witnessed or experienced conduct by a Council Member which they believe to be in contravention of this Bylaw, or another City policy governing conduct of a Council Member may submit a complaint to the Commissioner in accordance with sections 68 and 69 of this Bylaw.
67. If a Designated Management Employee, as defined in the City's Respectful Workplace Policy, receives a complaint under the Respectful Workplace Policy, the Designated Management Employee may elect to refer the complaint to the Commissioner for resolution pursuant to this Bylaw.

Formal Review

68. After the invocation of the procedures under sections 54 through 63 of this Bylaw, the complainant may elect to proceed with a formal complaint, which must be delivered in writing to the Commissioner in accordance with sections 64 and 69 of this Bylaw. This written complaint shall contain the particulars of the complaint, including the dates on which the conduct that is the subject of the complaint occurred.
69. The complainant must deliver the written complaint within six months of the date of the alleged contravention of this Bylaw, unless the parties have agreed in writing to postpone this deadline in order to pursue another resolution process.
70. Upon receipt of the written complaint, the Commissioner shall:
 - (a) take whatever steps the Commissioner considers reasonable with the complainant and the Council Member to resolve the matter informally under sections 54 through 63 within ten working days, if they have not already done so; or
 - (b) confirm in writing to the complainant and the Council Member that the City Manager or other advisor has terminated attempts to resolve the matter informally; and then
 - (c) begin an investigation within ten working days of the request being filed.
71. In keeping with the principles of procedural fairness, the Commissioner shall:
 - (a) confirm receipt of the written complaint to the complainant;
 - (b) notify the Council Member of the allegation, provide the Council Member with a copy of this Bylaw and advise the complainant of this notification;
 - (c) receive information from any witnesses who the Commissioner believes may have information relevant to the complaint, and this information may be received through written documentation, interviews, or informal hearings;

- (d) keep both the complainant and the Council Member aware of any allegations made against them and ensure that they are given a reasonable opportunity to respond; and
 - (e) inform the complainant and the Council Member that they may be accompanied by a representative, including a lawyer, of their choice during the Formal Review process, including the closed meeting described in sections 84 and 85 of this Bylaw.
72. If the Council Member fails to respond, the Mayor at the request of the Commissioner may compel witnesses under section 134 of the *Community Charter*.
73. The Commissioner shall ensure all details, dates, conversations and meetings are documented. These working records created by the Commissioner are confidential. Once the investigation has been completed, the Commissioner shall prepare a written report and provide a copy of the report to the City Manager and Council. The report must, at a minimum, contain a description of the allegations, a summary of the evidence of the parties and the witnesses, and a determination of whether a contravention occurred. The report may also provide recommendations with respect to the potential outcome.

Council Determination of Measures

74. Council shall decide on the appropriate measures, if any, are warranted by a contravention of this Bylaw and shall take such action as Council considers appropriate in the circumstances, after:
- (a) reviewing the report of the Commissioner;
 - (b) considering the factors described in section 75 and the measures enumerated in section 76; and
 - (c) conducting a closed meeting in accordance with the process described in sections 84 and 85 of this Bylaw.
75. In determining the appropriate measure, Council shall consider the following factors:
- (a) the degree and nature of the conduct;
 - (b) whether the contravention was a single or repeated act;
 - (c) whether the Council Member was told that the conduct was unwelcome or offensive, and nonetheless continued the conduct;
 - (d) the nature of the work relationship of the complainant and the respondent, and whether the Council Member was in a position of authority over the complainant, such that the degree and nature of the conduct was thereby exacerbated by an abuse of power;

- (e) the impact of the contravention on the complainant;
 - (f) the Council Member's acknowledgment of wrongdoing; and
 - (g) the Council Member's history of other contraventions.
76. Council may impose the following measures after considering the factors described in section 75, including, but not limited to:
- (a) an apology from the Council Member in substantially the form set out in Schedule B;
 - (b) removal of the Council Member from appointments such as chairperson, committees, commissions or Advisory Boards;
 - (c) motion of censure;
 - (d) mandatory training on City Business, the *Community Charter*, or this Bylaw;
 - (e) referral to a prosecutor or police;
 - (f) any other action recommended by the Commissioner; and
 - (g) any other measure permitted by the *Community Charter*, the *Local Government Act*, the *Local Elections Campaign Financing Act* and the *Charter of Rights and Freedoms*.
77. The Council decision under section 74 will be in writing and provided to the complainant and Council Member within ten working days of the closed meeting conducted in accordance with sections 84 and 85 of this Bylaw.

Staff Responsibilities in the Complaint Process

78. If the Commissioner concludes that a contravention has occurred, the City Manager shall consider reasonable action to protect the complainant from any subsequent action or reprisal. The City Manager shall also consider reasonable action to protect the rights of the subject Council Member and to see that no reprisal takes place beyond the measure determined by Council.
79. If the Commissioner finds that the original complaint was initiated in bad faith, with willful misconduct or intent to harm, where the complainant is a Council Member, Council may consider appropriate measures in respect of the complainant and where the complainant is Staff, the City Manager may consider appropriate measures in respect of the complainant.

80. A copy of the Commissioner's report and the Council decision will be retained in a confidential file maintained by the City Manager, except when all or part of the decision is disclosed to the public in accordance with the *Freedom of Information and Protection of Privacy Act*.
81. The Commissioner may proceed with a Formal Review even if the complainant withdraws the complaint.
82. If approved by Council, the City Manager shall consider implementing administrative changes to City policies or procedures recommended by the Commissioner's report.

Fairness Procedures Applicable to Council Determination of Measures

83. Sections 84 and 85 only apply if the complaint is not resolved under sections 54 through 63 of this Bylaw and if Council is considering measures under section 74.
84. The Mayor, or the Corporate Officer if the Mayor is alleged to have contravened this Bylaw, will notify the affected Council Member in writing that Council will be considering their conduct at a closed meeting. The notice and form of resolution where a breach is believed to have been proved are set out in Schedule A. The notice must be delivered at least seven business days in advance of the closed meeting at which Council will consider the measure, if any, that it will impose in accordance with section 74 of this Bylaw. The Corporate Officer will ensure that the matter is placed on the agenda of the closed meeting. At the closed meeting, the affected Council Member may be represented by legal counsel, which may be reimbursed in accordance with section 89 of this Bylaw.
85. The process at the closed meeting may vary depending on the situation, but the following elements will be incorporated:
 - (a) Council will read the Commissioner's determination of whether a contravention of this Bylaw occurred;
 - (b) the affected Council Member will be provided with reasonable notice in accordance with section 71(b) and given the opportunity to make submissions to Council, with legal counsel if the Council Member desires, which submissions, without limitation, may include explanations for the impugned behavior or suggestions on the measures that Council might impose as a result of the conduct;
 - (c) after the affected Council Member has made the submissions to Council, the Council Member will leave the meeting room and those Council Members without a conflict of interest will consider the measures, if any, to impose in accordance with section 76 of this Bylaw; and
 - (d) written notice of the decision will be given in accordance with section 77 of this Bylaw.

Mandatory Training

86. If the Commissioner recommends mandatory training for a Council Member, and if Council resolves to accept the recommendation pursuant to section 76(d) of this Bylaw, then the Council Member shall attend the training.

Obstruction

87. It is a contravention of this Bylaw to obstruct the Commissioner in the carrying out of their responsibilities, as for example, by the destruction of documents or the erasing of electronic communications relevant to a complaint.

Legal Fees

88. If a member of Staff is a complainant under this Bylaw, the City Manager may authorize the member of Staff to be reimbursed for legal fees reasonably incurred if the complaint was meritorious and a written request for reimbursement is filed with the City Manager within three months of any final disposition of a complaint under this Bylaw.
89. The City will pay the reasonably incurred legal fees of a Council Member who is subject to a complaint under this Bylaw, provided that:
- (a) the Commissioner ultimately does not determine that the Council Member acted with dishonesty, gross negligence, or malicious or willful misconduct; or
 - (b) in any event, if Council so resolves after considering all the circumstances.

General

90. The Corporate Officer will cause
- (a) this Bylaw to be visible and accessible on the City's website, and
 - (b) electronic copies of this Bylaw to be made available to all Staff and Council Members in easily accessible locations, including the City's intranet.
91. If any portion of this Bylaw is inconsistent with a binding collective agreement with the City or federal or provincial legislation, that portion and only that portion of this Bylaw will have no application to the extent of that inconsistency and all other portions of the Bylaw will continue in full force and effect.

Citation

92. This Bylaw may be cited as the "Council Code of Conduct Bylaw, 2020, No. 20020".

PASSED FIRST READING on the 6th day of April, 2020.

PASSED SECOND READING on the 6th day of April, 2020.

PASSED THIRD READING, as amended, on the 20th day of April, 2020.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 4th day of May, 2020.

_____MAYOR

_____CLERK

SCHEDULE A

NOTICE TO COUNCIL MEMBER OF COUNCIL CONSIDERATION OF BREACH OF THE COUNCIL MEMBER CONDUCT BYLAW

CONFIDENTIAL

Date

Dear [*Insert Name of Subject Council Member*],

Please be advised that the City of Surrey Ethics Commissioner (the "Commissioner") believes that you may have breached **COUNCIL CODE OF CONDUCT BYLAW, 2020, NO. 20020**. I am placing this matter on the agenda of the Council closed meeting to be held on [*Insert date - must be at least seven business days from date this is delivered to member*].

The reason for the meeting is to consider the Commissioner's report and recommendations, and to consider a resolution in relation to this breach.

Enclosed is a copy of the Resolution that will be considered at the meeting for discussion, debate and a vote. Note that one of the possible ultimate outcomes of the process described in the Resolution is that Council may be considering imposing sanctions flowing from the breach, including removing you from your appointment to committees or other appointments, censuring you, requiring an apology, requiring training, referral to a prosecutor or police, seeking damages, releasing a public statement, or following any other recommendation of the Ethics Commissioner.

I wish to expressly notify you that you may retain legal counsel to represent your interests in this matter. Prior to Council voting at the in-camera meeting to determine which sanction they wish to invoke, if any, you will be provided with the opportunity to address Council regarding the contents of the draft form of resolution and any other documents that Council may have before it.

Following any submissions, you (or your legal counsel) make at the in camera meeting, Council will retreat and consider this matter. We will attempt to decide what measure or measures (if any) are appropriate under the bylaw.

Regarding any Council decisions, we will provide you with written reasons for our decision(s).

Sincerely,

(Mayor)

Encls

SCHEDULE A (Continued)
RESOLUTION (IN CAMERA)

CONFIDENTIAL

Whereas Council has concluded that [*Insert name*] has breached **COUNCIL CODE CONDUCT BYLAW, 2020, NO. 20020**, by [INSERT];

And Whereas [*Insert name*] has been afforded procedural fairness with respect to Council's consideration of this matter, and in particular [*Insert name*] was notified at least seven business days in advance:

- (a) that Council would be considering the matter of the breach of and was given a copy of this draft Resolution and any documents that may be considered by Council, including the report and recommendations of the City of Surrey Ethics Commissioner;
- (b) that Council may consider, subject to continuing procedural fairness, sanctions including an in-camera motion of censure, removal from any appointment to committee or external entity, referral to law enforcement or a prosecutor, seeking damages, reduction or elimination of remuneration, or public notification of any sanctions;

Whereas [*Insert name*] was expressly informed of their right to retain legal counsel and for their legal counsel to be present at the Council meeting in which this Resolution would be discussed and voted on;

Whereas [*Insert Name*] was given the opportunity to personally, or via their legal counsel, make submissions to the rest of Council regarding their conduct in this matter;

Whereas Council has considered the submissions made by [*Insert Name*] and/or their legal counsel;

Whereas Council has attempted to reach a consensus as to the appropriate measures;

Whereas Council has provided united or separate written reasons so that [*Insert name*] understands the basis for the decision to address the concern that [*Insert name*] is alleged to have breached the bylaw;

Be it Resolved as follows:

1. That Council shall address what it has concluded to be a breach of **COUNCIL CODE OF CONDUCT BYLAW, 2020, NO. 20020**, by way of (as applicable):
 - (a) A motion of censure;
 - (b) Removal from [*insert name*] committee or [*Insert outside appointment*];

- (c) Revocation of appointment to [insert external agency or entity];
 - (d) Referral to a crown prosecutor;
 - (e) Public notification of sanctions;
 - (f) Seeking damages;
 - (g) Referral to police for an investigation under the Criminal Code or [*Insert provincial statute*];
 - (h) Mandatory training;
 - (i) Requirement for apology.
2. That Council will consider pursuing all legal options available with respect to any potential future breaches of the bylaw on the part of [*Insert name*];
3. That the Corporate Officer be directed to publish a media release containing the information concerning this matter that may be released in keeping with the City's obligations pursuant to the *Freedom of Information and Protection of Privacy Act*, substantially with the content of the following: [*Insert wording*].

SCHEDULE B

[DATE]

PERSONAL AND CONFIDENTIAL

[Name of Recipient]

[Title]

City of Surrey

[Address]

[City, Province Postal Code]

Dear [title] [last name]:

Re: Apology [subject]

As you know, on [date], I [*Briefly set out the nature of the offending conduct. It is recommended you provide dates, times and a description of the conduct at issue as you understand it.*]

On [date], you confronted me about my behaviour/conduct and expressed [*describe briefly the conduct complained of and how it affected the offended person.*]

I acknowledge that my conduct / actions made you feel [*describe how it affected the offended person*] and I admit that my [*actions / conduct*] were [*reformulate why your actions were wrong in your own words – ex: offensive, derogatory, belittling, in poor taste, defamatory, wrong, discriminatory, callous, harmful to your reputation etc.*].

Having reflected on [*your complaint / our conversation/ the decision of Council*], I take full responsibility for my [*actions / conduct*] and wish to apologize for the harm that I have caused you. My behaviour was not in keeping with the key principles of our Council's Code of Conduct. In particular, I acknowledge that my conduct was in violation of [*identify the section(s) of the Code of Conduct breached*].

(ALTERNATIVELY, IF HELD BY COUNCIL TO HAVE BEEN A VIOLATION OF THE CODE OF CONDUCT REPLACE WITH THE BELOW:

In light of Council having concluded that my conduct constituted a violation of the City's Council Code of Conduct, I acknowledge that my conduct / actions made you feel [*describe how it affected the offended person*] and I admit that my [*actions / conduct*] were [*reformulate why your actions were wrong in your own words – ex: offensive, derogatory, belittling, in poor taste, defamatory, wrong, discriminatory, callous, harmful to your reputation etc.*])

Going forward, I commit to being more careful in my [**words / actions**] and to making better efforts to respect and abide by my obligations set out in the Code of Conduct.

Please accept my heartfelt apology.

Sincerely,

[name]

[title]

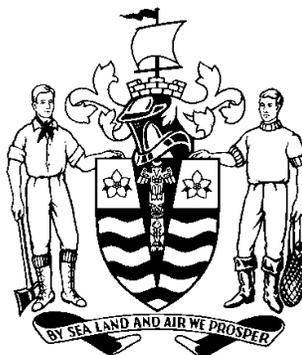
For Your Information: British Columbia's **Apology Act** provides that an "apology" made by or on behalf of a person in connection with any matter does not constitute an express or implied admission or acknowledgement of fault or liability.

"Apology" is defined as "an expression of sympathy or regret, a statement that one is sorry or any other words or actions indicating contrition or commiseration, whether or not the words or actions admit or imply an admission of fault."

The Act further provides that an apology does not void, impair or otherwise affect any insurance coverage that is available, or that would, but for the apology, be available to the person in connection with the matter.

Evidence of an apology made by or on behalf of a person in connection with any matter is not admissible in any court as evidence of the fault or liability of the person in connection with that matter and must not be taken into account in any determination of fault or liability.

CITY OF VANCOUVER BRITISH COLUMBIA



CODE OF CONDUCT BY-LAW NO. 12886

**This By-law is printed under and
by authority of the Council of
the City of Vancouver**

**(Consolidated for convenience only
to February 9, 2021)**

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BY-LAW NO. 12886

The Code of Conduct for Council Members and Advisory Board Members

[Consolidated for convenience only,
amended to include By-law No. 12886
effective February 9, 2021]

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts the following:

PART 1 GENERAL

Name

- 1.1 The name of this By-law, for citation is the “Code of Conduct By-Law”.

Definitions

- 1.2 In this By-law:

“Advisory Board Member” means a person sitting on an advisory committee, task force, commission, board, or other Council-established body;

“city” means the City of Vancouver;

“complaint” means a formal allegation that a member has breached this By-law submitted to the Integrity Commissioner in accordance with the complaints procedure set out in Part 6 of this By-Law;

“complainant” means a person who has submitted a complaint to the Integrity Commissioner;

“confidential information” means information that is not publicly available and is treated as confidential by the city and includes information that may or must be considered by Council in a closed meeting pursuant to section 165.2 of the *Vancouver Charter* including:

- a) decisions, resolutions or report contents forming part of the agenda for or from a closed meeting of Council until a Council decision has been made for the information to become public or otherwise released;
- b) information about the acquisition, disposition or expropriation of land or improvements if disclosure could reasonably be expected to harm the interests of the city;

- c) negotiations and related discussions respecting the proposed provision of an activity, work or facility that are at their preliminary stages if disclosure could reasonably be expected to harm the interests of the city;
- d) advice that is subject to any privilege at law; and
- e) personal information that is prohibited from disclosure under the provisions of the *Freedom of Information and Protection of Privacy Act*;

“Council” means the Council of the city;

“Council Member” means a member of Council, including the Mayor;

“Integrity Commissioner” means the person appointed by Council to fulfill the duties and responsibilities assigned to that position as set out in this By-law;

“gift or personal benefit” means an item or service of value that is received by a member for their personal use including money, gift cards, tickets to events, clothing, jewelry, pens, food or beverages, discount/rebates on personal purchases, entertainment, participation in sport and recreation activities, and invitations to social functions;

“member” means a Council Member or an Advisory Board Member;

“personal information” means recorded information about an identifiable individual other than contact information as defined in Schedule 1 of the *Freedom of Information and Protection of Privacy Act*; and

“respondent” means a member whose conduct is the subject of a complaint.

Table of Contents

1.3 The table of contents for this By-law is for convenient reference only, and is not for use in interpreting or enforcing this By-law.

Purpose

1.4 This By-law sets out the rules members must follow in fulfilling their duties and responsibilities as elected or appointed officials, and the powers and procedures of the Integrity Commissioner in exercising oversight over members.

Application

1.5 This By-law applies to Council Members and Advisory Board Members.

1.6 This By-law does not apply to city employees.

1.7 In the event of a conflict between this By-law and another city by-law or policy governing member conduct, this By-law prevails.

1.8 This By-law does not apply to conduct that may subject a member to disqualification under the *Vancouver Charter*, including sections 140(4), 143(4), and 145.3 to 145.911.

1.9 This By-law does not apply to a member's conduct in their personal life, except to the extent that such conduct reasonably undermines, or has the potential to reasonably undermine, public confidence in city governance.

Severability

1.10 A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.

PART 2 STANDARDS AND VALUES

2. A member must uphold the following standards and values:
 - a) competence: a member must act competently and diligently;
 - b) fairness: a member must consider all issues consistently and fairly, and in light of all relevant facts, opinions and analysis of which a member should be reasonably aware;
 - c) integrity: a member must avoid improper use of influence and avoid all conflicts of interest, both apparent and real;
 - d) leadership in the public interest: a member must act in the best interests of the city as a whole, and without regard to the member's personal interests;
 - e) respect: a member must treat members of the public, one another, and staff respectfully, without abuse, bullying or intimidation and ensure that the work environment is free from discrimination and harassment;
 - f) responsibility: a member must respect and comply with the Acts of the Parliament of Canada, the Legislature of British Columbia, including the *Vancouver Charter*, city by-laws, and applicable city policies, and avoid conduct that, reasonably, undermines, or has the potential to undermine, public confidence in city governance, except members may participate in peaceful civil disobedience; and
 - g) transparency: a member must to conduct their duties in an open and transparent manner, except where this conflicts with their duties to protect confidential information.

PART 3
COMMUNICATIONS AND CONFIDENTIALITY

Public Communications by a Council Member

3.1 A Council Member must not communicate on behalf of the city unless authorized to do so by Council resolution or by virtue of a position or role the member has been authorized to undertake by Council.

3.2 A statement or communication made by a Council Member is presumed to be made on the Council Member's own behalf, not the city's behalf.

3.3 Where a Council Member is authorized to communicate on behalf of the city, the Council Member must take reasonable efforts to ensure that the communication is fair and accurate.

3.4 Without limiting the ability of a Council Member to hold a position on an issue and respectfully express their opinions, a Council Member must:

- a) ensure that their communications accurately reflect the facts of Council decisions;
- b) ensure that all communications relating to Council business are accurate and not issue any communication that the member knows, or ought to have known, to be false; and
- c) ensure that all communications by, and on behalf of a member, including communications made via social media, are respectful and do not discriminate, harass, or defame any person, recognizing that free and open debate is guaranteed under the *Charter of Rights and Freedoms*.

Confidential Information

3.5 A member must:

- a) not disclose or release any confidential information acquired by virtue of their office, except as authorized by Council, or required by law;
- b) not use confidential information with the intention to cause harm or detriment to Council, the city or any other person or body;
- c) protect confidential information from inadvertent disclosure;
- d) use confidential information only for the purpose for which it is intended to be used;
- e) take reasonable care to prevent the examination of confidential information by unauthorized individuals; and
- f) not take advantage of, or obtain private benefit from, confidential information acquired by virtue of their office.

3.6 A member must access and use city information only in the normal course of their duties.

3.7 A member must retain records and other information in accordance with the procedures, standards, and guidelines established by the city, including the Records Management By-law No. 9067, as amended, and must assist the city in good faith in responding to all requests for information made pursuant to the *Freedom of Information and Protection of Privacy Act*.

3.8 A member must comply with the *Freedom of Information and Protection of Privacy Act* when dealing with personal information and take all reasonable and necessary measures to ensure that personal information is protected.

PART 4 CONFLICTS OF INTEREST

Conflicts of Interest

4.1 A Council Member must comply with the conflict of interest requirements set out in sections 145.2 to 145.911 of the *Vancouver Charter*.

Use of Municipal Assets and Services

4.2 A member may not direct the work of city employees, other than city employees assigned to assist a member, and should follow the processes established by the City Manager when communicating with city employees.

4.3 A member must respect that it is the role of city employees to provide neutral and objective information without undue influence and interference.

4.4 A member must not request or require city employees to undertake personal or private work on behalf of a member, or accept an offer to perform such work from a city employee.

4.5 A member must not use, or permit the use of, city land, facilities, equipment, supplies, services, employees or other resources for activities other than the business of the city, except in accordance with city policies permitting reasonable personal use.

4.6 A member must not instruct, or direct any of the city's contractors, tenders, consultants or other service providers regarding city business.

Use of Influence

4.7 A member must only use the influence of their office for the exercise of their duties.

4.8 A member must be independent and impartial, and must not provide preferential treatment to any person or organization except as warranted by the ordinary and lawful discharge of their duties.

4.9 A member must not use the prospect of future employment by a person or entity, or other future economic opportunities, to detrimentally affect the performance of their duties.

4.10 A member must not use, or attempt to use, their office for the purpose of intimidating, improperly influencing, threatening, or coercing city employees.

Election Activities

4.11 A member must not use, or permit the use of, city land, facilities, equipment, supplies, services, employees or other resources for any election campaign or campaign-related activities, unless those resources are similarly available to all candidates and any associated fees have been paid for with election campaign funds.

4.12 A member must not compel city employees to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities.

Gift or Personal Benefit

4.13 A member must not accept a gift or personal benefit that is connected directly or indirectly with the performance of their duties unless permitted by the exceptions listed in sections 4.14 and 4.15.

4.14 A Council Member may accept a gift or personal benefit if it is:

- a) received as an incident of the protocol of social obligations that normally accompany the responsibilities of office;
- b) compensation authorized by law; or
- c) a lawful contribution made to a member who is a candidate for election conducted under the Vancouver Charter or Part 3 of the *Local Government Act*.

4.15 An Advisory Board Member may accept a gift or personal benefit if it:

- a) has a value under \$50; and
- b) is received as an incident of protocol or as a city representative for an activity reasonably related to their role with the city.

4.16 If a Council Member accepts a gift or personal benefit pursuant to section 4.14(a), and if the total value of the gift or personal benefit exceeds \$50, or the total value of the gift or personal benefit received from one source during the calendar year exceeds \$100, the Council Member must within 30 days of receipt of the gift or personal benefit, or reaching the annual limit, file a disclosure statement with the City Clerk. The disclosure statement must set out:

- a) the name of the Council Member;

- b) the nature of the gift or personal benefit, by description, photograph, or both;
- c) the date the gift or personal benefit was received;
- d) the estimated value of the gift or personal benefit;
- e) the source of the gift or personal benefit, including, if it is from a corporation, the full names and addresses of at least 2 individuals who are directors of the corporation;
- f) the circumstances under which the gift or personal benefit was given; and
- g) the final disposition of the gift or personal benefit.

4.17 If a member is unable, or elects not, to accept a gift or personal benefit, a member must as soon as practicable, either:

- a) return the gift or personal benefit to the donor along with an explanation as to why the gift or personal benefit cannot, or will not, be accepted; or
- b) turn the gift or personal benefit over to the City Clerk for disposition.

4.18 A gift or personal benefit turned over to the City Clerk is deemed property of the City. At the City Clerk's discretion, a gift or personal benefit may be disposed of as follows:

- a) returned to the donor;
- b) displayed in individual offices, general offices, or in the public areas of City Hall; or
- c) disposed of by donation, sale or auction, with any proceeds credited to the city's general revenues or to the direct or indirect support of a charitable organization.

4.19 A gift or personal benefit provided to a member's spouse, child or parent, or the member's staff, that to the member's knowledge, is connected directly or indirectly to the performance of the member's duties is deemed to be a gift or personal benefit to that member.

PART 5 APPOINTMENT OF INTEGRITY COMMISSIONER

Appointment of an Integrity Commissioner

5.1 Council must appoint an Integrity Commissioner to undertake the duties and responsibilities set out in this By-law.

5.2 The appointment of an Integrity Commissioner must be for a set period of two (2) years. An Integrity Commissioner may be appointed for more than one term.

5.3 At the request of the Integrity Commissioner, Council may suspend the appointment for a mutually agreed period of time.

5.4 Council will not terminate an Integrity Commissioner except for cause.

5.5 The appointment of an Integrity Commissioner may only be made, suspended, or terminated by a 2/3 vote of all Council Members.

Interim of Ad Hoc Appointment

5.6 The City Manager may appoint an ad hoc Integrity Commissioner in the following circumstances:

- a) if the City has not yet entered into a contract for the appointment of an Integrity Commissioner;
- b) in the interim period between the expiry of the appointment of one Integrity Commissioner and the appointment of a new Integrity Commissioner; or
- c) if the appointed Integrity Commissioner is unable or unwilling to act.

Duties and Responsibilities

5.7 The duties and responsibilities of the Integrity Commissioner are as follows:

- a) provide advice and recommendations to a member on questions of compliance with this By-law where requested to do so by that member;
- b) provide advice and recommendations to a Council Member, regarding their compliance or disclosure obligations under a provincial statute, such as the *Financial Disclosure Act*, or other such statute that imposes an express compliance or disclosure obligation on the Council Member due to their position as an elected official, where requested to do so by a Council Member;
- c) prepare written materials and content for the city's website for distribution to, and use by, the public, to aid in their understanding of the role of the Integrity Commissioner and the ethical obligations and responsibilities of members under this By-law;
- d) deliver educational programs regarding the role of the Integrity Commissioner and the ethical obligations and responsibilities of members under this By-law;
- e) assist with informal resolution of confidential requests and complaints;
- f) receive and assess all complaints to determine if the complaint must be rejected, closed, resolved or investigated;
- g) investigate and conduct inquiries as to violation of this By-law;

- h) report to Council as to whether a member has breached this By-law;
- i) make recommendations on an appropriate remedy if a member has breached this By-law;
- j) submit an annual budget for approval by Council; and
- k) publish an annual report that includes a summary of the work of the Integrity Commissioner and any advice or recommendations that the Integrity Commissioner has to improve the text or operation of this By-law.

5.8 The Integrity Commissioner must perform the duties and responsibilities of their office in an independent manner.

PART 6 COMPLAINT AND RESOLUTION PROCEDURES

Confidential Requests

6.1 If a person believes that they have been subject to conduct by a member in breach of this By-law, that person may approach the Integrity Commissioner on a confidential basis, without the need to file a complaint, to request that the Integrity Commissioner inform the member of the alleged breach. Upon receipt of the confidential request, the Integrity Commissioner may attempt to address the conduct with the member.

6.2 The Integrity Commissioner must protect the confidentiality of a person making a request under section 6.1, unless the person making the request consents to disclosure.

Complaint Procedure

6.3 Any person may submit a complaint to the Integrity Commissioner.

6.4 A complaint must be in writing and describe with sufficient detail:

- a) the name of the complainant;
- b) the name of the respondent;
- c) the conduct that the complainant alleges to have breached this By-law;
- d) the date of the alleged conduct;
- e) the part or parts of this By-law that the complainant alleges has or have been breached; and
- f) the basis for the complainant's knowledge about the conduct.

6.5 A complainant may specify in the complaint if they are willing to participate in an informal resolution of the complaint.

6.6 The Integrity Commissioner may prescribe a form for submitting a complaint.

6.7 Provided that a complaint has been submitted, the Integrity Commissioner may accept a complaint, notwithstanding that the form of the complaint does not comply with all of the requirements set out in section 6.4 if, in the Integrity Commissioner's opinion, the circumstances warrant.

6.8 The Integrity Commissioner must not accept multiple complaints concerning the same matter. In the event that the Integrity Commissioner receives multiple complaints concerning the same matter, the Commissioner must proceed with the first complaint accepted, but may expand the complaint and/or add complainants for the purpose of conducting the investigation and preparing the investigation report.

6.9 The Integrity Commissioner must reject a complaint received more than 180 days after the complainant knew or reasonably ought to have known of the alleged breach of this By-law.

6.10 The Integrity Commissioner must reject a complaint received regarding a Council member seeking re-election in the period from the last day of the nomination period to the general voting day.

6.11 In the period 90 days prior to general voting day, the Integrity Commissioner may suspend any investigation underway until the day after the general voting day.

Complaint Outside of Jurisdiction

6.12 The Integrity Commissioner has the authority to investigate a complaint alleging that a member is in breach of this By-law.

6.13 If a complaint is submitted that, on its face, is not made with respect to a breach of this By-law, or if a complaint would be more appropriately addressed through another process, including if the complaint is:

- a) an allegation of a criminal nature consistent with the Criminal Code;
- b) with respect to non-compliance with the *Freedom of Information and Protection of Privacy Act*,
- c) with respect to conduct that may subject a member to disqualification pursuant to sections 140(4), 143(4) and 145.3 to 145.911 of the *Vancouver Charter*,
- d) with respect to non-compliance with a more specific Council policy or by-law with a separate complaint procedure; or
- e) with respect to a matter that is subject to another outstanding process, such as a court proceeding or a Human Rights complaint,

the Integrity Commissioner must reject the complaint, or part of the complaint, and must notify the complainant in writing that the complaint is not within the jurisdiction of this By-law, or that the complaint would be more appropriately addressed

through another process, as the case may be, and set out any additional reasons and referrals the Integrity Commissioner considers appropriate.

6.14 Where a complaint is made against a Council Member and the complaint procedure overlaps with a municipal election and the Council Member is not re-elected in that election, the Integrity Commissioner must notify the complainant and the Council Member in writing that the Integrity Commissioner is closing the complaint on this basis and close the complaint.

Preliminary Assessment

6.15 On receipt of a complaint, the Integrity Commissioner must conduct a preliminary assessment and if at that time, or any time thereafter, the Integrity Commissioner of the opinion that:

- a) the statement is not with respect to a breach of this By-law;
- b) the complaint is frivolous, vexatious, or not made in good faith;
- c) an investigation of the complaint would not be in the public interest;
- d) the investigation is, or might be, hampered, or the member might be prejudiced by the complainant's failure to provide a complaint in compliance with section 6.4, or otherwise cooperate with the investigation;
- e) the complainant wishes to withdraw the complaint, and it would be appropriate in the circumstances to allow the withdrawal; or
- f) there are no grounds or insufficient grounds for concluding that a violation of this By-law has occurred,

the Integrity Commissioner must notify the complainant and the respondent in writing that the Integrity Commissioner is closing the complaint, set out the reasons therefore, and close the complaint.

6.16 Notwithstanding section 6.15, the Integrity Commissioner may request further information from the complainant before determining whether or not there are sufficient grounds for believing that a breach of this By-law may have occurred.

Informal Resolution

6.17 When the Integrity Commissioner has decided to proceed with a complaint, the Integrity Commissioner must determine whether the complaint requires a formal investigation, or whether the complaint may be resolved informally. In the latter case, the Integrity Commissioner may, at their discretion, either attempt to resolve the complaint directly, or refer the complaint to:

- a) the Mayor, if the complaint is made by a member, unless the complaint is against the Mayor, in which case the complaint will be referred to the Deputy Mayor; or

b) the City Manager, if the complaint is made by a City employee or the public.

6.18 When determining whether the complaint may be resolved informally, the Integrity Commissioner may consider culturally appropriate, or transformative or restorative justice approaches, and may engage a third party to assist the Integrity Commissioner for this purpose.

6.19 Where the Integrity Commissioner refers the complaint in accordance with section 6.17, the Mayor, the Deputy Mayor, or the City Manager, as the case may be, may agree to assist in resolving the complaint directly, or may appoint a third party to assist in resolving the complaint at their discretion.

6.20 The person assisting in the informal resolution of a complaint will assess the suitability of the complaint for settlement or resolution on an ongoing basis and may decline to assist at any point.

6.21 The complainant, or the respondent, can decline to participate in an informal resolution at any time.

6.22 If a complaint is resolved informally, the person assisting in resolving the complaint must notify the Integrity Commissioner in writing of the terms of the resolution, upon receipt of which, the Integrity Commissioner must close the complaint.

6.23 If a complaint cannot be resolved informally, the person assisting in resolving the complaint must refer the complaint back to the Integrity Commissioner for a formal investigation.

Formal Resolution

6.24 If a complaint is not rejected, closed, or resolved informally, the Integrity Commissioner must proceed with a formal investigation.

6.25 The Integrity Commissioner must serve the complaint on the respondent with a request that the respondent provide a written response to the complaint together with any submissions the respondent chooses to make within 10 days, subject to the Integrity Commissioner's discretion to extend the timeline.

6.26 The Integrity Commissioner may serve the complainant with the respondent's written response together with any submissions, on a strictly confidential basis, and request a reply in writing within 10 days, subject to the Integrity Commissioner's discretion to extend the timeline.

6.27 The Integrity Commissioner may:

- a) speak to anyone relevant to the complaint;
- b) request disclosure of documents relevant to the complaint; or
- c) access any record in the possession or control of the city, except a record that is subject to privilege.

6.28 The Integrity Commissioner must ensure that the formal investigation complies with the rules of procedural fairness and natural justice required in the circumstances.

Adjudication and Reporting

6.29 The Integrity Commissioner must make a decision within 90 days of making a decision to proceed with a formal investigation, unless section 6.11 applies, or the Integrity Commissioner determines that doing so is not practicable, in which case the Integrity Commissioner must notify the complainant and respondent of the delay and provide a revised decision date. The revised decision date may be extended by periods of up to 30 days on provision of written notice to the complainant and the respondent.

6.30 A notification issued pursuant to sections 6.13, 6.14, 6.15 or 6.29 is confidential and must not be disclosed except in the following circumstances:

- a) the Integrity Commissioner may use information in the notice in an annual report in the form of context and statistics;
- b) the Integrity Commissioner may prepare an anonymized bulletin based on the notice if the Integrity Commissioner believes that doing so would be of public benefit;
- c) to Council for the purpose of considering a resolution for reimbursement of legal fees pursuant to section 6.44; and
- d) the respondent may disclose the fact that the complaint has been closed, or that a finding has been made that the respondent did not breach this By-law.

6.31 If after reviewing all material information, the Integrity Commissioner determines that the respondent did not violate this By-law, then:

- a) Integrity Commissioner must prepare a written investigation report providing reasons for their determination that the member did not breach the By-Law;
- b) the Integrity Commissioner must deliver a copy of the investigation report to the complainant, respondent and Council; and
- c) the Integrity Commissioner must make the investigation report available to public forty eight (48) hours after delivery of the investigation report to the complaint, respondent and Council.

6.32 If after reviewing all material information the Integrity Commissioner determines that a member did violate this By-law then:

- a) the Integrity Commissioner must prepare a written investigation report providing reasons for their determination that the member breached this By-law;

- b) the investigation report will make recommendations as to the appropriate sanction for the breach;
- c) if the Integrity Commissioner determines that a member did breach this By-law, but that the member took all reasonable steps to prevent it, or that it was trivial or done inadvertently or because of an error in judgment made in good faith, the Integrity Commissioner will so state in the investigation report and may recommend that no sanction be imposed;
- d) the Integrity Commissioner must deliver, on a strictly confidential basis, a copy of the investigation report to the respondent; and
- e) the Integrity Commissioner must deliver a copy of the investigation report to the complainant and Council forty eight (48) hours after delivery of the investigation report to the respondent; and
- f) the Integrity Commissioner must make the investigation report available to public after delivery of the investigation report to the complainant and Council.

6.33 The Integrity Commissioner must ensure that the investigation report as drafted complies with the city's obligations regarding disclosure of personal information set out in the *Freedom of Information and Protection of Privacy Act*, or ensure that appropriate redactions are applied prior to release to the public.

Final Determination by Council

6.34 Council must, within 30 days of delivery of the investigation report pursuant to section 6.32 (e), or a longer period if approved by a vote of Council, decide on the appropriate measures, if any, that are warranted by the breach of this By-law, and will take such actions as Council considers appropriate in the circumstances.

6.35 Prior to Council making any decision regarding the findings and recommendations set out in the investigative report, the respondent must be provided with an opportunity, either in person or in writing, to comment on the decision and any recommended censure, sanctions or corrective actions.

6.36 While an investigation report provided to Council may be considered in a closed meeting for the purpose of receiving legal advice, or other valid reason, when Council deliberates and votes on the investigation report, it will do so in a public meeting and the investigation report must be made available to the public in a form that complies with section 6.33.

Remedies

6.37 Sanctions that may be imposed for violating this By-law include the following:

- a) a letter of reprimand from Council addressed to the member;
- b) a request from Council that the member issue a letter of apology;

- c) the publication of a letter of reprimand and a request for apology by the Integrity Commissioner, and the member's written response;
- d) a recommendation that the member attend specific training or counselling;
- e) suspension or removal of the appointment of a Council Member as the Deputy Mayor;
- f) suspension or removal of the Council Member from some or all Council committees and bodies to which the Council Member was appointed by Council;
- g) termination of the Advisory Board Member's appointment from the advisory committee, task force, commission, board, or other Council-established body to which the Advisory Board Member was appointed by Council; and
- h) public censure of a member.

Confidentiality of the Investigation

6.38 The Integrity Commissioner must make all reasonable efforts to investigate complaints in confidence.

6.39 The Integrity Commissioner and every person acting under the Integrity Commissioner's instructions must preserve confidentiality with respect to all matters that come into the Integrity Commissioner's knowledge in the course of any investigation or complaint except as required by law.

6.40 An investigation report must only disclose such matters as in the Integrity Commissioner's opinion are necessary for the purpose of the investigation report.

Reprisals and Obstruction

6.41 No member or City employee will obstruct the Integrity Commissioner in the carrying out of the Integrity Commissioner's duties or responsibilities.

6.42 No member or City employee will threaten or undertake any active reprisal against a complainant or against a person who provides information to the Integrity Commissioner in the context of an investigation.

6.43 No member or City employee will tamper with or destroy documents or electronic records related to any matter under investigation under this By-law or refuse to respond to the Integrity Commissioner when questioned regarding an investigation.

Reimbursement of Costs

6.44 If appropriate after considering all circumstances, Council may resolve to reimburse legal fees reasonably incurred by a Council Member in relation to a complaint in accordance with the provisions of the *Vancouver Charter*.

PART 7 ENACTMENT

Force and effect

7. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this 9th day of February, 2021

Signed _____ "Kennedy Stewart"
Mayor

Signed _____ "Rosemary Hagiwara"
Acting City Clerk

Code of Conduct - Next Steps

Governance Committee

October 4, 2023

Drafting Provisions

- Format of the Code
- Value Statements
- Standards of Conduct
- Scope of Application
- Resolution Process
 - Complaints
 - Adjudication of Complaints
 - Tiered Approach
 - Remedies & Sanctions
 - Confidentiality and Release of Findings
- Reimbursement of Legal Expenses
- Additional Options

Format of the Code

Bylaw	Policy
Sidney	Esquimalt
Nanaimo	Langford
Surrey	Saanich
Vancouver	Comox Valley RD

Recommendation • Code of conduct be in the form of a bylaw

Value Statements

The *Principles for Codes of Conduct Regulation* sets out foundational principles that must be considered when establishing standards of conduct:

- members must carry out their duties with integrity
- members are accountable for the decisions that they make, and the actions that they take in the course of their duties
- members must be respectful of others
- members must demonstrate leadership and collaboration

Standards of Conduct

Examples:

- Compliance with applicable laws
- Interactions with staff
- Respect for procedural requirements
- Communication and advocacy
- Use of social media
- Collection and handling of confidential information
- Conflict of interest
- Receipt of Gifts
- Use of public resources

- Code should not overlap with existing policies or deal with any conduct that is criminal in nature

Scope of Application

Who will the code apply to?

The CRD has a governance system that includes the three CRD Boards; standing, select and advisory committees; and over 78 committees and commissions.

Recommendation

- Board Directors, Alternate Directors, and elected members of CRD Committees and Commissions
- Does not generally apply to conduct in an elected member's personal life
- Does not apply to staff

Resolution Process

Complaints – common provisions

- Made in confidence and kept confidential
- Must allege conduct that is a breach of the code
- May have a limitation date
- Can include a blackout period during elections
- Submitted to whom? Can be CAO, CO or third party

Recommendation

- Code includes a clear process for filing complaints

Resolution Process

Adjudication of Complaints

- Should not involve staff beyond the early stages
- Third-party adjudicator will reduce any perception of bias
- Integrity/Ethic Commissioner can play a proactive role in educating members on the code and assist in more timely resolution of complaints, but may increase costs

Recommendation

- Code should allow complaints to be referred to a third-party investigator
- Do not recommend appointment of a standing Integrity Commissioner
- Board may pre-approve a list of qualified adjudicators who may be engaged on an *ad hoc* basis

Resolution Process

Tiered Approach

- Preliminary screening will ensure resources are not wasted on complaints that are vexatious, insignificant, or without merit
- Informal resolution allows the parties to come to a mutual resolution without a formal investigation and report
- Formal resolution would include a full investigation and written investigation report with findings and potential recommendations on appropriate sanctions

Recommendation

- Code should have a preliminary screening mechanism, an informal and a formal resolution process

Resolution Process

Remedies and Sanctions

- The code may include a list of options
- Sanctions must be proportionate to the nature and degree of a breach
- May be recommended by the adjudicator but imposed by resolution of the Board
- Legal limitations to what may be imposed

Recommendation

- Code should allow for the imposition of remedies and sanctions

Resolution Process

Confidentiality and Release of Findings

- Ensure confidentiality during investigation
- The report on findings of an investigation should be received *in camera*
- Provision to release report on findings, subject to *FOIPPA*

Recommendation

- Code should include guidelines for confidentiality in investigations and provide for the public release of reports

Reimbursement of Legal Expenses

- Reimbursement can be a discretionary decision of the Board
- Can apply a cap on the amount that is reimbursable
- Can be made to apply only when an alleged breach is unsubstantiated
- Indemnity under the *LGA* or bylaw does not apply

Recommendation

- Code should provide for the discretionary reimbursement of legal expenses

Additional Options

- No obstruction or reprisal clause
- Blackout periods for receipt of complaints or release of reports during election periods
- Inclusion of a template apology letter
- Requirement for a signed statement of commitment
- Prescribe an oath of office consistent with the code provisions
- Others?



Making a difference...together

**REPORT TO GOVERNANCE COMMITTEE
MEETING OF WEDNESDAY, DECEMBER 06, 2023**

SUBJECT **Bylaw No. 4548: Victoria Family Court Committee – Amendment of Commission Bylaw No. 4453**

ISSUE SUMMARY

The Victoria Family Court and Youth Justice Committee (the “Committee”) has requested changes to its commission bylaw to remove references to municipal councilors or regional district board members being appointed as Regional District representatives.

BACKGROUND

In 2022, the Victoria Family Court and Youth Justice Committee was continued as a delegated commission of the Capital Regional District under Bylaw No. 4453, “Victoria Family Court and Youth Justice Committee Commission Bylaw No. 1, 2022”.

At its January 26, 2023 meeting, the Committee endorsed a motion of a committee member, as follows:

That the Victoria Family Court & Youth Justice Committee wishes for the Capital Regional District (CRD) Board to amend CRD Bylaw No. 4453 A Bylaw to continue the Victoria Family Court and Youth Justice Committee as a Delegated Commission which was adopted by the CRD Board in February 2022; by amending page 2, section 7, titled Capital Region Representatives to amend the wording of: municipal councillors, regional district Board members by deleting those references.

The historical intent is for CRD to use its seven community spots for community members and not local government elected officials, except for the Juan de Fuca Electoral Area.

Bylaw 4453 was adopted after a CRD governance review of the Committee in 2021 and 2022. Since the adoption of the new bylaw, the Committee has been meeting regularly and is working to refine its mandate. In June of 2023, it organized a successful and well-attended reception to bring youth-and-family representatives together to connect on issues facing the community. Its grant program has been recommenced, and two grants – one to the Youth Empowerment Society (or YES!) in the amount of \$5,300 for its summer youth outreach program, and another to Sanctuary Youth Society for \$3,000 for its Wellness Wednesday program, which focuses on youth mental health and skills training – have been successfully issued. It continues to examine its contracted resources and mandate as it moves forward.

ALTERNATIVES

Alternative 1

The Governance Committee recommends to the Capital Regional District Board:

1. That Bylaw No. 4548, “Victoria Family Court and Youth Justice Committee Commission Bylaw No. 1, 2022, Amendment Bylaw No. 1, 2023”, be introduced, and read a first,

- second, and third time;
2. That Bylaw No. 4548 be adopted.

Alternative 2

That this report be referred back to staff for additional information.

IMPLICATIONS

Service Delivery Implications

Since the 1980s, the CRD membership spots have been used for the Juan de Fuca Electoral Area and for regular volunteers, such as family lawyers, public health professionals, and youth workers, to meet the *Provincial Court Act* requirement that Committee members have experience in health, probation, and welfare. Since 2022, only one CRD spot has been filled, with a dedicated volunteer responsible for the Capital Region Action Team on Sexually Exploited Youth (CRAT). Advertising of vacancies will be conducted in early 2024.

Intent of Modification

The committee member who brought the motion expressed concern that the Regional Board could allow a single municipality to have much larger representation than other municipalities. The amendment set out in Bylaw 4548 at Appendix A includes alternate language than was proposed in the January 2023 motion, but meets the intent that CRD cannot appoint local elected officials as its representatives on the committee, other than the Juan de Fuca Director.

CONCLUSION

Amending language is suggested to clarify member appointment requirements for the Victoria Family Court and Youth Justice Committee.

RECOMMENDATION

The Governance Committee recommends to the Capital Regional District Board:

1. That Bylaw No. 4548, “Victoria Family Court and Youth Justice Committee Commission Bylaw No. 1, 2022, Amendment Bylaw No. 1, 2023”, be introduced, and read a first, second, and third time;
2. That Bylaw No. 4548 be adopted.

Submitted by:	Steven Carey, B.Sc, J.D., Senior Manager, Legal Services & Risk Management
Concurrence:	Kristen Morley, J.D., General Manager, Corporate Services & Corporate Officer
Concurrence:	Ted Robbins, B. Sc., C. Tech., Chief Administrative Officer

ATTACHMENTS

Appendix A: Bylaw No. 4548, “Victoria Family Court and Youth Justice Committee Commission Bylaw No. 1, 2022, Amendment Bylaw No. 1, 2023”

Appendix B: Bylaw No. 4453, “Victoria Family Court and Youth Justice Committee Commission Bylaw No. 1, 2022”, Redlined Unofficial Consolidation

CAPITAL REGIONAL DISTRICT
BYLAW NO. 4548

**A BYLAW TO AMEND THE MEMBERSHIP OF THE VICTORIA FAMILY COURT
AND YOUTH JUSTICE COMMITTEE COMMISSION (BYLAW NO. 4453)**

WHEREAS:

- A. Under Bylaw No. 4453, "Victoria Family Court and Youth Justice Committee Commission Bylaw No. 1, 2022", the Regional Board and the Victoria Family Court and Youth Justice Committee continued the operations and funding of the *Provincial Court Act* family court committee created for the capital region as a delegated commission of the Capital Regional District consistent with Bylaw No. 2560, "Family Court Committee Extended Service Establishment Bylaw No. 1, 1997";
- B. The Board wishes to amend Bylaw No. 4453 to clarify who may be a Capital Regional District appointed member;

NOW THEREFORE, the Capital Regional District Board in open meeting assembled hereby enacts as follows:

- 1. Bylaw No. 4453, "Victoria Family Court and Youth Justice Committee Commission Bylaw No. 1, 2022" is hereby amended as follows:
 - (a) By replacing section 7, Capital Region Representatives, in its entirety with the following:
 - 7. The Regional Board may appoint up to seven individuals as voting members of the Committee. Such appointments may be, but are not limited to, representatives of the Juan de Fuca Electoral Area (including the Electoral Area Director), community members, representatives of youth and family justice organizations, or First Nations' representatives. Municipal councillors and regional district Board members, other than the Juan de Fuca Electoral Area Director, are not eligible for appointment as Capital Region Representatives.
- 2. This bylaw may be cited for all purposes as "Victoria Family Court and Youth Justice Committee Commission Bylaw No. 1, 2022, Amendment Bylaw No. 1, 2023".

READ A FIRST TIME THIS	th	day of	20__
READ A SECOND TIME THIS	th	day of	20__
READ A THIRD TIME THIS	th	day of	20__
ADOPTED THIS	th	day of	20__

CHAIR

CORPORATE OFFICER

**CAPITAL REGIONAL DISTRICT
BYLAW NO. 4453**

**A BYLAW TO CONTINUE THE VICTORIA FAMILY COURT AND
YOUTH JUSTICE COMMITTEE AS A DELEGATED COMMISSION**

WHEREAS:

- A. Under Bylaw No. 2560, *Family Court Committee Extended Service Establishment Bylaw No. 1, 1997*, the Capital Regional District (“CRD”) continued a service to operate, participate in and fund a *Provincial Court Act* family court committee created for the capital region, as well as to provide funding to approved youth justice initiative involved third parties;
- B. Since the 1960s, the Victoria Family Court Committee, also known as the Victoria Family Court and Youth Justice Committee, has operated as an advisory body, first as a committee of the City of Victoria then of the Capital Regional District, and continues to operate for the coordination and grant-making benefit for regional youth and family justice initiatives;
- C. The Board wishes to set out clearly the community mandate of the Committee in a commission bylaw and ensure it has legal status and delegated authority to continue its work;

NOW THEREFORE, the Capital Regional District Board in open meeting assembled hereby enacts as follows:

CREATION OF COMMISSION

- 1. A commission is hereby established, to be known as the “Victoria Family Court and Youth Justice Committee” (hereinafter the “Committee”), and shall be a continuation of the Victoria Family Court and Youth Justice Committee presently operated in the capital region.

DELEGATED AUTHORITY

- 2. The Committee is hereby delegated all of the administrative powers of the Regional Board with respect to the service set out in Bylaw No. 2560, *Family Court Committee Extended Service Establishment Bylaw No. 1, 1997* (the “Bylaw No. 2560”), that is, the funding, participation, and operation of the Committee and the granting of funding to youth and family issues; and the Board’s ability under s.263(1)(c) of the *Local Government Act* to provide assistance to youth and family groups as contemplated by Bylaw No. 2560, other than assistance to business.

COMPOSITION AND ELIGIBILITY

- 3. The Committee shall have the following number of voting members, up to a total of 23, each having one vote:
 - (a) Up to seven individuals as Capital Regional District appointed representatives under section 7;
 - (b) Thirteen municipal council representatives, who may each have an alternate, under section 8; and
 - (c) Three school district representatives, representing School Districts 61, 62, and 63, under section 9.
- 4. Available openings for voting membership vacancies will be advertised by November of each year of a vacancy in a term in a form acceptable to the appointing organization.

5. A majority of members must have experience in education, health, probation, or welfare.
6. Members must represent the interests of their community or organization to the best of their ability.

Capital Region Representatives

7. The Regional Board may appoint up to seven individuals as voting members of the Committee. Such appointments may be, but are not limited to, representatives of the Juan de Fuca Electoral Area (including the Electoral Area Director), community members, representatives of youth and family justice organizations, or First Nations' representatives. Municipal councillors and regional district Board members, other than the Juan de Fuca Electoral Area Director, are not eligible for appointment as Capital Region Representatives.

~~The Regional Board may appoint up to seven individuals as voting members of the Committee. Such appointments may be, but are not limited to, representatives of the Juan de Fuca Electoral Area, community members, representatives of youth and family justice organizations, municipal councillors, regional district Board members, or First Nations' representatives.~~

Municipal Representatives

8. Each municipal participant may appoint a municipal council representative as a voting member, and may appoint as an alternate voting member a member of the public or a municipal councilor to act in the absence of the municipal council representative, for a total of 13 municipal council representatives.

School District Representatives

9. Each school district in areas served by the Committee may appoint a representative as a voting member, for a total of three school district representatives.

Resource Members

10. The Committee may resolve to have any number of non-voting resource members, including individuals, service providers, organization representatives, public authorities, First Nations, or other groups working in the capital region in family court and youth justice initiatives.

TERM OF OFFICE

11. A member's term of office is from the date of appointment in one year to December 31 in the second year of appointment.
12. No voting member may serve more than six consecutive years on the Committee. A former member may be reappointed after one year of absence. Despite the term limit in this section, in unique circumstances, an appointing agency may reappoint its voting member for an additional term.

OFFICERS

13. By the end of February in each year, the Committee shall hold an annual meeting for the purpose of appointing officers (the "Annual Meeting"). The Committee shall select from among its voting members a Chair, Vice-Chair, and Treasurer, with voting by show of hands, or, if a secret ballot is requested by one-third of members present, by secret ballot.
14. The Committee may create additional officer roles it considers advisable and staff them with voting or non-voting members from time-to-time.

15. In the event of a vacancy, the Committee may select a voting member to fill an officer role until the next Annual Meeting.

DEATH, RESIGNATION, DISQUALIFICATION AND TERMINATION

16. A member's appointment ends on the end of term; resignation; death or incapacity; revocation of appointment; ceasing to be an employee, volunteer, elected official or officer of an appointing agency; or on the cessation of a municipal council voting member ceasing to be a municipal councillor.

MEMBER VACANCIES

17. In the event of a member vacancy before the end of term, the appointing organization may appoint an individual to complete the term. If not filled within a reasonable time, the Committee shall reported such vacancy to the Capital Regional District's Corporate Officer.

18. If a member is absent for more than two consecutive meetings with notice, the Committee shall contact the member to determine interest in continuing on the Committee. If absent for three consecutive meetings, the member may be removed by resolution of the Committee and the Committee shall alert the appointing organization, requesting appointment.

COMMISSION OBJECTIVES AND DUTIES

19. The Committee has the following objectives:

- (a) to identify, inform, educate, advocate for, and report on gaps in regional resources for youth justice and family court issues;
- (b) to act as a resource for the public and youth and family organizations; and
- (c) to encourage collaboration between and visibility of community services.

20. The Committee is hereby tasked with the following duties:

- (a) to meet at least four times per year to:
 - i. consider and examine community resources for family and children's matters;
 - ii. make recommendations to the court, the Attorney General, or others;
 - iii. solicit and consider applications for receipt of grant-funding; and
 - iv. connect family-and-justice-involved individuals, service providers, and government in a way that encourages collaboration and identifies service gaps;
- (b) if requested by the court, to act a resource or assist as directed; and
- (c) report annually to its member local governments and the Attorney General on its activities.

21. The Committee may, within its mandate:

- (a) take positions and advocate on policy initiatives, legislation, and services affecting families and youth justice in the region, in the name of the "Victoria Family Court and Youth Justice Committee"; and
- (b) undertake other activities consistent with the activities of a family court and youth justice committee, as permitted by law.

22. Subject to Capital Regional District bylaws, policies, and procedures, the Committee, in open meeting assembled or through supervised volunteers, may:

- (a) establish advisory groups to examine specific issues, who will report on their work;
- (b) contract for support services, volunteer coordination, communications, feasibility studies, and other services and goods related to its objectives and duties;
- (c) undertake necessary, incidental, or ancillary administrative tasks in order to effect its work.

23. If acting under referral or as otherwise directed under the *Provincial Court Act*, RSBC 1996, c 379, or *Youth Criminal Justice Act*, SC 2002, c 1, the Committee shall discharge its duties through one or more

registered volunteers assembled for that purpose by resolution of the Committee, unless otherwise directed by the court.

24. All volunteers shall be supervised by the Committee or its appointed volunteer coordinator, if any; shall register with the CRD's Risk and Insurance Department; and must, if working with vulnerable persons or persons under 18 years of age, provide a recent criminal record check to CRD.

CONDUCT OF MEETINGS AND QUORUM

25. A quorum shall be seven (7) voting members.
26. The Committee must follow Bylaw No. 3828, "Capital Regional District Board Procedures Bylaw, 2012", when conducting a meeting (the "CRD Procedures Bylaw").
27. All meetings of the Committee must be held in a public facility and must be open to the public. Meetings may be in-camera, where authorized by law.
28. The Committee may meet by electronic means, where the requirements in the CRD Procedures Bylaw are met.

CONFLICT OF INTEREST

29. In discharging the Committee's grant function, any member who considers themselves in a pecuniary or non-pecuniary conflict of interest shall declare a conflict, which may include:
 - (a) where their appointing agency is a direct recipient of a grant or assistance; or
 - (b) where a member or their immediate family owes a fiduciary duty, as a director, senior manager, or employee of an organization receiving funding,and shall recuse themselves in accordance with the CRD Procedures Bylaw and the *Community Charter*, SBC 2003, c 26.
30. On a majority vote of the Committee, School District and non-voting members representing an organization with a direct pecuniary interest in a grant may be invited to present on their organization's application, but shall not be present for debate nor the vote on the matter.

BUDGET

31. Upon its establishment and by October 1 of each year, the Committee shall prepare an annual budget, which shall include estimates for administrative costs, operations, grants, and other expenditures, and shall submit such estimates to the CRD's Chief Financial Officer for Regional Board approval and inclusion in provisional and annual budgets.

RECORD KEEPING

32. The Committee shall comply with all public record keeping requirements under the *Community Charter*, *Local Government Act*, and other applicable legislation.
33. Records shall be stored at the CRD. Agendas shall be provided in advance of meetings in accordance with the CRD Procedures Bylaw and meeting minutes shall be provided after each meeting.

CITATION

34. This bylaw may be cited for all purposes as "Victoria Family Court and Youth Justice Committee Commission Bylaw No. 1, 2022".

READ A FIRST TIME THIS	9 th	day of	February,	2022
READ A SECOND TIME THIS	9 th	day of	February,	2022
READ A THIRD TIME THIS	9 th	day of	February,	2022
ADOPTED THIS	9 th	day of	February,	2022

CHAIR

CORPORATE OFFICER



Making a difference...together

**REPORT TO GOVERNANCE COMMITTEE
MEETING OF WEDNESDAY, DECEMBER 06, 2023**

SUBJECT **Appointment of Liaison to Accessibility Advisory Committee**

ISSUE SUMMARY

Appoint a liaison between the Accessibility Advisory Committee and the Governance Committee.

BACKGROUND

On April 12, 2023, the CRD Board approved the Accessibility Advisory Committee (AAC) Terms of Reference (Appendix A). The Terms of Reference states that “*The Governance Committee will recommend AAC member appointments to the CRD Board for up to a two-year term; and appoint a member as the liaison between the AAC and the Governance Committee.*”

The Governance Committee must appoint one of its members to the Accessibility Advisory Committee for one or two-year term. The Committee meets every two months on the third Tuesday at 1:00 pm. The next meeting is January 16, 2024. For additional information, please refer to the previous staff report dated April 5, 2023 (Appendix B).

ALTERNATIVES

Alternative 1

The Governance Committee recommends to the Capital Regional District Board:
That Director [X] be appointed as the Governance Committee liaison to the Accessibility Advisory Committee for a one-year term ending December 31, 2024.

Alternative 2

That this report be referred back to staff for additional options on appointing a CRD liaison to the Accessibility Advisory Committee.

RECOMMENDATION

The Governance Committee recommends to the Capital Regional District Board:
That Director [X] be appointed as the Governance Committee liaison to the Accessibility Advisory Committee for a one-year term ending December 31, 2024.

Submitted by:	Marlene Lagoa, MPA, Manager, Legislative Services & Deputy Corporate Officer
Concurrence:	Kristen Morley, J.D., General Manager, Corporate Services & Corporate Officer
Concurrence:	Ted Robbins, B. Sc., C. Tech., Chief Administrative Officer

ATTACHMENT(S)

- Appendix A: Accessibility Advisory Committee Terms of Reference
- Appendix B: Previous Staff Report dated April 5, 2023

Terms of Reference

CRD

CRD ACCESSIBILITY ADVISORY COMMITTEE

PREAMBLE

The Capital Regional District (CRD) Accessibility Advisory Committee (AAC) is an advisory committee of the CRD Governance Committee created further to the *Accessible British Columbia Act*. The AAC is established to provide recommendations on improving accessibility to the Governance Committee on CRD policies, programs, services, built environments, infrastructure, and outdoor spaces that to improve the livability, inclusivity, and accessibility for persons with disabilities in the capital region.

The Committee's official name is to be:

Accessibility Advisory Committee

1.0 PURPOSE

The Accessibility Advisory Committee will:

- a) Provide recommendations on the development of an accessibility plan.
- b) Identify barriers of access to CRD services and programs for persons with disabilities in the community and recommend solutions for consideration by the CRD.
- c) Be available as a resource to the CRD on matters relating to accessibility and participate in community engagement activities in an objective and unbiased manner, as needed, and avoid reflecting preferred outcomes.
- d) Collaborate and share information and best practices with other committees and organizations focused on supporting persons with disabilities.
- e) Provide input and advice to the Governance Committee on the best methods to engage the public and stakeholders.
- f) Ensure that the accessibility plan and community engagement are neutral, balanced and inclusive.
- g) Ensure that adequate information is provided to community members to enable them to provide informed feedback.
- h) Remain objective and unbiased while overseeing the process of community education and participation.

- i) Review CRD accessibility plan every three (3) years.

2.0 ESTABLISHMENT AND AUTHORITY

- a) The Governance Committee will:
 - Recommend AAC member appointments to the CRD Board for up to a two-year term; and
 - Appoint a member as the liaison between the AAC and the Governance Committee.
- b) The AAC will appoint a Chair and a Vice-Chair on an annual basis.
- c) The AAC will report its input to the Governance Committee for consideration. The CRD Board is the final decision-making authority.

3.0 COMPOSITION OF VOTING MEMBERSHIP

- a) To the extent that it is possible, members will be people from diverse backgrounds, including Indigenous peoples, no less than half of whom must either be persons with disabilities or persons representing a disability-serving organization.
- b) The AAC will be composed of at least five (5), and up to 11, members.
- c) The AAC may include both members external and internal to the CRD organization.
- d) Members will be appointed for a 2-year term (except in the first year when 3 citizen appointments will be appointed for a 1-year term to allow for staggered expiration terms).
- e) A term will equal 2 years, and members will serve no more than 3 consecutive terms (i.e. 6 years).
- f) Public members of the AAC will receive an honorarium in the amount of \$110.00 per meeting and reimbursement of any necessary travel expenses. Honoraria are not intended for members who are representatives of organizations or businesses where they are employed.
- g) AAC vacancies will be publicly posted for a minimum of 30 days and appointments will be made in accordance with the CRD Appointment of Public Members to External Boards Policy.

4.0 PROCEDURES

- a) The CRD Board Procedures Bylaw will apply.
- b) The AAC shall meet at a minimum of every two (2) months at the call of the Chair and have special meetings, as required.
- c) The agenda will be finalized in consultation between staff and the Chair.

- d) A quorum is a majority of the committee membership and is required to conduct committee business.
- e) AAC meetings will be held in a manner which is as accessible as possible by default, including but not limited to: accessible meeting locations; use of accessible hybrid virtual meeting technology; provision of accessibility supports including ASL interpreters and live caption services; and other as identified by the AAC.

5.0 RESOURCES AND SUPPORT

- a) The Senior Manager, Human Resources and Corporate Safety, will lead the coordination and allocation of resources to the Committee.
- b) Appropriate CRD staff and resources will be provided to assist with the activities of and support to the AAC.
- c) Minutes and agendas are prepared and distributed by the Legislative Services division.

Approved by the CRD Board on April 12, 2023

**REPORT TO GOVERNANCE COMMITTEE
MEETING OF WEDNESDAY, APRIL 05, 2023**

SUBJECT **Establishment of an Accessibility Advisory Committee**

ISSUE SUMMARY

To approve a Terms of Reference (TOR) to establish an Accessibility Advisory Committee (AAC), consistent with the *Accessible British Columbia Act*.

BACKGROUND

In June 2021, the *Accessible British Columbia Act* became law and provides a framework to identify, remove, and prevent barriers to accessibility. To advise the province on matters related to accessibility and to support the development of accessibility standards, the Province of British Columbia established the Provincial Accessibility Committee. This included the creation of a forward-looking, three-year government accessibility plan, determining which other organizations the law will apply to and developing a feedback tool to ensure people throughout the province can provide input on identifying, preventing and removing barriers.

In September 2022, new regulations came into force which require local governments to establish by September 2023: (1) an accessibility committee; (2) an accessibility plan; and (3) a tool to receive feedback on accessibility. By the regulations:

- (1) Accessibility committees, to the extent possible, should have at least half of its members be persons with disabilities; represent a disability-serving organization. Membership should also reflect the diversity of British Columbians and have Indigenous representation. Committees may include members from inside or outside of the organization.
- (2) An accessibility plan should outline how the organization will identify, remove and prevent barriers to people in the organization or interacting with it. The plan must be reviewed and updated at least once every three years. In developing or updating the accessibility plan, an organization must consult with its accessibility committee and consider specified principles: inclusion; adaptability; diversity; collaboration; self-determination; and universal design. In updating the accessibility plan, an organization must also consider comments received through its public feedback mechanism.
- (3) A tool to receive feedback on accessibility will be developed and vetted through the AAC.

The attached TOR (Appendix A) has been prepared as the first step of creating an AAC. Consistent with the regulatory requirements, the key purpose of the AAC will be to:

- a) Provide recommendations on the development of an accessibility plan.
- b) Identify barriers of access to CRD services and programs for persons with disabilities in the community and recommend solutions for consideration by the CRD.

- c) Be available as a resource to CRD on matters relating to accessibility and participate in community engagement activities in an objective and unbiased manner, as needed, and avoid reflecting preferred outcomes.
- d) Collaborate and share information and best practices with other committees and organizations focused on supporting persons with disabilities.
- e) Provide input and advice to the Governance Committee on the best methods to engage the public and stakeholders.
- f) Ensure that the accessibility plan and community engagement are neutral, balanced and inclusive.
- g) Ensure that adequate information is provided to community members to enable them to provide informed feedback.
- h) Remain objective and unbiased while overseeing the process of the community education and participation.
- i) Review CRD accessibility plan every three (3) years.

The AAC will report its input to the CRD Governance Committee for consideration, with the CRD Board as the final decision-making authority. The Governance Committee will recommend AAC member appointments to the CRD Board, for up to a two-year term, and will appoint a member as the liaison between the AAC and the Governance Committee.

Recruitment of AAC members will be advertised for a minimum of 30 days in accordance with the CRD policy on Appointment of Public Members to External Boards and shortlisted by the Appointments Advisory Committee, which will in turn recommend appointments to the CRD Board.

Public members of the AAC would receive an honorarium in the amount of \$110.00 per meeting and reimbursement of any necessary travel expenses. Honoraria are not intended for members who are representatives of organizations or businesses where they are employed. AAC meetings will be held at a minimum of every two months, and in a manner which is as accessible as possible by default.

ALTERNATIVES

Alternative 1

The Governance Committee recommends to the Capital Regional District Board:

1. that the TOR for the Accessibility Advisory Committee (AAC) be adopted;
2. that staff be directed to proceed with recruitment of AAC members in accordance with the requirements of the CRD Appointment of Public Members to External Boards Policy;
3. that the TOR for Governance Committee be amended to include consideration of matters related to accessibility;

4. that public members of the AAC receive an honorarium in the amount of \$110.00 per meeting and reimbursement of any necessary travel expenses; and
5. that staff report back on resources required to support the AAC as part of 2024 service planning.

Alternative 2

That this report be referred back to staff for additional information.

IMPLICATIONS

Social Implications

As required of the *Accessible British Columbia Act* and Regulation, the AAC will provide the CRD with recommendations on policies, programs, services, built environments, infrastructure, and outdoor spaces that improve the livability, inclusivity, and accessibility for persons with disabilities in the capital region. The AAC must be established and have undertaken work on an accessibility plan by September 2023.

Given the legislated timelines, staff will begin working on an interim accessibility plan to ensure the plan is in place prior to September 2023, with the intention of reviewing it with the AAC once appointed. Staff anticipate the initial plan would be further developed and refined by the AAC members in accordance with the AAC's mandate and identified priorities.

Financial Implications

AAC members would receive an honorarium for their service. The CRD Board budget will be amended to account for this payment.

The establishment of this new committee will require additional staff time and other resources necessary to assist with administration of the committee meetings and implement the recommendations of the AAC. The required resources will be advanced through the 2024 service planning process and incorporated into the 2023-2027 Financial Plan.

Service Delivery Implications

Resources to lead the coordination and outcomes of the AAC will require replanning of other service requirements and will be evaluated for the 2024 service and financial planning process.

CONCLUSION

In September 2022, new regulations of the Province of British Columbia came into force which require local governments to establish, by September 2023, an accessibility committee, an accessibility plan and a tool to receive feedback on accessibility. Adoption of a TOR for an AAC and recruitment of committee members is the first step in meeting this new legislated requirement.

RECOMMENDATION

The Governance Committee recommends to the CRD Board:

1. that the TOR for the Accessibility Advisory Committee (AAC) be adopted;
2. that staff be directed to proceed with recruitment of ACC members in accordance with the requirements of the CRD Appointment of Public Members to External Boards Policy;
3. that the TOR for the Governance Committee be amended to include consideration of

- matters related to accessibility;
4. that public members of the AAC receive an honorarium in the amount of \$110.00 per meeting and reimbursement of any necessary travel expenses; and
 5. that staff report back on resources required to support the AAC as part of 2024 service planning.

Submitted by:	Chris Neilson, MBA, CPHR, Senior Manager Human Resources & Corporate Safety
Concurrence:	Steve Carey, Acting General Manager, Corporate Services & Corporate Officer
Concurrence:	Ted Robbins, B. Sc., C. Tech., Chief Administrative Officer

ATTACHMENT(S)

Appendix A: CRD Accessibility Advisory Committee Terms of Reference

Terms of Reference

CRD

CRD ACCESSIBILITY ADVISORY COMMITTEE

PREAMBLE

The Capital Regional District (CRD) Accessibility Advisory Committee (AAC) is an advisory committee of the CRD Governance Committee created further to the *Accessible British Columbia Act*. The AAC is established to provide recommendations on improving accessibility to the Governance Committee on CRD policies, programs, services, built environments, infrastructure, and outdoor spaces that to improve the livability, inclusivity, and accessibility for persons with disabilities in the capital region.

The Committee's official name is to be:

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1.0 PURPOSE

The Accessibility Advisory Committee will:

- a) Provide recommendations on the development of an accessibility plan.
- b) Identify barriers of access to CRD services and programs for persons with disabilities in the community and recommend solutions for consideration by the CRD.
- c) Be available as a resource to the CRD on matters relating to accessibility and participate in community engagement activities in an objective and unbiased manner, as needed, and avoid reflecting preferred outcomes.
- d) Collaborate and share information and best practices with other committees and organizations focused on supporting persons with disabilities.
- e) Provide input and advice to the Governance Committee on the best methods to engage the public and stakeholders.
- f) Ensure that the accessibility plan and community engagement are neutral, balanced and inclusive.
- g) Ensure that adequate information is provided to community members to enable them to provide informed feedback.
- h) Remain objective and unbiased while overseeing the process of community education and participation.

- i) Review CRD accessibility plan every three (3) years.

2.0 ESTABLISHMENT AND AUTHORITY

- a) The Governance Committee will:
 - Recommend AAC member appointments to the CRD Board for up to a two-year term; and
 - Appoint a member as the liaison between the AAC and the Governance Committee.
- b) The AAC will appoint a Chair and a Vice-Chair on an annual basis.
- c) The AAC will report its input to the Governance Committee for consideration. The CRD Board is the final decision-making authority.

3.0 COMPOSITION OF VOTING MEMBERSHIP

- a) To the extent that it is possible, members will be people from diverse backgrounds, including Indigenous peoples, no less than half of whom must either be persons with disabilities or persons representing a disability-serving organization.
- b) The AAC will be composed of at least five (5), and up to 11, members.
- c) The AAC may include both members external and internal to the CRD organization.
- d) Members will be appointed for a 2-year term (except in the first year when 3 citizen appointments will be appointed for a 1-year term to allow for staggered expiration terms).
- e) A term will equal 2 years, and members will serve no more than 3 consecutive terms (i.e. 6 years).
- f) Public members of the AAC will receive an honorarium in the amount of \$110.00 per meeting and reimbursement of any necessary travel expenses. Honoraria are not intended for members who are representatives of organizations or businesses where they are employed.
- g) AAC vacancies will be publicly posted for a minimum of 30 days and appointments will be made in accordance with the CRD Appointment of Public Members to External Boards Policy.

4.0 PROCEDURES

- a) The CRD Board Procedures Bylaw will apply.
- b) The AAC shall meet at a minimum of every two (2) months at the call of the Chair and have special meetings, as required.
- c) The agenda will be finalized in consultation between staff and the Chair.

- d) A quorum is a majority of the committee membership and is required to conduct committee business.
- e) AAC meetings will be held in a manner which is as accessible as possible by default, including but not limited to: accessible meeting locations; use of accessible hybrid virtual meeting technology; provision of accessibility supports including ASL interpreters and live caption services; and other as identified by the AAC.

5.0 RESOURCES AND SUPPORT

- a) The Senior Manager, Human Resources and Corporate Safety, will lead the coordination and allocation of resources to the Committee.
- b) Appropriate CRD staff and resources will be provided to assist with the activities of and support to the AAC.
- c) Minutes and agendas are prepared and distributed by the Legislative Services division.

Approved by the CRD Board on _____