



District of West Vancouver

Respectful Behaviour Bylaw No. 4999, 2018

Effective Date: September 17, 2018

Consolidated for Convenience Only

This is a consolidation of the bylaws listed below. The amendment bylaws have been combined with the original bylaw for convenience only. This consolidation is not a legal document. Certified copies of the original bylaws should be consulted for all interpretations and applications of the bylaw on this subject.

Amendment Bylaw
Bylaw No. 5039, 2019

Effective Date
November 4, 2019

The bylaw numbers in the margin of this consolidation refer to the bylaws that amended the parent bylaw (Development Procedures Bylaw No. 4940, 2017). The number of any amending bylaw that has been repealed is not referred to in this consolidation.

Respectful Behaviour Bylaw No. 4999, 2018

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District of West Vancouver

Respectful Behaviour Bylaw No. 4999, 2018

A bylaw to promote a safe, healthy, respectful and positive environment for members of the public, volunteers and staff.

Previous amendments: *Amendment Bylaw 5039*

WHEREAS the District of West Vancouver wishes to promote a safe, healthy, respectful and positive environment for all members of the public, volunteers and staff at its facilities and has an obligation to provide a workplace free of violence, bullying and harassment;

AND WHEREAS the District of West Vancouver deems it expedient to define behaviours that may negatively impact the well-being of others or create unsafe conditions and provide a process for addressing these behaviours when they occur within District facilities or in association with any service, program or event provided by the District;

NOW THEREFORE, the Council of The Corporation of the District of West Vancouver enacts as follows:

Part 1 Citation

1.1 This bylaw may be cited as Respectful Behaviour Bylaw No. 4999, 2018.

Part 2 Severability

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

Part 3 Definitions

In this bylaw: “Charter of Rights and Freedoms” means the *Canadian Charter of Rights and Freedoms*, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11;

“Chief Administrative Officer” means the Chief Administrative Officer or Municipal Manager for the District;

“Code of Conduct” means a document posted in a District Facility that outlines the roles, rights and responsibilities of District Staff and patrons;

“Director” means the Director of the involved division of the District;

“District” means the District of West Vancouver;

“District Facility” means facilities owned, leased, rented, allocated, programmed, operated or managed by the District, intended for public, staff or volunteer use. This includes, but is not limited to recreation facilities; staff offices and workspaces; meeting rooms; community meeting spaces; Municipal Hall; museums and galleries, but does not include the West Vancouver Memorial Library or facilities or portions thereof that are occupied by the West Vancouver Police Department;

“District Staff” means a person employed by the District and includes volunteers authorized to act on behalf of the District;

“Harassment” means conduct, actions or behaviour that a person knew or reasonably ought to have known would cause another person to be humiliated or intimidated or would be objectionable and unwelcome;

“Human Rights Code” means *Human Rights Code*, RSBC 1996, c. 210;

“Inappropriate Behaviour” means behaviour that obstructs or interferes with the lawful free use and enjoyment of District Facilities or participation in District services, programs or events, or that compromises the safety and well-being of others, including District Staff, volunteers and members of the public. For the purposes of this Bylaw, Inappropriate Behaviour includes:

- Vandalism,
- Violence,
- Harassment,
- possession of weapons,
- theft of property, and
- contravention of Codes of Conduct or posted rules;

“Incident” means any occurrence involving one or more individuals engaging in Inappropriate Behaviour;

“Legislative Services” means the person employed by the District who is responsible for the District’s records and privacy programs;

“Manager” means person employed by the District as the manager of the relevant department of the involved division of the District;

“Risk Manager” means the Insurance and Risk Management Coordinator for the District;

“Supervisor” means the person employed by the District as the supervisor of the relevant department of the involved division of the District;

“Suspension” means the prohibition of an individual from entering all or specified District Facilities for a specified duration of time;

“Vandalism” means the malicious, wilful or deliberate destruction, damaging or defacing of District Facilities or other District-owned property, including equipment, vehicles, materials and furniture; and

“Violence” includes

- the use of profane, obscene, abusive or discriminatory language;
- threats or attempts to intimidate;
- throwing articles or objects in a deliberate or aggressive manner that may endanger or cause injury or damage to any persons or property;
- physically aggressive or threatening behaviour; and
- attempts to goad or incite violence.

Part 4 Interpretation

- 4.1 In this bylaw, a reference to the Supervisor, Manager, Risk Manager, Director or Chief Administrative Officer includes a reference to the person appointed as deputy or appointed to act in the place of that person from time to time.

Part 5 Scope

- 5.1 This Bylaw applies to all persons, including members of the public and District staff, within District Facilities.
- 5.2 This Bylaw only applies to Incidents and Inappropriate Behaviour involving a member of the public. For certainty, this Bylaw does not apply to interactions between District Staff.

Part 6 Bylaw Communication

6.1 A copy of this Bylaw will be posted on the District's website.

Part 7 Terms of Respectful Behaviour/Bylaw

7.1 Respectful Behaviour

All persons using District Facilities have a duty to:

- i. treat others with respect, courtesy, fairness and equality
- ii. use District Facilities and equipment in a safe and respectful manner; and
- iii. comply with all posted policies and rules regarding the use of District Facilities.

No person shall commit or engage in Inappropriate Behaviour in District Facilities.

7.2 Responding to Incidents

7.2.1 When District Staff witness or receive a report regarding an Incident, they will follow the procedures set out in Appendix A of this Bylaw.

7.2.2 A Director is authorized to issue a Suspension to any person who is not in compliance with this Bylaw for a period of up to one year. In exercising their discretion under this section, the Director shall consider the factors set out in Appendix B of this Bylaw.

7.2.3 No person that is subject to a Suspension under this Bylaw shall access, enter or use any District Facility included in the Suspension, subject to the terms and conditions of the Suspension.

7.2.4 All District Staff will exercise their power and authority under this Bylaw fairly and equitably and in accordance with the *Human Rights Code*, the *Charter of Rights and Freedoms*, and all other applicable enactments.

7.3 Appeal Process

7.3.1 A person subject to a Suspension under this Bylaw may, within 10 business days of receiving notice of the Suspension, request a review of the decision by the Chief Administrative Officer.

- 7.3.2 In exercising their discretion under this section, the Chief Administrative Officer shall consider the factors set out in Appendix B of this Bylaw.
- 7.3.3 Appeal hearings will be held by the Chief Administrative Officer in accordance with Appendix C of this Bylaw.
- 7.3.4 The decision of the Chief Administrative Officer with regards to a Suspension is final.

Amendment
Bylaw 5039

7.4 Probationary Period and Subsequent Suspensions

- 7.4.1 Once a Suspension has been completed, regardless of the duration, the person subject to the Suspension will be subject to a six month probationary period with the following conditions:
- a. If an Incident occurs during the probationary period, the Director will impose a subsequent Suspension of equal or greater duration than the initial Suspension. A Suspension issued under this section may be for a duration of up to two (2) years.
 - b. A Suspension under this section must be issued by the Director or the District's Legal Counsel in writing.
 - c. Notwithstanding section 7.3.1 of this Bylaw, a person subject to a Suspension under this section shall not be entitled to appeal that Suspension, regardless of whether the person requested an appeal of the initial Suspension.

Part 8 Offence and Penalty

- 8.1 Every person who violates a provision of this Bylaw or who neglects to or refrains from doing anything required to be done by a provision of this Bylaw is guilty of an offence and is liable to the penalties imposed under this bylaw, and is guilty of a separate offence each day that a violation continues to exist.
- 8.2 Every person who commits an offence is liable on summary conviction to a fine or imprisonment, or to both a fine and imprisonment, not exceeding the maximum allowed by the *Offense Act*.

Schedules

Appendix A – Incident Procedures

Appendix B – Inappropriate Behaviour Enforcement Guidelines

Appendix C – Appeal Procedure

READ A FIRST TIME on September 10, 2018

READ A SECOND TIME on September 10, 2018

READ A THIRD TIME on September 10, 2018

ADOPTED by the Council on September 17, 2018.

[Original signed by Mayor]

Mayor

[Original signed by Corporate Officer]

Corporate Officer

Appendix A – Incident Procedures

The following procedures will be followed when District Staff observe an Incident or have reason to believe that an Incident has occurred in a District Facility:

1. The District's primary concern is the safety of members of the public and District staff. If at any time District Staff feel that the safety of any person is at risk, they will request police assistance. District Staff are not expected to jeopardize their safety or that of others in responding to an Incident.
2. Where possible, District Staff will attempt to explain to the person or persons engaging in the Inappropriate Behaviour that their behaviour is unacceptable and ask that the behaviour cease. District Staff may also attempt to de-escalate the situation, where appropriate.
3. If the Inappropriate Behaviour continues, and depending on the severity of the Inappropriate Behaviour, District Staff may require the person to leave the District Facility immediately. If the person refuses to leave the District Facility, District Staff may request police assistance.
4. As soon as is reasonably possible following the Incident, District Staff will complete an Incident Report detailing the Incident and including the names and contact information of any witnesses. District Staff will submit the completed Incident Report to their immediate Supervisor who will provide a copy to their Manager and to the Risk Manager.
5. If the Incident involves alleged Inappropriate Behaviour by a minor, District Staff will make reasonable attempts to notify the parents or guardian of the minor as soon as reasonably possible following the Incident.
6. When a Manager receives an Incident Report, they will consult with the Risk Manager. If the Risk Manager is aware of previous Incidents involving the individual, the Risk Manager will consult with the District Staff who reported or were involved in the previous Incidents. After considering the Incident Report and other available information as well as the Guidelines set out in Appendix B, the Risk Manager and Manager will jointly take such action as they consider appropriate in the circumstances, which may include:
 - a. the Risk Manager and Manager may determine that the Incident did not constitute a violation of this Bylaw and take no further action;
 - b. the Risk Manager and Manager may determine that the Incident constituted a violation of this Bylaw but decide that no further action is required in the circumstances;
 - c. the Risk Manager and Manager may determine that the Incident constituted a violation of this Bylaw and take further action, including:

- i. issuing a written warning letter or letter of expectation;
 - ii. requiring that the person meet with the Manager or the Director, including that the person not enter or use any District Facility until they meet with the Manager or Director; and
 - iii. recommending that the Director impose a Suspension.
7. If the Risk Manager and Manager believe that a Suspension is appropriate, they will compile and forward all information gathered during their investigation to the relevant divisional Director. This information will include the details of previous Incidents and the comments from other District Staff where available. The Risk Manager and the Manager will make recommendations to the Director regarding the proposed scope and duration of the Suspension and any terms and conditions.
8. When a Director receives a recommendation to impose a Suspension, the Director will review the information and take such action as the Director considers appropriate in the circumstances considering the Guidelines set out in Appendix B. The Director may refuse to impose a Suspension or, if a Suspension is imposed, establish the scope and duration of the Suspension and any terms and conditions.
9. If a Suspension is issued, the Director or the District's legal counsel will notify the person in writing of the terms of the Suspension and of their right to appeal under this Bylaw.
10. If a Suspension is issued, the Risk Manager shall prepare a confidential memorandum regarding the Suspension, including its duration and any terms and conditions. The memorandum will be sent to District Staff for whom the information is necessary for the performance of their duties. Further confidential memorandums may be issued to notify District Staff of changes to or extensions of the Suspension and upon completion of the Suspension.
11. The Director may extend the duration of a Suspension where the person breaches the terms of the Suspension or where there are further Incidents involving the person.

Appendix B – Inappropriate Behaviour Enforcement Guidelines

In determining the appropriate measures to deal with a contravention of this Bylaw, District Staff will consider the following factors:

- a. the nature and severity of the Inappropriate Behaviour;
- b. whether the Inappropriate Behaviour was a single or repeated act;
- c. whether the person was told that the behaviour was inappropriate and nonetheless continued the conduct;
- d. the impact of the Inappropriate Behaviour on members of the public and District Staff;
- e. the person's acknowledgement of wrongdoing; and
- f. the person's history of other contraventions.

Appendix C – Appeal Procedure

1. Requests for review of a Suspension under this Bylaw must be made in writing and must be delivered to the office of the Chief Administrative Officer within 10 business days.
2. Within 10 business days of receiving a request for review under section 7.3.1 of this Bylaw, the Chief Administrative Officer will notify the person subject to the Suspension of the date for their hearing.
3. Legislative Services will provide the person subject to the Suspension with copies of all materials that will be considered by the Chief Administrative Officer a minimum of 10 business days prior to the hearing. The materials will be redacted as necessary to comply with the *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c. 165 and any other applicable enactments.
4. The person subject to the Suspension may attend the hearing with a representative of their choice, including legal counsel.
5. The Director will attend the hearing on behalf of District Staff.
6. The Chief Administrative Officer may request the attendance of any other person at the hearing, including a member of District Staff or District legal counsel.
7. At the hearing, the person subject to the Suspension will have 10 minutes to address the Chief Administrative Officer. This time may be extended if deemed necessary by the Chief Administrative Officer due to the complexity of the issues or the severity of the allegations.
8. The Chief Administrative Officer will notify the person subject to the Suspension of their decision in writing within 10 business days of the hearing.
9. The decision of the Chief Administrative Officer with regards to a Suspension is final.
10. The Chief Administrative Officer will notify Mayor and Council of appealed Suspensions.