Director | CAO

COUNCIL AGENDA
Date: July 12, 2021 Item: 5.

DISTRICT OF WEST VANCOUVER
750 17TH STREET, WEST VANCOUVER BC V7V 3T3

COUNCIL REPORT

Date:	June 15, 2021
From:	Mark Panneton, Director, Legislative Services/Corporate Officer
Subject:	Proposed Council Code of Conduct Bylaw No. 5112, 2021
File:	1620-20-5112

RECOMMENDATION

THAT proposed "Council Code of Conduct Bylaw No. 5112, 2021" be read a first, second, and third time.

1.0 Purpose

At their November 2, 2020 regular meeting, Council directed staff to report back to Council regarding the creation of a Council Code of Conduct. Staff, in conjunction with the Municipal Solicitor, have drafted a code of conduct bylaw for Council's consideration accordingly.

2.0 Legislation/Bylaw/Policy

There are no directly applicable District bylaws or policies. District bylaws and policies set standards of conduct for staff and members of the public at District facilities, but do not regulate the behaviour of Council members outside of Council meetings. Prior to drafting the proposed bylaw staff conducted a review of relevant documents that apply to the behaviour of both staff and members of the public; this review informed portions of the proposed bylaw.

3.0 Council Strategic Objective(s)/Official Community Plan

The establishment of a Council Code of Conduct is an administrative function and has no direct impact on, or relationship to, either Council's strategic objectives or the Official Community Plan.

4.0 Financial Implications

If adopted, proposed Council Code of Conduct Bylaw No. 5112, 2021 would institute standards of conduct for Council members. Council members would be expected to regulate their own conduct in accordance with the provisions of the proposed bylaw; no direct enforcement costs are anticipated.

In the event of a breach of this bylaw, costs may be incurred in relation to: the hiring of a third-party investigator or arbitrator; and the staff time required to hold a closed meeting so that Council can discuss the alleged breach and determine whatever penalties Council believes appropriate. Any such costs would be incurred in accordance with the provisions of the proposed bylaw and under the guidance of the Chief Administrative Officer.

5.0 Background

5.1 Previous Decisions

Council, at its November 2, 2020, regular meeting, passed the following resolution:

THAT staff be directed to report back to Council regarding the creation of a Council Code of Conduct.

5.2 History

Over the past decade there has been increasing awareness of the importance of establishing municipal codes of conduct to guide and regulate the behaviour of Council members. A number of high-profile incidents in municipalities across the province have brought the public's attention to issues of conduct by local government elected officials, and also highlighted the general lack of remedies to such issues provided for in Provincial legislation.

The Working Group on Responsible Conduct (a longstanding joint initiative by the Union of British Columbia Municipalities, the Local Government Management Association of British Columbia, and the B.C. Ministry of Municipal Affairs) has been working hard to address such issues. In their most recent report, released in April 2021 and titled "Forging the Path to Responsible Conduct in Your Local Government", the Working Group notes the important role that a Council code of conduct plays in ensuring effective governance.

6.0 Analysis

6.1 Discussion

Taking steps to ensure responsible conduct by elected officials can safeguard the ability of local government to perform its fundamental responsibilities and to make collective decisions in the best interests of the community. It is considered best practice for local government officials to establish a code of conduct bylaw that sets out behavioral expectations and provides for remedies when such expectations are not met.

At their November 2, 2020 regular meeting, Council took an essential step forward by directing staff to report on the creation of a code of conduct. In accordance with Council's direction, staff, acting in conjunction with the

Municipal Solicitor, have developed and brought forward the proposed Council Code of Conduct bylaw for Council's consideration.

If adopted, Council Code of Conduct Bylaw No. 5112, 2021 would:

- Set out behavioural expectations for local government elected officials;
- Establish an informal resolution process for situations in which behavioural expectations are not met; and
- Establish a formal resolution process for situations in which a departure from behavioural expectations is of a nature that requires Council consideration of the subject behaviour, as well as the potential imposition of proportional remedies by Council.

6.2 Sustainability

There are no direct environmental implications associated with this bylaw. If adopted, proposed Council Code of Conduct Bylaw No. 5112, 2021 would create a sustainable framework of both behavioural expectations and associated remedies for local government elected officials.

6.3 Public Engagement and Outreach

Proposed Council Code of Conduct Bylaw No. 5112, 2021 has been brought forward in accordance with Council's direction. No public engagement and outreach was conducted in relation to the drafting of the proposed bylaw.

6.4 Other Communication, Consultation, and Research

Staff consulted with the Municipal Solicitor and referred to best practice documents produced by the Union of British Columbia Municipalities, the Local Government Management Association of British Columbia, and the B.C. Ministry of Municipal Affairs (including the joint Working Group on Responsible Conduct) during the bylaw drafting process.

7.0 Options

7.1 Recommended Option

Staff recommend that proposed Council Code of Conduct Bylaw No. 5112, 2021 be read a first, second, and third time.

7.2 Considered Options

Council could instead choose to provide specific feedback relative to proposed Council Code of Conduct Bylaw No. 5112, 2021, direct staff to alter the proposed bylaw to incorporate that feedback, and direct staff to return to Council with an altered bylaw for consideration.

8.0 Conclusion

Over the past decade, adoption of a Council code of conduct has become accepted as a local government best practice. Acting in accordance with Council's direction, staff have brought forward proposed Council Code of Conduct Bylaw No. 5112, 2021 for consideration.

Author:

Appendix A – Proposed Council Code of Conduct Bylaw No. 5112, 2021

APPENDIX A

District of West Vancouver

Council Code of Conduct
Bylaw No. 5112, 2021

Effective Date:

4213594v1

District of West Vancouver

Council Code of Conduct Bylaw No. 5112, 2021

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District of West Vancouver

Council Code of Conduct Bylaw No. 5112, 2021

A bylaw to guide and govern the conduct of Council members.

WHEREAS the Council of The Corporation of the District of West Vancouver deems it expedient to establish a Council code of conduct that sets standards of ethical behaviour in order to build and inspire the public's trust and confidence in local government;

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 Council Code of Conduct Bylaw No. 5112, 2021.

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 part, section, subsection, paragraph, subparagraph, clause or phrase.

Part 3 Definitions

3.1 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 Body, and includes a Council Member appointed to the body;

"Benefit" means an item, gift, 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.

"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;

"Chief Administrative Officer" means the Municipal Officer position of the District's Chief Administrative Officer, or that person's designate;

"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 District 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;

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

"Council Member" means the Mayor or a Councillor;

"District" means the Corporation of the District of West Vancouver;

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

"District 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;

"District Record System" means a system used by the District to manage District Records throughout their lifecycle;

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

"Harass" means discriminatory, sexual, or personal harassment, as defined in the District's Harassment and Respectful Workplace Policy 0009, as may be amended or replaced.

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

"participate diligently" means that a Council Member must 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, unless Council has approved a longer period of leave;

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

"Respectful Debate" means a polite discussion in which different positions on a topic are outlined and deliberated. Although the act of discussing opposing viewpoints or ideas regarding a particular matter can be uncomfortable, such discussions are permitted provided that they are conducted in a dignified and respectful manner. Personal attacks do not constitute respectful debate;

"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;

"Social Media" means any electronic application that enables users to create and share content or to participate in social networking;

"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 District who is a not a Council Member, member of Staff or an Advisory Body Member;

"Workplace" includes, but is not limited to, work sites owned, operated or controlled by the District, 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, electronic meetings, and video conferencing.

Part 4 Interpretation

4.1 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.

4.2 Without limitation, this Bylaw applies in respect of the Workplace, including meetings conducted via electronic communication facilities, and elsewhere, and including the use of Social Media by a Council Member.

Part 5 Conduct

General Conduct

5.1 A Council Member must not:

(a) contravene this Bylaw, as amended or replaced;

(b) contravene any other District 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) Harass another person;

(f) defame another person;

(g) abuse their office.

5.2 A Council Member must treat other Council Members, Staff, Advisory Body Members, Volunteers, and the public with respect and dignity.

5.3 For certainty, respectful debate between Council members on matters of District business does not constitute a breach of this bylaw.

5.4 A Council Member must align their conduct with the District's values of well-being, social unity, respect and inclusion.

Interaction with Staff, Volunteers, and Advisory Body Members

5.5 A Council Member must not issue instructions or directions to Staff, Volunteers, and Advisory Board Members regarding District Business except through the Chief Administrative Officer, a divisional director, or their designate.

5.6 A Council Member must not interfere with, hinder, or obstruct Staff, a Volunteer or an Advisory Body Member in the exercise or performance of their roles, responsibilities, powers, duties or functions.

5.7 If a Council Member has information about Staff, a Volunteer or an Advisory Body Member that the Council Member wishes to bring to the attention of the District 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 Chief Administrative Officer.

Conduct at Meetings

5.8 A Council Member must act with decorum at Council meetings in accordance with Council Procedure Bylaw No. 5005, 2019, as may be amended or replaced from time to time.

5.9 A Council Member must act with decorum at Advisory Body meetings in accordance with Council Committee Procedure Bylaw No. 5020, 2019, as may be amended or replaced from time to time.

5.10 Council Members must make every effort to participate diligently in the activities of Council and Advisory Bodies or other bodies to which they are appointed by the District or by virtue of being an elected official, including intergovernmental meetings.

Improper Use of Influence

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

Election Activities

5.12 A Council Member must not participate in any civic events requiring them to perform official ceremonial duties between the last day of the nomination period and general voting day, unless authorized by a resolution of Council.

5.13 A Council Member must not use the District'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 any fees associated with the use of the employees, property or resources are paid for with election campaign funds.

5.14 A Council Member may include a link on his or her campaign website to the District's website or an external website paid for by the District.

5.15 A Council member must take unpaid leave from their position in order to run for provincial or federal office.

Conflict of Interest

5.16 In respect of each matter before Council, a Council Member must:

(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 Chief Administrative Officer 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.

5.17 If a Council Member believes they have, or may reasonably be perceived to have, a conflict of interest in respect of a matter in a Council or Advisory Body meeting, the Council Member must:

(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 must 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.

Outside Activities and Business Relations

5.18 A Council Member who engages in another profession, business or occupation concurrently with holding office must not allow such outside employment to affect the Council Member's integrity, independence or competence.

Use of Municipal Assets and Services

5.19 A Council Member must not use, or permit the use of, District land, facilities, equipment, supplies, services, property, employees or other resources for activities other than District 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.

5.20 A Council Member must not obtain personal gain from the use or sale of District-developed intellectual property. 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 District's exclusive property.

5.21 A Council Member must not request Staff to undertake personal or private work on behalf of the Council Member, nor will a Council Member accept such work from Staff.

5.22 A Council Member must not attempt to obtain a benefit from the District for a Family Member.

Employment Matters

5.23 Council is responsible for personnel decisions regarding the position of Chief Administrative Officer.

5.24 Except as permitted in section 5.23 or as required by Section 152 of the *Community Charter,* a Council Member must not attempt to influence personnel decisions regarding the decision to hire, transfer, promote, demote, discipline, or terminate any Volunteer or Staff. This prohibition includes giving references to any person applying for a position at the District and forwarding copies of an applicant's resume to any person hiring for any position at the District.

Benefits

5.25 A Council Member must comply with the restrictions on accepting benefits, and must disclose any permitted benefits over $250, in accordance with *Community Charter* requirements.

5.26 A benefit provided to a Council Member's Family Member or staff in relation to District Business is deemed to be a benefit to that Council Member.

5.27 A lawful contribution made to a member who is a candidate for election to a local government does not constitute a benefit.

Personal and Confidential Information

5.28 A Council Member must 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.

5.29 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*.

5.30 A Council Member must take reasonable care to prevent unauthorized access to Confidential Information or Personal Information by unauthorized persons.

5.31 If a Council Member learns of unauthorized access to Confidential Information or Personal Information, the Council Member must report the details of the unauthorized access to the Chief Administrative Officer as soon as possible.

5.32 A Council Member must comply with the directions of the Corporate Officer respecting the use of the District Record System.

Social Media

5.33 A Council Member must not publish Confidential Information on Social Media, unless authorized in accordance with the provisions of this Bylaw.

5.34 A Council Member must not publish information or an opinion on Social Media about District Business, unless:

(a) the publication republishes the information that has been released by the District without alteration; or

(b) 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 District of West Vancouver or other members of District Council".

5.35 Without limiting any other obligation imposed by this Bylaw, a Council member must not use or allow the use of their personal Social Media accounts for purposes that include content that:

(a) Harasses another Council Member, an Advisory Body 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 any person;

(e) disseminates personal information regarding a Council Member's Family Member without that Council Member's written consent.

5.36 A Council Member must take steps to remove from their Social Media accounts any publication by another person of content that violates this Bylaw.

Communication Protocol

5.37 The Mayor and the Director of Community Relations & Communications (or designates) are the spokespersons for the District.

5.38 A Council Member that is not a spokesperson must ensure that inquiries from the public and media on the District's position are directed to the spokespersons.

5.39 A Council Member communicating their own opinion must ensure that the communication clearly indicates that it is the Council Member's own position.

5.40 A Council Member must accurately communicate the decisions of the Council, even if they disagree with the majority decision of Council.

5.41 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 must refrain from making disparaging comments about other Council Members or about Council's processes and decisions.

5.42 Nothing in this Bylaw is intended to affect a Council Member's rights under the *Charter of Rights and Freedoms*.

Orientation and Training

5.43 After first being elected, a Council Member must attend all sessions of orientation training on District Business unless doing so is not practically possible.

5.44 A Council Member must attend any sessions of training on District Business that are identified as mandatory by Council, the Chief Administrative Officer, or the Corporate Officer unless doing so is not practically possible.

Part 6 Complaint Process

Complaint

6.1 If a Council Member, an Advisory Body Member or Staff considers that they have been subjected to a contravention of this Bylaw by a Council Member, they may initiate, at their sole discretion, one of the following resolution processes within six months of the alleged contravention:

a) Individual Resolution;

b) Informal Resolution; or

c) Formal Resolution.

6.2 Once the complainant selects a resolution process, the selected resolution process must be completed before the complainant may proceed to the next resolution process.

6.3 Any person who has witnessed or experienced conduct by a Council Member which they believe to be in contravention of this Bylaw or another District policy governing conduct of a Council Member may submit a complaint to the Chief Administrative Officer. In such circumstances, the Chief Administrative Officer will determine the appropriate form of resolution for the complaint.

Individual Resolution

6.4 If a Council Member, an Advisory Body 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.

6.5 If the complainant is not comfortable with discussing the matter directly with the Council Member, or if after discussion the contravention continues, the complainant may inform the Chief Administrative Officer (or their designate) of the allegation. The Chief Administrative Officer (or their designate) may then agree to act as an advisor to aid the complainant or appoint an advisor as the Chief Administrative Officer (or their designate) deems suitable.

6.6 Discussions regarding the complainant's concerns are confidential, advisory, and informal in nature. The only exception to an advisor maintaining confidentiality is if they deem the complaint to indicate a possible threat to any person. In that case, the advisor must immediately inform the Chief Administrative Officer of the complaint and inform the complainant of this requirement to do so. The Chief Administrative Officer may take any additional steps that they deem appropriate to deal with the possible threat.

6.7 An advisor acting under section 6.4 must assist the complainant to resolve the complaint, including by discussing the alleged contravention with the Council Member.

6.8 If the complainant is not satisfied with the outcome after the advisor has finished assisting the complainant, the complainant may, within 10 business days of being informed by the advisor of the outcome, file in writing with the Chief Administrative Officer:

(a) a record of the allegation; and

(b) a request to proceed with Informal Resolution.

Informal Resolution

6.9 If the complainant elects to proceed with Informal Resolution then a third party will be selected to act as a mediator.

6.10 The mediator will be selected by agreement of the complainant and the Council Member, with the Chief Administrative Officer retaining the right to select a mediator if the complainant and the Council Member are unable to agree.

6.11 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.

6.12 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.

6.13 Once mediation has concluded, the mediator will prepare a report to the Chief Administrative Officer.

6.14 If the complaint is resolved through Informal Resolution, a written report noting the complaint and the resolution will be given to the complainant, the Council Member, and the Chief Administrative Officer. If the mediator has recommendations for the District to consider, the mediator will forward these recommendations to the Chief Administrative Officer. The report, including the resolution and recommendations, must be kept in confidence, unless all parties agree in writing to disclose the information.

6.15 If the complaint is not resolved through Informal Resolution, a written report documenting the complaint, the mediation process, and the reasons why the involved parties were unable to reach to reach an agreement will be given to the complainant, the Council Member, and the Chief Administrative Officer. The complainant may, within 10 business days of receiving the mediator's report, file in writing with the Chief Administrative Officer a request to proceed with Formal Resolution.

Formal Resolution

6.16 Upon receipt of the written complaint, the Chief Administrative Officer must, within 10 business days of receiving the complainant's request, retain a third-party investigator (the "Investigator").

6.17 The Chief Administrative Officer may proceed with Formal Resolution, through the retention of an Investigator, even if the complainant withdraws the complaint.

6.18 In keeping with the principles of procedural fairness, the Investigator must:

(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 Investigator 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 6.30 to 6.33 of this Bylaw.

6.19 If the Council Member fails to respond, the Mayor at the request of the Investigator may compel witnesses pursuant to the provisions of the *Community Charter*.

6.20 The Investigator must ensure that all relevant details, dates, conversations and meetings are documented. Such working records created by the Investigator are confidential.

6.21 Once the investigation has been completed, the Investigator must prepare a written report and provide a copy of the report to the Chief Administrative Officer 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.

Responsibilities of the Chief Administrative Officer

6.22 If the Investigator concludes that a contravention has occurred, the Chief Administrative Officer must consider reasonable action to protect the complainant from any subsequent action or reprisal.

6.23 The Chief Administrative Officer must 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.

6.24 If the Investigator finds that the original complaint was initiated in bad faith, with willful misconduct, or intent to harm:

(a) where the complainant is a Council or Advisory Body Member, Council may consider appropriate measures in respect of the complainant; and

(b) where the complainant is Staff or a Volunteer, the Chief Administrative Officer may consider appropriate measures in respect of the complainant.

6.25 A copy of the investigator's report and the Council decision will be retained in a confidential file maintained by the Chief Administrative Officer, 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*.

6.26 If approved by Council, the Chief Administrative Officer will consider implementing administrative changes to District policies or procedures recommended by the Investigator's report.

Council Determination of Measures

6.27 Upon conclusion of the Formal Resolution process, Council must:

(a) review the report of the Investigator;

(b) conduct a closed meeting regarding the complaint in accordance with the process described in sections 6.31 to 6.34 of this Bylaw; and

(c) at the closed meeting, consider the factors described in section 6.28 and the measures enumerated in section 6.29.

6.28 In determining the appropriate measure, Council will 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.

6.29 Council may, by resolution, impose one or more of the following measures on a Council Member after considering the factors outlined in section 6.28:

(a) a written apology from the Council Member;

(b) removal of the Council Member from appointments such as chairperson, committees, commissions or other Advisory Bodies;

(c) motion of censure;

(d) mandatory training on District Business, the *Community Charter*, or this Bylaw;

(e) referral to a prosecutor or police;

(f) any other action recommended by the investigator; 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*.

6.30 A Council decision to impose one or more of the measures enumerated in section 6.29 must be:

(a) made in writing; and

(b) provided to both the complainant and Council Member within 10 business days of the Council meeting at which the decision to impose measures was made.

Fairness Procedures Applicable to Council Determination of Measures

6.31 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.

6.32 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 6.29 of this Bylaw.

6.33 The Corporate Officer must ensure that the matter is placed on the agenda of the closed meeting.

6.34 At the closed meeting:

a) the affected Council Member may be represented by legal counsel;

b) the Investigator's determination of whether a contravention of this Bylaw occurred will be read;

c) the affected Council Member will be provided an opportunity to make submissions to Council, which may include explanations for the impugned behavior or suggestions on the measures that Council might impose as a result of the conduct; and

d) after the affected Council Member has been provided an opportunity to make submissions to Council, the affected Council Member will leave the meeting room and those Council Members without a conflict of interest will consider the factors described in section 6.26 and the measures enumerated in section 6.28 of this Bylaw.

Mandatory Training

6.35 If the Investigator recommends mandatory training for a Council Member, and if Council resolves to accept the recommendation pursuant to section 6.29 of this Bylaw, then the Council Member must attend the training.

Obstruction

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

Legal Fees

6.37 Legal fees incurred by either the complainant or the Councillor who was the subject of a complaint may be reimbursed at the discretion of Council.

General

6.38 The Corporate Officer will cause:

(a) this Bylaw to be visible and accessible on the District'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 District's intranet.

READ A FIRST TIME on [Date]

READ A SECOND TIME on [Date]

READ A THIRD TIME on [Date]

ADOPTED by the Council on [Date].

_____

Mayor

_____

Corporate Officer

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