

NOTICE: That a Regular Meeting of the District of Barriere Municipal Council will be held at District Hall, 4936 Barriere Town Road, in Barriere, B.C. on November 18, 2024 at 7pm for the transaction of business listed below.

Daniel Drexler, Chief Administrative Officer

AGENDA

"We acknowledge and respect the indigenous peoples of Simpcw First Nation within whose lands we are meeting today."

1. ADOPTION OF AGENDA

That Council approve the November 18, 2024, Regular Council Meeting Agenda.

2. ADOPTION OF MINUTES

- a. That Council adopt the minutes of the November 4, 2024, Regular Council Meeting.

3. PETITIONS AND DELEGATIONS – none scheduled.

4. BYLAWS and POLICIES

- a. DRAFT Council Remuneration and Expense Bylaw No. 249 – 1st, 2nd & 3rd readings
*w/attached staff report
- b. DRAFT Council Code of Conduct Bylaw No. 250 – 1st, 2nd & 3rd readings
*w/attached staff report

5. STAFF REPORTS

- a. Department Updates – Department Heads
*submitted for information
- b. Early Budget Item Approval – Phone System Replacement – D. Drexler, CAO
Recommendation: THAT Council approves an early budget approval in the amount of up to \$7,000 for a replacement of the Districts Voice over Internet Protocol (VoIP) Phone System, with the funding source to be determined as part of the 2025 budget process.

6. PROCLAMATIONS – none scheduled

7. CORRESPONDENCE

- a. For Information
- b. For Action – none submitted.

8. COUNCIL REPORTS

9. ACTING MAYOR'S REPORT

10. PUBLIC INQUIRIES

11. NOTICE OF MOTION

12. CONVENE INTO CLOSED SESSION

Pursuant to Sections 90(1)(c)(e)(f) of the Community Charter, that the public interest requires that persons other than Council Members and required staff be excluded from the meeting and that Council continues the meeting in closed session to discuss confidential matters.

13. RECONVENE OPEN MEETING

14. BUSINESS ARISING FROM CLOSED SESSION *(if required)*

15. NEXT MEETING

- a. Regular Council Meeting, Monday, December 16, 2024 @ 7pm

16. ADJOURNMENT

DISTRICT OF BARRIERE
MINUTES OF A REGULAR COUNCIL MEETING

Held on Monday, November 4, 2024 at 7:00pm in the Council Chambers at Municipal Hall
4936 Barriere Town Road, Barriere, B.C.

*“We acknowledge and respect the indigenous peoples of Simpcw First Nation
within whose traditional lands we are meeting today.”*

Present: Acting Mayor Rob Kerslake
 Councillor Judy Armstrong
 Councillor Scott Kershaw
 Councillor Louise Lodge
 Councillor Colin McInnis

Regrets: Councillor Donna Kibble

Staff: Daniel Drexler, Chief Administrative Officer
 Tasha Buchanan, Corporate Officer
 Chris Matthews, Public Works Manager
 Tom Jackson, Acting Fire Chief

Acting Mayor Kerslake called the meeting to order at 7pm

1. ADOPTION OF AGENDA

Moved by Councillor Lodge
Seconded by Councillor McInnis
That Council approve the November 4, 2024, Regular Council Meeting Agenda.

CARRIED

2. ADOPTION OF MINUTES

- a. Moved by Councillor McInnis
Seconded by Councillor Armstrong
That Council adopt the minutes of the October 21, 2024, Regular Council Meeting.

CARRIED

3. PETITIONS AND DELEGATIONS – none scheduled.

4. BYLAWS and POLICIES – none scheduled

5. STAFF REPORTS

- a. Section 57 Notice Registration re: 713 Barriere Lakes Road – Corporate Officer

The Corporate Officer provided an overview of the written report. It was noted that while staff were notified that both property owners on title would be in attendance – one in person and one virtually – only the virtual, out of town property owner was online in attendance at the time of the matter was originally discussed on the agenda. The

property owner attending virtually, Ms. Kaye, voiced to Council that she had no comments for Council on the matter.

Moved by Councillor Lodge

Seconded by Councillor McInnis

That Council direct the Corporate Officer to file notice on the Title of 713 Barriere Lakes Road, Lot 11, District Lot 1482 KDYD, PLAN 20740 EXCEPT Parcel A, shown on PLAN E14280, PID 007-741-065 in accordance with Section 57 of the Community Charter; and THAT further information about the registration may be inspected at municipal hall.

CARRIED*

**The local property owner, Mr. Turner, arrived approximately 10 minutes after the discussion closed on the matter and was later afforded by Council the opportunity to be heard during the Public Inquiries section of the agenda.*

b. Department Updates – Department Heads

**submitted for information*

The various department heads provided an overview of the written report.

c. Potential 2025 By-Election Timeline – Corporate Officer

**submitted for information*

The written report was outlined which noted that the matter of the Chief Election Officer appointment will be placed on the December 16th, 2024 Regular Council Meeting. Should Council choose to appoint a CEO at that meeting, a March 1st, 2025 by-election will likely be scheduled in compliance with legislation.

d. 2024 Actuals and 2025 Budget Timeline – CAO

**submitted for information*

The CAO provided an overview of the written report.

6. **PROCLAMATIONS** – *none scheduled*

7. **CORRESPONDENCE**

a. For Information

b. For Action – *none submitted.*

8. **COUNCIL REPORTS**

a. Councillor Lodge provided a verbal report on the following:

- Winterfest planning is underway. Registration for street hockey teams will be open later this week.

- b. Councillor McInnis provided a verbal report on the following:
 - Attended a SILGA Asset Management Seminar with the CAO in Kamloops last week.

9. ACTING MAYOR'S REPORT

- a. TNRD Alternate Director Appointment

Moved by Councillor McInnis

Seconded by Councillor Lodge

That Council appoint Councillor Kershaw as Alternate Municipal Director for 2024/2025, representing the District of Barriere on the Thompson Nicola Regional District Board.

CARRIED

10. PUBLIC INQUIRIES

- a. Re: Agenda Item 5a – Section 57 Notice Registration: the local property owner of 713 Barriere Lakes Road, Mr. Turner, noted that he feels he was not properly notified while admitting he was provided an electronic copy of the Notice in mid-October. He reported that he believes that sugar has been poured into his diesel truck by a District representative. He also reported that he believes Wally's Septic Service has a septic field on the property but does not know the details of the system which is being used for his RV. Mr. Turner expressed that he feels he can't remove the RV right now and needs more time. He has noted that he has an electrical permit for the new electrical work recently done on the property.

Moved by Councillor Lodge

Seconded by Councillor Armstrong

That the motion made on agenda Item 5a be amended to permit an extension to December 16th, 2024 before the matter of placing a Section 57 Notice on title be reconsidered by Council.; and for the property owner to work with staff on the detailed actions required to achieve compliance.

CARRIED

11. NOTICE OF MOTION – *none submitted.*

12. NEXT MEETING - Regular Council Meeting, Monday, November 18, 2024 @ 7pm

13. ADJOURNMENT

Moved by Councillor Lodge that the meeting adjourn at 8:25pm.

CARRIED

Acting Mayor, Rob Kerslake

T. Buchanan, Corporate Officer

District of Barriere

REPORT TO COUNCIL

Request for Decision

Date: November 18, 2024	File: 530.20/Rpts
To: Council	From: Chief Administrative Officer
Re: Remuneration Bylaw and related Policies	
Recommendation: THAT Council gives first three readings to the Council Remuneration and Expenses Bylaw No. 249	

Purpose

For Council to consider giving first three readings to the Council Remuneration and Expenses Bylaw No. 249.

Background

General

As part of the overall Responsible Conduct in Local Government program review to strengthen the Districts posture and reduce risk in this area, based on recent challenges in other communities across British Columbia, several of the District policies and bylaws require some form of update or amendment based on current best practices on the topic. Council will also be reviewing changes to Council's Code of Conduct as well as Council's Procedure Bylaw over the coming weeks. Other policies that are connected to these policies are also being reviewed and amendments will be recommended based on current best practices.

Remuneration Policy and Bylaw Changes

The current Council remuneration is based on Council Policy No. 16 from 2012 (see attached).

At this time, the policy includes items that are not according to current legislation (in particular the item on 1/3 tax exemption) and does not include current practices in place regarding benefits plans and eligibility. Staff has addressed these items in the proposed Bylaw.

Staff has also added a clause under Section 4.1 that would allow for an automatic remuneration adjustment for the Acting Mayor if the Mayor is unable to perform their mayoralty duties for more than 2 weeks.

The current policy also includes annual remuneration adjustments based on actual Consumer Price Index (CPI) for BC year over year. This can create budget challenges when trying to work with large increases year over year, and other years with low CPI would only see a marginal adjustment. Based on past research on the topic, a common practice would be to move to a 5-year or 10-year averaged CPI model. This approach would ensure that a) there would most likely be an increase in remuneration; and b) the increases are moderate and don't provide budgetary challenges.

Below is a comparison on the last ten years of CPI increases and what a 5-year or 10-year averaged CPI rate would have meant for the 2024 remuneration increase earlier in the year.

2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
1.0%	1.1%	1.8%	2.1%	2.7%	2.3%	0.8%	2.8%	6.9%	3.9%

As such,

A 10-year average would have been: $25.4\% / 10 = 2.54\%$

A 5-year average would have been: $16.7\% / 5 = 3.34\%$

Staff have included the 10-year average calculation clause in the Bylaw (see Section 5.1); however, Council can adjust this if Council deems that the 5-year average (or another option) is more appropriate.

Staff has also included, under Section 6.3, the option for Council to participate in medical and other benefits plans (as long as the provider allows for this inclusion). Although this was already an accepted expense, this was not codified in any policy or bylaw. Benefits providers may require a minimum number of Council members participating in this program before it becomes active.

In addition, Staff have included related key points from Policy 19, "Council Attendance at Out-of-Town Meetings, Seminars, Workshops, and Conventions" (see attached) within the Bylaw under Sections 6.4.1 to 6.4.4 which will allow Council to rescind that particular Policy. Work is also underway to update Policy 17 "Per Diem, Travel, and Milage Allowance Policy".

Code of Conduct integration to Remuneration Bylaw (Section 7)

As part of the overall Responsible Conduct in Local Government program review based on recent challenges in other communities across British Columbia, several of the District policies and bylaws require some form of update or amendment to strengthen the Districts posture based on current best practices on the topic. Council will also be reviewing changes to Council's Code of Conduct as well as Council's Procedure Bylaw over the coming weeks.

Law firms specializing in municipal governance generally recommend that local governments implement a Bylaw instead of a Policy, and further suggest including this Section 7 in Remuneration Bylaws.

This suggested section is in line with what other local government organizations are exploring and implementing. Staff have included this section in the Bylaw for discussion purposes.

Section 7 of the Bylaw Update, if implemented, would define a reduction in remuneration as a possible sanction if a member of Council has been found to have violated the Council Code of Conduct by a third-party investigation and Council supported the recommendation resulting from the investigation. The process of appointing an investigator, conducting the investigation, and types of appropriate resolution would be captured in the Code of Conduct Update. The current Council Code of Conduct already has a list of possible sanctions as derived from the UBCM Working Group on Responsible Conduct (see attached), which currently does not include remuneration adjustment as one possible option. The proposed update to the Code would include those changes.

In summary, this section defines the following:

- First violation, 10% reduction in compensation
- Second violation, 15% reduction
- Third violation, 25% reduction
 - Each reduction is applied for a 12-month period
- Section 7.4 explains that reductions would be additive if multiple violations occurred within the same 12-month period. (ie, two violations would be a $10+15 = 25\%$ reduction, a third violation would be $10+15+25 = 50\%$ reduction).

Summary

Staff has presented a draft Bylaw that would move Policies No. 16 and No. 19 into a Bylaw, while adding current best practices and codifying other practices in place at the District. Policies No. 16 and No. 19 would need to be rescinded when this Bylaw is adopted.

Benefits or Impact

General

As per general legal opinion, best practices for a municipality are to have a bylaw that governs the remuneration and Council specific expenses.

Finances

Staff annually budgets for remuneration increases as per the current policy. If Council wants to consider a different wage structure or other expenses to be included, this would be the best time to make those amendments. Travel expenses, etc. are included in the annual budget process.

Strategic Impact

N/A

Risk Assessment

Compliance: Council Remuneration Policy (current), Travel and Expense Policy

Risk Impact: Low

Internal Control Process: Staff reviewed bylaw structure and changes with a local government consultant; Staff also reviewed current remuneration values with an HR professional.

Next Steps / Communication

- The Bylaw would be presented for final reading at the December 16, 2024, meeting at which time the Remuneration Policy No. 16 and Council Attendance at Out-of-Town Meetings, Seminars, Workshops, and Conventions Policy No. 19 would need to be rescinded.
 - An update to Policy 17 "Per Diem, Travel, and Milage Allowance Policy" will be presented at a future Council meeting for consideration.
 - If Council wants to review remuneration and expenses best practices in the future, it would be recommended to hire a consultant and to establish a 5-member committee of community stakeholders to review best practices and to make a recommendation to Council. The best time for this would be in early 2026 so that changes could be made that would not affect the current Council, but rather take effect when the new term of Council begins.
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Attachments

- Draft Council Remuneration Bylaw No. 249
- Current Council Remuneration Policy No. 16
- Current Council Attendance at Out-of-Town Meetings, Seminars, Workshops, and Conventions Policy No. 19
- Working Group on Responsible Conduct Guide from 2021. The group is working on an updated version based on current challenges across the Province.

Recommendation

THAT Council gives first three readings to the Council Remuneration and Expenses Bylaw No. 249.

Alternative Options

1. Council could choose to add additional expenses, set a different wage, change the annual increase calculations, or make any other changes.
2. Council could choose to retain the current remuneration policy (and other related policies) instead of creating a Bylaw. This is not recommended due to current governance best practices.

Prepared by:

D. Drexler, Chief Administrative Officer

DISTRICT OF BARRIERE
DRAFT - BYLAW NO. 249

**A BYLAW TO PROVIDE FOR COUNCIL MEMBERS REMUNERATION AND
EXPENSES**

WHEREAS the Council of the District of Barriere wishes to set by bylaw, the remuneration, expenses and benefits for elected officials;

NOW THEREFORE BE IT RESOLVED that the Council for the District of Barriere, in open meeting lawfully assembled, hereby **ENACTS** as follows:

1. Title

- 1.1 This bylaw may be cited as the “Council Remuneration and Expense Bylaw No. 249”.

2. Remuneration paid to the Mayor:

- 2.1 Effective the date of adoption of this bylaw, the Mayor shall be paid an annual remuneration of \$14,616 for the discharge of the duties of office.

3. Remuneration paid to each Councillor:

- 3.1 Effective the date of adoption of this bylaw, each Councillor shall be paid an annual remuneration of \$9,384 for the discharge of the duties of office.

4. Remuneration paid to the Acting Mayor:

- 4.1 Effective the date of adoption, if the Mayor is unable to perform mayoralty duties for more than two (2) weeks, Councillors appointed to the position of Acting Mayor shall be entitled to the same remuneration as the Mayor, pro-rated accordingly, during the period of time served as Acting Mayor.

5. Remuneration

- 5.1 For the calendar year 2025 and onward, the annual remuneration set out in subsections 2.1 & 3.1 shall be adjusted by the 10-year average, for the periods starting on January 1st and ending on December 31st, of the Statistics Canada All Items Consumer Price Index (CPI) for the Province of British Columbia be applied to the current remuneration amount.

6. Expenses

- 6.1 Members of Council shall be reimbursed for travel expenses for attending conventions, meetings, conferences, workshops and public events in accordance with this Bylaw, and the District’s Travel and Expenses Policy, as amended or replaced from time to time.

- 6.2 Members of Council shall be reimbursed for direct costs, not included in 6.1 above, relating to the performance of municipal duties provided such expenses have been approved by a resolution of Council or by the Chief Administrative Officer prior to being incurred.
- 6.3 Members of Council will be entitled to health care benefits, including extended health and dental, accidental death and dismemberment, and life insurance (if eligible under the providers regulations), with 100% of the premium paid by the District.
- 6.4 Expenses for members of Council for attending Conventions, Seminars, Workshops, and Out-of-Town Meetings shall be provided for in the District's budget and include the following types of expenses:
- i) economy rate air fare (including one checked bag over and above the induced allowance in the airfare cost);
 - ii) conference and convention registration fees;
 - iii) taxi fare, car rental, public transit or car parking (excluding valet);
 - iv) hotel accommodation (single rate);
 - v) meals (excluding alcohol); and
 - vi) incidental expenses.
- 6.4.1. The annual budget approved for Council members' attendance at out-of-town meetings, seminars, workshops and conventions will be divided as evenly as possible between all members of Council.
- 6.4.2. Once a member of Council has expended their equal share of the allocated annual budget (approx. 15% of the total approved allowable expenditures for attendance at out-of-town meetings, seminars, workshops, and conventions), further expenditures of this sort by that member of Council must be approved by Council, either via electronic poll or resolution.
- 6.4.3. By virtue of the position, the Mayor or designate is authorized to attend emergency out-of-town meetings at any time.
- 6.4.4. Council may appoint another member of Council to attend emergency out-of-town meetings, under 6.4.3, in place of the Mayor at any time via a formal resolution.

7. Breach in the Council Code of Ethics and Conduct Bylaw (the "Code of Conduct")

- 7.1 Where a member of Council has been found by a Third-Party Investigator appointed under the Council Code of Ethics and Conduct Bylaw (the "Code of Conduct"), as amended or replaced from time to time, to have breached the Code of Conduct, the remuneration to which the member of Council would otherwise be entitled to under this Bylaw shall be adjusted in accordance with the following:
- 7.1.1 where the member of Council has been found to have breached the Code of Conduct for a first time, the remuneration to which the member of Council would otherwise be entitled to under this Bylaw shall be reduced by 10%, for a period of 12 months from the date of the breach;

- 7.1.2 where the member of Council has been found to have breached the Code of Conduct for a second time, the remuneration to which the member of Council would otherwise be entitled to under this Bylaw shall be reduced by 15%, for a period of 12 months from the date of the second breach;
- 7.1.3 where the member of Council has been found to have breached the Code of Conduct for a third or subsequent time, the remuneration to which the member of Council would otherwise be entitled to under this Bylaw shall be reduced by 25%, for a period of 12 months from the date of third or subsequent breach;
- 7.1.4 for certainty, where a member of Council has been found to have breached the Code of Conduct more than once in a 12-month period, the reductions in the remuneration to which the member of Council would otherwise be entitled to under this Bylaw shall be cumulative for any period of overlap in the duration of each reduction (e.g., if a member of Council is found to have first breached the Code of Conduct on January 1 of a calendar year, and is subsequently found to have breached the Code of Conduct again on July 1 of that year, the remuneration to which the member of Council would otherwise be entitled to under this Bylaw shall be reduced by 10% from January 1 to June 30 of that year, by 25% from July 1 to December 31 of that year, by 15% from January 1 to June 30 of the following year, and thereafter be fully reinstated.

8. General

- 8.1 Any enactment referred to herein is a reference to an enactment of British Columbia and regulations thereto, as amended, revised, consolidated or replaced from time to time.
- 8.2 If any section, paragraph or phrase of this bylaw is for any reason held to be invalid by a decision of a Court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this bylaw.

READ A FIRST TIME THIS day of , , 2024.

READ A SECOND TIME THIS day of , 2024.

READ A THIRD TIME THIS day of , 2024.

ADOPTED THIS day of , 2024.

Acting Mayor Rob Kerslake

Tasha Buchanan, Corporate Officer



DISTRICT OF BARRIERE

COUNCIL POLICY MANUAL

Page 1 of 1

Approval Date: January 23, 2012

NO: 16

DEPARTMENT: FINANCE

SUBJECT: COUNCIL REMUNERATION

The Mayor shall be paid remuneration for the discharge of office equivalent to \$10,643.00 for the period January 1, 2012 to December 31, 2012

Each Councillor shall be paid remuneration for the discharge of office equivalent to \$6,639.00 for the period January 1, 2012 to December 31, 2012.

The remuneration for the Mayor and Councillors shall be increased on January 1st of each year thereafter by an amount equivalent to the percentage increase in the Consumer Price Index for B.C. for the immediate preceding year. If the change in the Consumer Price Index for B.C. for the preceding year is negative, the remuneration for the Mayor and Councillors will remain unchanged for the year thereafter.

Council members' remuneration shall be paid in monthly installments for each year of the term of office for the Mayor and each Councillor.

One-third (1/3rd) of the remuneration paid to Council members shall be deemed to be a tax-free, non accountable allowance for all expenses incidental to the discharge of the duties of the respective offices.



DISTRICT OF BARRIERE

COUNCIL POLICY MANUAL

Page 1 of 1

Approval Date: February 6, 2012

NO: 19

DEPARTMENT: ADMINISTRATION AND FINANCE

SUBJECT: COUNCIL ATTENDANCE AT OUT-OF-TOWN MEETINGS, SEMINARS, WORKSHOPS AND CONVENTIONS

1. Generally the budget approved for Council members' attendance at out-of-town meetings, seminars, workshops and conventions is divided as evenly as possible between all members of Council. However, it is understood that, some members may have more flexibility to attend than others. In fairness therefore, once a member of Council has expended their "fair share" of the budget (approx. 15% of the total approved allowable expenditures for attendance at out-of-town meetings, seminars, workshops, and conventions), further expenditures of this sort by that member of Council must be approved by a Council majority, either via poll or resolution.
2. The Mayor, or his/her delegate, is given blanket authority to attend emergency meetings on behalf of the District.
3. Should the total annual budget for Council members' attendance at out-of-town meetings, seminars, workshops and conventions be depleted, additional funds may be transferred to that line item by resolution of Council or as permitted by Policy No. 18.

Forging the Path to **RESPONSIBLE CONDUCT** In Your Local Government



WORKING GROUP ON RESPONSIBLE CONDUCT

APRIL 2021



THANK YOU TO ALL PROJECT PARTICIPANTS

The Working Group on Responsible Conduct is a joint initiative of the B.C. Ministry of Municipal Affairs, the Local Government Management Association of British Columbia, and the Union of British Columbia Municipalities.

We sincerely appreciate the valuable contributions of all those who assisted the Working Group on Responsible Conduct in developing this guide, *Forging the Path to Responsible Conduct in Your Local Government*.

The project greatly benefited from the support and involvement of these participants, including B.C. local government elected and staff officials, and the legal experts who advise them. These individuals, through their willingness to share their experiences, were absolutely central in showing us how leading local governments can manage conduct issues within the current B.C. context. They are truly forging the path to responsible conduct in their communities. It is our hope that in passing on the wisdom built through those experiences, the guide will provide others with practical ideas to allow them to do the same.



INTRODUCTION

About this Guide

How local government elected officials conduct themselves matters. Conduct is central to governance and when conduct issues emerge, especially if allowed to fester, good governance can be impaired and public trust eroded. Yet dealing with conduct issues can sometimes be overwhelming and governing in the face of them enormously challenging.

The guide presents practical ways to help prevent conduct issues and to deal with them if they do arise. The guide does not represent legal advice, nor is it a substitute for that advice.

Guide Development

This guide was developed by the Working Group on Responsible Conduct (WGRC), a joint initiative by the Union of British Columbia Municipalities, the Local Government Management Association of British Columbia (LGMA), and the B.C. Ministry of Municipal Affairs. The staff-level Working Group undertakes collaborative research and policy work on the issue of responsible conduct of local government elected officials.

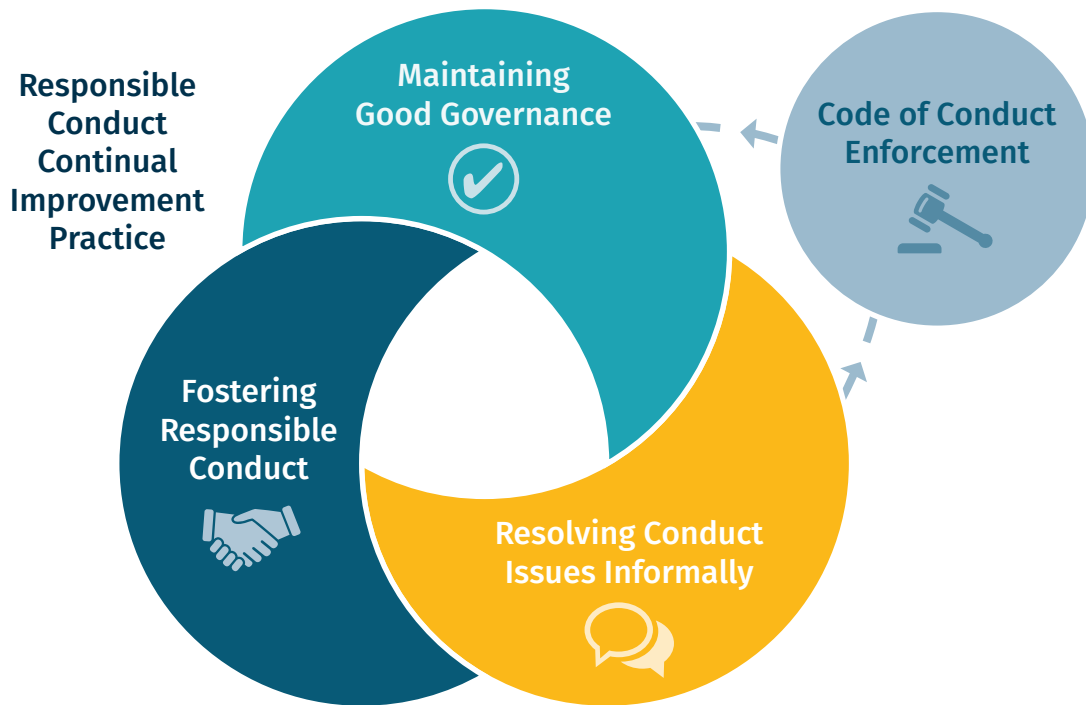
This guide builds on, and should be read in conjunction with, three previous WGRC publications: *Foundational Principles of Responsible Conduct for BC's Local Governments* along with *Getting Started on a Code of Conduct for Your Council/Board: Model Code of Conduct* and its *Companion Guide*.

The guide was informed by WGRC research, a review of a sample of B.C. local government codes of conduct that include enforcement provisions, and discussions with local government elected and staff officials and legal experts experienced in responsible conduct matters.

Our key take-away from those discussions was: **It's worth putting a lot of effort into prevention and informal resolution of conduct issues. There are enforcement processes if that doesn't work, but in practice, local governments are finding more success with informal methods.**

Watch for highlighted leading practice tips and quotes from trusted advisers that came to the WGRC during our research.

All resources noted in the chapters are linked in Chapter 6, Resources.



Guide Organization

The guide is organized around two central concepts:

- A continuous improvement practice to foster responsible conduct, maintain good governance, and resolve conduct issues informally; and
- Where it is needed, code of conduct enforcement.

The three continuous improvement topics do not represent a linear process, with a local government moving sequentially through each; instead, they are intertwined with activities in each undertaken iteratively, shaping an organizational culture of trust and respect, where participants work effectively together and councils and boards govern well.

There is a well-established body of practice in these areas, and the guide draws on this to provide examples, leading practice tips and links to further information and resources.

With these measures in place, conduct issues can be avoided, or managed early on, reducing the need for enforcement of a code of conduct. However, even within this context, there may occasionally be a need for a local government to enforce its code of conduct.

Articulating an enforcement process within a code of conduct is a relatively new practice in B.C. The guide draws on examples from leading local governments that have included enforcement in their codes to highlight both current practice and things a local government may wish to consider as it begins to design its own enforcement process.

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See Chapter 6, Resources for links to the publications and other resources referenced throughout this guide.

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CHAPTER 1

Fostering Responsible Conduct

What Kind of Conduct is Problematic and Why?

Some expectations of good conduct will be clear to most, often because these are set out in law: things like a person not voting on something if they have a financial interest in it, keeping confidential information confidential, not discriminating against a person,¹ and not making slanderous statements.

Other behaviours – like respecting others at meetings or not criticizing colleagues, staff or members of the public on social media – may be less obvious to some; perhaps council or board members don't even agree on what conduct they expect of each other in these areas. For example, some may think that there is nothing wrong with dismissing or belittling another in a debate because they have different backgrounds, experiences, or cultural values than you, or because their politics or points of view on a matter are different than yours.

Some may think that shouting at the chair is an acceptable tactic to get their point across, or that intimidating staff when they won't give you what you want is a way to get things done. However, all of these kinds of conduct can be destructive.

Even subtle actions can become pervasive, escalate over time, erode relationships and impair the ability of the local government to fulfill its most basic responsibilities to make collective decisions in the interests of the community. Electors have entrusted elected officials, acting collectively as the local government's governing body, to govern in the public interest; any conduct that gets in the way of that is a problem.



¹ The B.C. Human Rights Code prohibits certain activities and conduct that discriminate against a person or group or class of persons because of the race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity or expression, or age of that person or that group or class of persons. See Chapter 6, Resources for a link to the legislation.

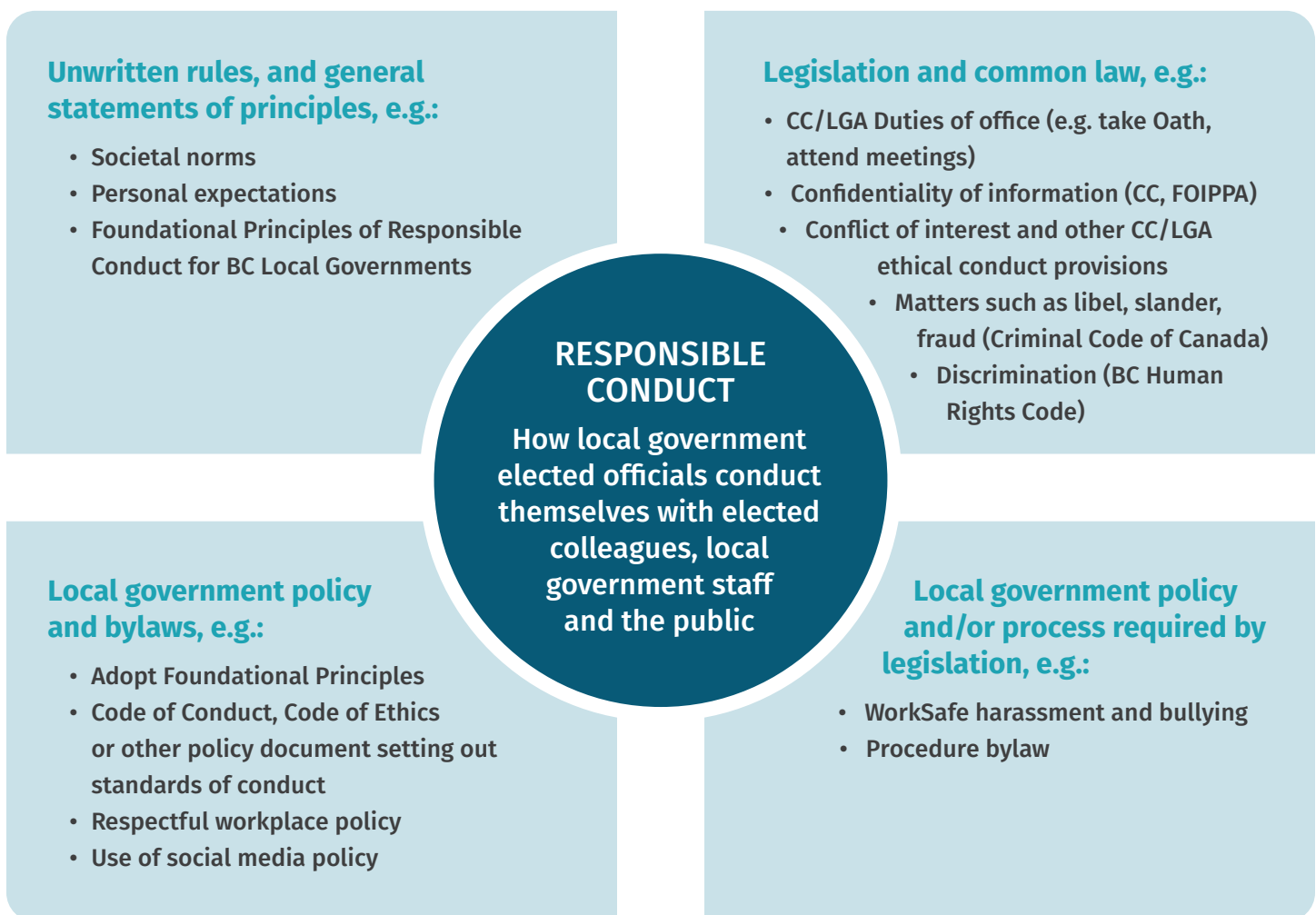
What is Responsible Conduct?

In the context of this guide, responsible conduct refers to how local 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, in a way that furthers a local government's ability to provide good governance to its community.

As illustrated in the graphic, conduct expectations can take the form of unwritten norms, written principles, or local, provincial or federal policy or law.

Much of this guide is focused on local government policy and bylaws, such as a local government code of conduct because:

- Preventing conduct issues is difficult when relying on unwritten rules or general statements of principle developed by others and not endorsed by the local government; and
- Considerable guidance is provided elsewhere for conduct that is governed by federal or provincial law; this guide touches on that aspect but directs the reader to external resources for more information.



How Can We Build Responsible Conduct in Our Local Government?

Adopt a Code of Conduct or Other Conduct Policy

Avoiding conduct issues when rules are unwritten is hard because people don't know what is acceptable. Building a shared understanding of expected conduct and setting that out in a code of conduct will make expectations clearer and is a good way to prevent issues.

Codes of conduct provide conduct standards that supplement conduct already required legislatively (e.g., conflict of interest rules, confidentiality requirements, prohibitions on discrimination) or through policy (e.g., council/board-staff relations) to ensure that the full range of expected conduct is clear. Existing legislation and/or local government policies will need to be considered as a local government develops its code to ensure the code is not inconsistent with existing conduct requirements.

Many codes also include details about how alleged contraventions will be dealt with. This can be a preventative measure because it adds clarity about how an individual elected official will be held accountable for their conduct.

Adoption of a code of conduct is strongly recommended – as is the inclusion of an enforcement process to address alleged contraventions, and a range of sanctions that may be imposed by the Council or Board if a contravention is determined. Ideally, initiate discussions towards adoption of the code before conduct issues emerge.

If you already have a code, use Chapter 4, Essentials of Code of Conduct Enforcement, to support development of an enforcement process. If you haven't yet adopted a code, start with two previous WGRC publications (*Model Code of Conduct* and its *Companion Guide*). Both are linked in Chapter 6, Resources.

Align Policies, Procedures and Practices

Procedure bylaws are an important tool in supporting conduct in meetings and Council and Board decision-making. *The Procedure Guide: For B.C.'s Local Governments* by the LGMA and B.C. Ministry of Municipal Affairs aims to help local governments proactively consider and change their procedure bylaw to help address challenging situations and to support responsible conduct.

Local governments have many other policy and procedural tools that can be used to support responsible conduct, including such things as (see links to samples in Chapter 6, Resources):

- Oath of office
- Social media policies
- Information-sharing practices
- Conduct expectations for members of the public
- Checklists and educational tools

LEADING PRACTICE TIPS

It's easiest to have discussions about creating a code of conduct before conduct issues emerge. If your Council or Board is struggling to have those discussions, try starting incrementally and adopting the WGRC's Foundational Principles of Responsible Conduct as a statement of the Council/Board's commitment to those principles.

LEADING PRACTICE TIPS

Try a visual or verbal reminder of expected conduct at meetings, like printing the WGRC's Foundational Principles of Responsible Conduct on a placemat for every Council or Board member's place at the table or stating the oath of office at the beginning of every meeting.

Elected Official Leadership, Knowledge-sharing, Skills Development and Support

Leadership development can play a significant role in maintaining responsible conduct and good governance.

For example, respectful dialogue at a Council or Board meeting is more likely when all members understand that decisions are made collectively and not by the mayor/chair, electoral area director, or any other individual elected official. Additionally, trust and respect can be improved through understanding one's role and how it fits with the roles of others, building cultural humility,² communicating in a way that respects people's inherent dignity, and developing an appreciation of the value of different perspectives.

Building a clear understanding about conduct rules and expectations early in a term – including those that are legislated (e.g., conflict of interest) and those that are established through codes of conduct – can be a key factor in elected officials meeting those expectations. In addition, compliance can be improved and conduct issues avoided if a local government provides its elected officials with trusted advice in response to their concerns about how they can comply with conduct rules.

Similarly, skill development in areas like effective communication, chairing a meeting, dispute resolution, and strategic thinking can support both good governance and responsible conduct. Leadership and skill development should be a priority for Councils and Boards as well as for both newly elected and veteran elected officials across B.C.

For participants in the decision-making process, shared power and decision-making puts a premium on leadership skills that help one's fellow leaders find common ground.

(From the Institute for Local Government webpage article Decision Making in the Collective Interest)

² “Cultural humility is a process of self-reflection to understand personal and systemic biases and to develop and maintain respectful processes and relationships based on mutual trust. Cultural humility involves humbly acknowledging oneself as a learner when it comes to understanding another's experience.” First Nations Health Authority. See Chapter 6, Resources for links and more information.

LEADING PRACTICE TIPS

Participate in the Local Government Leadership Academy's Annual Forum, which enables elected officials to learn formally from speakers, and informally through networking with colleagues from around the province. Relationships forged here can have ongoing benefit, as elected officials find they are not alone, and gain confidence to share ideas and seek advice from others who understand the challenges they may be facing.

Consider additional education, including:

- Scenario-based training where participants work through difficult situations or areas of conflict and practice skills to effectively deal with them;
 - Training to increase understanding of the history and experiences of people who make up the community and avoid stereotypes and discrimination;
 - Confidential coaching or mentoring for individual members of the Council or Board; or
 - Pre-election candidate orientation, so individuals considering running for office know what they're getting into.
-

Consider developing a process to involve your Council or Board in determining their leadership and skills development priorities.

FOOD FOR THOUGHT

- › How well are we prepared to deal with conduct issues if they begin to emerge?
- › Do we have a code of conduct? If not, why not?
- › Does our code include a process to address alleged contraventions? If not, why not?
- › What issues are emerging that aren't dealt with under our code? Do we have policies to deal with them (e.g., social media policy)? Can we strengthen compliance by referring to these policies in our code?
- › Have we allocated funding for elected officials' leadership development, skills building and support in our budget? Do elected officials know this is available? How do we know what support and skills building are important to members individually and collectively?
- › Where can our elected officials go if they have questions about their conduct or to get advice about how they can comply with conduct rules? Does that advice include both legislated rules like conflict of interest and duty to respect confidentiality, as well as our code of conduct?

CLICK HERE for links to resources referenced in this chapter.

CHAPTER 2

Maintaining Good Governance

Working Together Before, During, After – and Despite – Conduct issues

A Council or Board is entrusted by electors to govern in the best interests of the community and it can only do this as a collective. Individual members cannot independently govern or make decisions affecting their community, but they can participate and contribute towards collective decision-making, and collaborative good governance responsibilities.

Given this, Boards and Councils need to find ways to work together; to effectively cooperate, collaborate, and make decisions, regardless of things like conduct issues, strained relationships or conflicting views.

“We need to stop pretending that good governance is an accident; if you’re not doing this proactively, you’ll be doing it reactively.”

(A B.C. local government consultant, facilitator and lawyer)

Whose Job is it Anyway?

Everyone has a role to play in responsible conduct and good governance.

- **Every elected official** is accountable for their own conduct and must make sure they are always acting ethically and responsibly.
- **The mayor or chair** provides leadership and can lead by example, maintain order at meetings and propose policy changes, but they cannot, on their own, ensure the Council or Board operates as it should.
- **All Council or Board members** influence how the collective works, and in the interest of serving their community, all can take steps to work effectively together, including speaking up when problems arise.
- **Staff** provide professional advice to the Council or Board and carry out its decisions in an effective, efficient and non-partisan manner. The relationship between elected and staff officials is intertwined, so it is vital for both to understand and respect one another’s roles. Developing effective lines of communication, and trustful, respectful relationships between elected and staff officials supports good governance, even under challenging circumstances. The CAO is your one employee and your ally to help elected officials be successful.

“Local officials are grappling with difficult policy challenges... A goal is to create a culture of tolerance for differing points of view that credits everyone with having the best interests of the community in mind.”

(From the Institute for Local Government document Tips for Promoting Civility in Public Meetings)

Enhance Collaboration: Embrace Diverse Ideas and Conflicting Views

Councils and Boards that welcome healthy debate, diverse ideas and conflicting views make better decisions. Different lived experiences and fresh perspectives can provide valuable insights, uncover opportunities and bring out solutions that hadn't previously been considered but are better for the community.

Productive conflict³ – that is, conflict that leads to productive results, such as better decisions – can be a significant positive influence on good governance. Productive conflict is an open exchange of conflicting or differing ideas in which parties feel equally heard, respected and unafraid to voice dissenting opinions as they work toward a mutually comfortable solution.

On the other hand, unproductive conflict – characterized by frequent, unresolved arguments – can leave individuals feeling angry and frustrated, bringing about conduct issues and making good governance more difficult.

LEADING PRACTICE TIPS

Provide a way for elected officials to build informal relationships beyond the Council or Board table (it can be as easy as sharing a meal together).

The next time a contentious issue is under discussion, try a “no rebuttal round table session” where every member has an opportunity to state their position on the issue and explain its impact from their perspective, and no member can rebut someone else's statement (when it is their turn, they must speak only to their personal perspectives).

(Details of this process, including its successes, are provided in the Enhancing Collaboration in British Columbia's Regional Districts report, found in Chapter 6, Resources.)

³ From *Unproductive Conflict vs. Productive Conflict*. See Chapter 6, Resources for link and details.

Individual strategies for productive conflict include:

- Separating the person from the issue;
- Moving the discussion from positions to interests; and
- Seeking win-win scenarios, where solutions can meet key mutual interests.

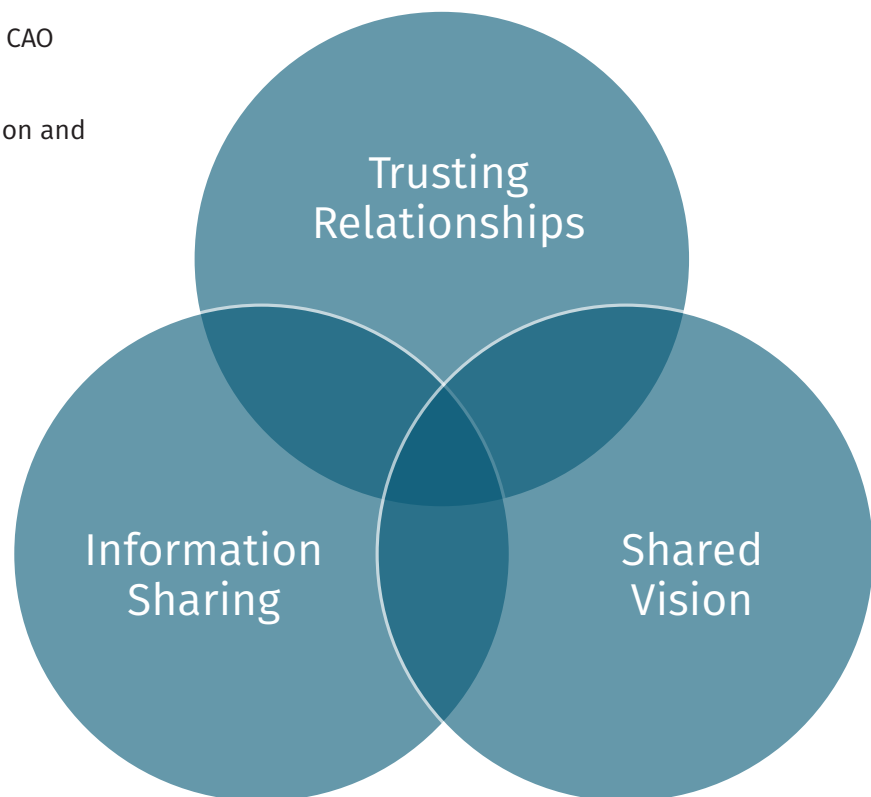
Developing these skills can be a catalyst to move from unproductive conflict, with parties entrenched in their positions, to a place where conflicting views become a pathway to better solutions.

Focusing on trusting relationships, strong information sharing practices and a shared vision can equip a local government to ensure conflict remains productive and improve collaboration. For example:⁴

- Organizing information seminars on complex issues;
- Maintaining a strong chair/mayor and CAO leadership team; and
- Preventing the spread of misinformation and establishing a common set of facts.

“Regional issues may be more obscure than in a municipality and it is important to give all directors, from municipalities and electoral areas, the support they need to appreciate their role in creating a regional vision.”

(A B.C. regional district CAO)



⁴ Examples from *Enhancing Collaboration in British Columbia's Regional Districts*. See Chapter 6, Resources for link and details.

Contain Conduct Issues: Use Policy/Procedural Tools to Manage Meetings and Conduct, and Support Good Governance

Simply having policy and procedural tools in place are not enough; they will only be effective in managing conduct if they are used.

If the procedure bylaw supports responsible conduct or a code of conduct is in place, the mayor or chair can remind an elected official of their obligation to comply in real time when a conduct incident occurs at a meeting. Alternately, Councillors or Directors can raise a point of order in relation to the conduct.

If policy levers are not sufficient to support responsible conduct and good governance, any Council or Board member can propose an agenda item for a future meeting to discuss adoption or amendment of the needed policy.

Some examples that illustrate the range of policy levers that could be engaged are shown in the 'Align Policies, Procedures and Practices' section in the previous chapter.

"You might not be able to change behaviour, but you can change the local government's practices and system framework around it."
(A B.C. local government legal advisor)

LEADING PRACTICE TIPS

Using a procedure bylaw that specifically addresses conduct expectations, in combination with handbooks like *Robert's Rules of Order*, and *Local Government Act* and *Community Charter* provisions like the ability to expel someone acting improperly from a meeting, can be powerful tools to help contain conduct issues that arise during a meeting.

Developing a checklist for the Council or Board to evaluate its own effectiveness can be a good starting point for a check-in discussion. See Chapter 6, Resources for some sample checklists that can be customized.

Council/Board Check-ins: Find Ways to Work More Effectively Together

A Council or Board discussion – or check-in – about how to work together more effectively can provide a useful forum to identify and address areas of concern, including conduct, conflict, or collective 'blind-spots' that get in the way of effective discussion and decision-making. This can help to build trusting relationships as well as identify policy or procedural changes to overcome systemic barriers, and/or learning topics that could support both the collective and its individual participants to become more effective.

When negative conflict or conduct issues are present, these check-ins can help to clear the air, de-escalate unproductive conflict, improve communication, and help the Council or Board refocus on improving working relationships and removing barriers to its effectiveness.

These discussions can be challenging to start if a Council or Board is facing significant stress. Consider initiating them early in the term when tensions aren't high, and continue them on a regular basis after that.

Alternatively, some of the discussion can be woven into other processes, such as those in the graphic. Successes from these early discussions will reinforce the benefit of open dialogue aimed at improving relationships, and may help to create a willingness to participate in future dedicated check-ins.

Success of a dedicated check-in may depend on ensuring elected officials feel comfortable exploring their perspectives on barriers to their collective success without fear of reprisal, so that they can consider new approaches when current patterns of engaging with each other are not working.

In addition to considering external professional facilitation, Councils and Boards may wish to consider undertaking these sessions in the absence of the public, which can help to facilitate the open, honest discussion that will be needed to explore these issues.⁵



⁵ If you are discussing these matters in the absence of the public, make sure you don't also move towards making decisions, which you would need to do in an open meeting. See Chapter 6, Resources for useful resources from the Ministry of Municipal Affairs and the B.C. Ombudsperson.

LEADING PRACTICE TIPS

If you're getting stuck finding ways to work better together, especially if interpersonal dynamics are regularly getting in the way of making decisions, an external professional might be able to help. The combination of professional expertise and independence from the organization provides an opportunity for these professionals to bring new perspectives to the table and suggest approaches that may not have been considered before.

FOOD FOR THOUGHT

- › Is our Council or Board governing well? If we were to get a grade on that, what would it be? What's getting in the way? Do we regularly have discussions about this? Have we made provision for regular check-ins and getting some outside help if we need it?
- › What enhancements could be made to our policies or procedures to avoid conduct issues? Do we have specific issues that seem to be evolving that should be a priority (e.g., release of confidential information)? What can we put in place that would resolve these issues (e.g., does everyone understand their legal obligations, are there changes to our information-sharing practices that could help, and is this something the Council/Board should discuss in a check-in)?
- › What kinds of things are causing tension at the Council/Board table (e.g., whether something discussed in a closed meeting should have been in an open meeting; whether or not a member is in a conflict of interest in a particular matter; lack of respect because of such things as different political views, backgrounds, experience, age, gender identity or sexual orientation)? Would training and leadership development help? Is additional information needed, either generally or on a case-by-case basis? Are there tips or tools that could be developed to support members? Is this something the Council/Board should discuss in a check-in?
- › As an individual, self-awareness is key. Ask yourself: Am I part of the problem? Am I contributing to dysfunction or to good governance? Do I make assumptions about other Council or Board members without trying to understand their experiences or perspectives? What steps can I take to help the Board or Council work better together? What support do I need to do that? How can I help to ensure our conflict is productive?

“If local governments did less in closed meetings, there would be fewer conduct issues.”

(A B.C. local government legal advisor)

CLICK HERE for links to resources referenced in this chapter.

CHAPTER 3

Resolving Conduct Issues Informally

When and Why to Consider an Informal Approach

Conduct issues can often be managed through prevention and good governance measures. Unfortunately, there are times where the issues are particularly significant or entrenched, and instead escalate or become more pervasive. In these cases, local governments may wish to consider taking additional steps to address the conduct issue.

Two approaches are available, and they are not mutually exclusive. Informal approaches are aimed at resolving conduct issues, through productive discussion toward mutually satisfactory solutions. Enforcement processes are aimed at determining whether there was a conduct contravention, and deciding on sanctions if a contravention is found.

Informal resolution can lead to better outcomes than enforcement processes because informal resolution tends to be:

- More effective in finding solutions that are satisfactory to all parties;
- Quicker, leaving less time for the problematic conduct to remain unchecked and less time for relationships to erode further;
- Less divisive since parties are brought together to work towards solutions that work for all, helping to rebuild trust and repair relationships (whereas in enforcement processes, parties oppose each other to prove or disprove a contravention); and
- Less legalistic, cumbersome and complex, which can also mean they are considerably less costly.

“I have yet to see an enforcement process where the elected official accepted the findings, so we need to make every effort to manage things before it gets to that.”

(A B.C. CAO, mid-sized municipality)

Given these advantages, many local governments are finding that in most circumstances it is well worth pursuing informal approaches to the fullest extent possible to see if they can resolve the conduct issues. In general, they are only considering enforcement processes if those informal resolution efforts are not successful.

However, despite its potential for positive outcomes, informal resolution is not appropriate for all circumstances.

Local governments will want to consider specific circumstances carefully before deciding on a course of action (and seek appropriate legal advice before proceeding). Consider the following examples.

When conduct issues impact employees:

Local governments are responsible for the safety of their employees at work. If a complaint relates to matters covered by legislated provisions to address workplace bullying and harassment, the complaint must be dealt with in accordance with the *Workers Compensation Act* and Occupational Health and Safety policies established by WorkSafeBC.

There may also be other laws, local government policies, or employment arrangements that will govern how to respond when an employee indicates they have been subjected to unsafe working conditions or inappropriate behaviour.

When conduct represents actual or threatened significant or imminent harm to persons, property or the local government:

In these situations, local governments will need to consider how best to preserve safety and security within their community. In addition to legal advice, local governments may need to consult with law enforcement.

“It’s important to remember that trust is built around understanding and respect, not necessarily agreement.”

(From the Institute for Local Government document Attributes of Exceptional Councils)

How to Pursue an Informal Approach

Informal resolution focuses on involved parties working out their differences to come to a mutually acceptable resolution that restores responsible conduct. Fairness is key, and local governments will want to consider fairness elements appropriate to the circumstances, which may be different than what is appropriate for enforcement (e.g., there may not be a need to provide parties an opportunity to be represented in informal discussions). Fairness supports informal discussions since people will be more willing to work towards solutions if they are being treated fairly. In addition, it is important to ensure that informal resolution does not jeopardize subsequent enforcement processes should they be needed. Providing an appropriate standard of fairness in informal discussions will help to meet that objective.

LEADING PRACTICE TIPS

Consider fairness training or coaching for all Council or Board members to raise awareness of the need for fair process in everything they do. This can lead to fewer conduct issues in the first place, and support informal resolution discussions if issues do arise, potentially avoiding the need for all parties to default to legal positions in the early stages of those discussions.

Who is involved in these conversations, and how the process unfolds, will depend on the situation and in part, who is willing and able to work through the issues.

The following are some common approaches; local governments should consider their own unique circumstances in deciding what methods to try.

When You Demonstrated Poor Conduct

All elected officials are accountable for their conduct and the vast majority are responsible, but lapses do occur: someone snipes in the heat of the moment that their colleague is too young, or too old, or too new to this country to have views on a topic; someone hits send on a social media post when they're still angry; someone picks on a staff member because they don't like a report's recommendations; someone takes a colleague's comment out of context in a way it was never intended. Sometimes, that someone is you.

Many elected officials find themselves in these situations; what distinguishes them is how they deal with them. Owning your part in a misunderstanding or admitting you've made a mistake or acted inappropriately is not a sign of weakness; it is a sign of strength and it is a quality common to exceptional leaders. It's also a way to build trust and respect and to repair relationships – valuable activities in one's quest to serve the community and get things done.

When faced with these situations, consider sitting down with the individual impacted by your conduct. It's a good opportunity to clear the air, to make an apology if that's in order, and to get to know each other's perspectives and experiences. It also allows you both to work through the issue and decide what else is needed to avoid further incidents and to move on.

Depending on how wide the impact, consider whether to have this conversation with the full Council or Board, and/or whether a public apology is appropriate.

“In more than six years as the Ombudsman for British Columbia, I have witnessed, again and again, how one action can make a difference in a small but meaningful way. I have observed that a sincerely offered apology will often satisfy a person who has a complaint... An apology can restore self-respect and dignity. An apology acknowledges that a mistake has been made and that the offending party will not repeat the action in question. It can help re-establish trust and assurance that the offending action was not the person's fault.”

(From the BC Ombudsperson special report The Power of an Apology: Removing the Legal Barriers)

LEADING PRACTICE TIPS

If you're immersed in a conduct issue, try finding a personal sounding board – a confidante with whom you can test how your behaviour stacks up and who can give ideas about how you can resolve the issue. An elected official from another local government can be particularly helpful because they can understand what you're going through and may even have faced something similar, but can offer an impartial perspective because they are not directly involved in your situation.

When You Are on the Receiving End of Poor Conduct

An elected official impacted by the conduct of a colleague might consider meeting with them if they are willing. This can help to defuse the situation, understand other points of view, discover common ground and jointly problem solve ways to work better together. It is important to avoid accusations, so it may be prudent to prepare for the conversation by considering how best to share perspectives and find mutual interests, and by thinking about what might be needed to set things right.

Involvement of Another Person in Individual Discussions

Sometimes the two elected officials aren't able to resolve the issues themselves and having a facilitator can help. Choosing the right person depends on the situation. Typical choices include:

- The mayor or chair or their deputy;
- An official who provides advice or support in relation to conduct; or
- An independent third party with experience in dispute resolution.

The choice will depend on the nature and significance of the conduct issue, who has the needed skills, and whether all parties see the facilitator as neutral.

Many local governments avoid involving the CAO or other staff in a Council or Board conflict in this way so that staff are not seen as "taking sides," which may cause considerable damage to elected official and staff relations.

If initial facilitated discussions aren't successful, the local government may wish to consider additional efforts to reach resolution, including negotiation and/or mediation.

Where an Individual's Conduct Impacts All Members

Sometimes the conduct at issue is not directed towards an individual, but to all or part of the Council or Board. For this, the mayor or chair, or their deputy, could initiate a discussion with the elected official whose conduct is at issue. These discussions are similar to those noted above, and could be aimed at gaining a mutual understanding of the various perspectives, identifying solutions to avoid further incident, and perhaps exploring new ways to work more effectively together. Depending on the nature and significance of the conduct, consider a facilitator for these discussions (e.g., an independent third party).

TIPS FOR THESE DISCUSSIONS

Regardless of who initiates or is involved in the conversation, there are a number of elements that can help make the discussions successful, such as:

- › Ensure all discussions treat people fairly; be respectful, honest and accountable; be clear about what brought you to the discussion and what you would like to achieve; and give people an opportunity to respond;
- › Have the conversation in private, and keep the discussion confidential;
- › Try to start from a place of neutrality, aiming to gain an understanding of individual perspectives, intentions and impacts, and reflect on and challenge your own inherent stereotypes, assumptions and perspectives;
- › Try not to judge; separate the problem from the person, actively listen, ask questions, seek clarification, and build on your understanding;
- › Remain open to views about what you or others could have done differently;
- › Seek common ground/mutual interests and use these as a basis for joint problem-solving to find solutions that everyone can accept; and
- › Recognize that resolution may take some time and potentially a series of discussions; don't try and do this all at once as people need time to think through issues and discover solutions, and they may need time to work through complex emotions that the discussions reveal.

“Individuals sometimes ignore rules, and toxic personalities sometimes create challenges... difficult personalities on the Council create a challenging and uncomfortable environment for the Council itself... In the end, the Council must manage its own behavior and seek compliance from its own members.”

(From the Public Management article Preparing Councils for their Work by Julia Novak and John Nalbandian, August 2009, pg. 27)

Where the Conduct Issues are Systemic or Widespread

Some types of conduct lend themselves to discussions with the full Council or Board and informal resolution would begin there (e.g., certain elected officials are repeatedly interrupted, bullied or belittled by others; conduct is markedly different in closed meetings than in open ones; grandstanding becomes an issue when the public is particularly engaged and vocal at the Council or Board meeting).

In other cases, informal resolution that begins with individual discussions noted above reveals underlying causes that need to be discussed by the full Council or Board, and informal resolution would then move to these more broadly-based discussions.

This presents an opportunity for the Council or Board to engage in continuous improvement with broader discussions about how to work more effectively together.

This could involve processes discussed in Chapter 1, Fostering Responsible Conduct and Chapter 2, Maintaining Good Governance, and it is well-suited to discussion as part of a Council or Board's next check-in.

Full Council/Board discussion is appropriate whenever the conduct or its root causes indicate underlying systemic challenges, because those challenges need to be addressed in order to satisfactorily resolve the conduct issue and to avoid future incidents. Councils and Boards that find a way to identify systemic issues (e.g., preconceptions about things like gender identity, economic status, ability, race or age; lack of a common set of facts on matters discussed; gaps in a shared understanding of conduct expectations), speak about them openly and safely, and jointly develop solutions (e.g., leadership development, enhanced policy alignment) may find that conduct issues can be resolved, unproductive conflict and friction reduced, and more effective trusting working relationships established.

Professional Advice from Staff

While ultimately it is up to elected officials to restore responsible conduct of their members, senior staff can provide key support to that process. For example, they are well-positioned to:

- Provide advice about approaches to resolve conduct issues, including resolution at an individual level and potential structural, system or policy realignment;
- Provide process and technical support to individual elected officials on informal resolution and/or enforcement processes;
- Provide advice on how to ensure informal resolution processes are fair to all participants and where expert fairness advice may be needed; and
- Provide advice about when to involve a facilitator in discussions and the skills that will be important to the success of that role, and/or what other external support or advice could be considered (e.g., legal advice; involvement of law enforcement).

FOOD FOR THOUGHT

- › Is there anything in this situation that should prevent it from being considered for an informal resolution process?
- › Who is best positioned to initiate a conversation or to facilitate one if needed?
- › What support could the local government offer to elected officials who have conduct questions or concerns, or who want to better understand the process to try and deal with issues informally?
- › What is being done to support relationship-building? What can be done to ensure all voices are heard? If these were enhanced, might it be easier for elected officials to sort out conduct issues informally? Are there lessons to be learned from this process that could apply more generally to elected officials' relationships, and/or to changes needed in the local government's policies and procedures?
- › At an individual level: What triggers a change in my conduct? How can I manage that? What subconscious assumptions might be influencing my conduct? What support do I need to make a change or to sort out a conduct issue with my colleagues?

CLICK HERE for links to resources referenced in this chapter.

CHAPTER 4

Essentials of Code of Conduct Enforcement

When to Consider Enforcement

In most cases local governments find it is worth exerting considerable effort towards informal resolution, and considering enforcement only if those efforts prove unsuccessful. Conduct is often about relationships, and with the collective governance model of local governments, good working relations are critical to good governance. Informal resolution can help to maintain relationships. Enforcement processes – being lengthy, protracted affairs that sometimes pit colleagues against each other – can serve to erode relationships as well as public trust in the process and the local government.

For this reason, local governments generally find informal resolution more effective, and are more satisfied with its outcomes (see Chapter 3, 'Resolving Conduct Issues Informally' for details). If informal resolution is not attainable, local governments may wish to consider enforcement.

A local government can hold its elected officials accountable for their conduct through an enforcement process articulated within its code of conduct, so long as that process is fair. This chapter focuses on characteristics of these code of conduct enforcement processes, and what to consider in their development, but first, it points to enforcement approaches outside of a code of conduct that may be applicable.



Overview of Other Enforcement Approaches

Specific Statutory Processes

Various federal or provincial laws provide specific accountability or enforcement processes for certain conduct matters, for example:

- **Incidents and complaints regarding bullying and harassment of an employee and/or other conduct that affects employees:** Local governments are responsible for the safety of their employees at work. If a complaint relates to matters covered by legislated provisions to address workplace bullying and harassment, the complaint **must** be dealt with in accordance with the *Workers Compensation Act* and Occupational Health and Safety policies established by WorkSafeBC. There may also be other laws, local government policies or employment arrangements that will govern how to respond when an employee indicates they have been subjected to unsafe working conditions or inappropriate behaviour.
- **Application to court for a declaration of disqualification and forfeiture of financial gain for contraventions of conflict of interest and other ethical conduct requirements:** The *Community Charter*, *Local Government Act* and related legislation provide rules for conflicts of interest, inside influence, outside influence, gifts, contracts and insider information. Contraventions result in disqualifications and may result in forfeiture of any financial gain that resulted. Electors or the local government may apply to the Supreme Court for a declaration of disqualification and for an order to forfeit financial gain.

- **Prosecution of an offence:** Some contraventions of legal requirements are offences which may, at the discretion of the provincial Crown Counsel, be prosecuted in court, and convictions may result in fines and/or imprisonment (e.g., unauthorized disclosure of personal information under the *Freedom of Information and Protection of Privacy Act*, and unauthorized disclosure of certain confidential information under the *Community Charter*, *Local Government Act* and related statutes).

LEADING PRACTICE TIPS

This list is not exhaustive. There are numerous other federal or provincial laws that provide enforcement processes (e.g., Court-based prosecutions under the Criminal Code of Canada for contravention of laws related to libel or slander; Human Rights Tribunal determination of discrimination complaints under the BC Human Rights Code). Local governments will want to familiarize themselves with all applicable legislation before initiating a local government enforcement process.

Local Government Process to Decide on a Specific Alleged Conduct Contravention and Impose Related Sanctions

The courts have found that a local government has an ability to control conduct of its members in some circumstances, and local governments have relied on this to impose sanctions for contraventions on a case-by-case basis.

These case-by-case processes are similar to enforcement processes articulated within a code of conduct: both can result in sanctions; both must be undertaken using a high standard of fairness; and both are complex from a legal perspective.

However, an important distinction between them relates to whether the process is established in advance (as it is for processes articulated within a code of conduct), or whether it is developed each time it is needed (as it is for case-by-case processes).

LEADING PRACTICE TIPS

Before getting into a situation where misconduct of a Council or Board member becomes an issue, develop a code of conduct to set standards of conduct, and include within the code the process that will be used to deal with alleged contraventions.

An enforcement process articulated within a code of conduct has several advantages over a case-by-case enforcement process, as illustrated in the graphic, and is strongly recommended.

ADVANTAGES OF CODE OF CONDUCT ENFORCEMENT

ENHANCED CERTAINTY AND TRANSPARENCY IN THE PROCESS

- Everyone understands the process by which officials will be held accountable for their conduct
- Improved public confidence

IMPROVED COMPLIANCE

- Those who are subject to a code may be more likely to comply if there are known consequences for contraventions

ADMINISTRATIVE EFFICIENCIES

- Once the process is developed, using it for a subsequent contravention allegations will eliminate the need to “reinvent the wheel” each time an allegation is made

ENHANCED FAIRNESS

- Consistent use of the same process helps to ensure everyone is treated fairly
- Can help to overcome perceptions of bias in decisions about the process itself

Obtaining Legal, Law Enforcement and Other Advice About Enforcement Processes

Conduct enforcement is a complex and evolving area of law; while this guide is intended to help support local government decision-making in relation to conduct matters, it does not provide legal advice, and it is not a substitute for that advice.

Code of conduct enforcement does not replace other enforcement approaches that may be available or required, such as those described above. As a local government begins to explore what enforcement processes are available for a particular conduct contravention, it may want to consider discussing the matter with their legal advisors and, in some circumstances, with law enforcement or other agencies (e.g., WorkSafe BC for matters in which the conduct affects an employee; Office of the Human Rights Commissioner for matters that may be discriminatory).

Code of conduct enforcement is a complex process and its outcomes can be significant, so it is important for local governments to give considerable thought to how to ensure its process is sound. Articulating an enforcement process within a code of conduct is also a relatively new practice in B.C. and largely untested in the courts, which represents some legal uncertainties. These factors give rise to a critical need to seek legal advice on details of the process as it is being designed and when it is implemented.

This guide should not be used as a template for designing a code enforcement process, because some elements (e.g., what is an appropriate standard of fairness; what would comply with open and closed meeting rules; how to ensure that informal processes do not jeopardize a subsequent enforcement process; what complaints can be dismissed; what sanctions may be imposed) can vary considerably depending on specific circumstances. The considerations and current practice set out in the guide are intended to support a local government's initial thinking about these processes and as a starting point for it to have an informed discussion with its legal advisors about how to design an enforcement process that will meet its unique circumstances and needs.

Code of Conduct Enforcement: Overarching Considerations

Ensuring a Fair Process

Code of conduct enforcement processes have two stages: determining if there has been a contravention (e.g., taking complaints; conducting investigations; making determinations), and if so, making decisions on what, if any, sanctions to impose (e.g., recommendations from investigation and/or a Council/Board decision on sanctions). Fair process in both of these stages is critical.

A local government is obligated to ensure its decision processes are fair, particularly where the decision affects the interests of a specific individual.

Given the significance of these processes to elected officials, local governments need to consider how they can meet a high standard of fairness, including finding ways to ensure throughout the process that:

- The person affected by a decision is able to participate in the process before the decision is made (e.g., is notified of allegations, findings and recommendations and provided all documents and information that will be relied on by decision-makers, is provided with an opportunity to respond and sufficient time to prepare, and is given an opportunity to be represented by legal counsel at the appropriate stage);
- The decision-makers are open-minded (i.e., they have neither a conflict of interest nor a predetermined bias); and
- The decision is based on relevant evidence and, where applicable, the justification for the decision is given to the person(s) affected by it.

LEADING PRACTICE TIPS

Build timelines into the various steps of your enforcement process. This will enhance fairness, and can avoid eroding relationships further as the process drags on.

Build an informal resolution component into your code of conduct enforcement process.

Consider carefully managing the extent to which staff are involved in enforcement processes. Given the nature of these processes, critical staff-elected official working relationships can be significantly affected.

Consider specifically referring to legislated confidentiality requirements in your code of conduct, so members know how they will be held accountable for contraventions of those provisions.

Ensuring the Investigator has Sufficient Independence, Expertise and Authority

It can be extremely challenging to ensure the person conducting an investigation is free from bias or the perception of bias when investigating a colleague (i.e., where a Council/Board or one of its committees is investigating the conduct of a Council/Board member) or when there is an employer/employee relationship (e.g., where a CAO is investigating the conduct of a Council or Board member).

In order to remove this perception of bias, improve fairness, and enhance public trust in the process, investigations are most often assigned to an independent third party.

Balancing Transparency and Confidentiality

Local government legislation provides rules around what must be dealt with in open meetings, and what may or must be dealt with in closed meetings. The *Freedom of Information and Protection of Privacy Act* provide rights of access to certain records, as well as a requirement to protect personal information. A local government will need to ensure compliance with these laws as it develops and implements its enforcement processes.

Within these legislated parameters, there may be some discretion for local governments to make choices about whether to conduct some parts of the enforcement process in open or not. Where there is sufficient discretion, local governments may wish to consider where confidentiality is needed to support a fair process, where transparency is needed to enhance public confidence in the process, and how to balance these two objectives in each step of the process and overall.

For example, to protect the privacy of the individuals involved and ensure investigations are free from bias, most local governments maintain confidentiality throughout the complaint and investigation processes (e.g., notifying only those involved and requiring them to maintain confidentiality). Once the investigation is complete, and if it finds there was a contravention, the balance can sometimes shift towards transparency by providing for consideration of, and decisions on, investigators' reports and sanctions in an open Council or Board meeting. This is typically because the legislation requires this (i.e., the subject matter does not meet the criteria for discussion in a closed meeting) and/or the local government considers the public interest is best served by making these decisions transparently.

Matters of Cost, Capacity, Efficiency and Effectiveness

Decisions around process will have an impact on financial and human resource capacity. For example, decisions about who can make a complaint (e.g., elected officials, staff or the public) can significantly affect the volume of complaints and investigations. This will affect resources that will need to be dedicated to the enforcement process, since investigations can be time consuming and require people with highly specialized skills.

These considerations can help to sharpen the focus on various design elements and implementation strategies, not just for enforcement but for all elements of building and restoring responsible conduct. In addition, they may encourage reconsideration of alternative measures (e.g., prevention activities or informal resolution of conduct issues) that may have been previously discarded because of their associated costs (yet may be much less costly – both financially and in relationship impacts – than code of conduct enforcement).



Code of Conduct Enforcement: Process Steps, Current Practice and Considerations

The inclusion of details of how alleged contraventions will be addressed is a recent trend in B.C. local government codes of conduct. Where processes are articulated, they tend to consist of a number of distinct steps, within which there are both some common elements and some variation.

The following tables are snapshots of these provisions taken from a small sample of current B.C. codes. Readers are cautioned that this does not represent the full extent of existing practice, but rather an overview intended to be generally representative of the range of enforcement approaches articulated currently in B.C. codes of conduct.

As noted earlier, including enforcement provisions in codes of conduct is an emerging area still largely untested in the courts.

The examples provided here are not provided as templates but rather as a starting point; each local government needs to consider its own circumstances and seek its own legal advice as it develops its processes and sanctions.

It is critical that local governments exercise a high standard of fairness in these processes. Some jurisdictions choose to articulate this extensively in their code in order to provide clarity and certainty, while others do not articulate this in their code, but instead provide fair process as a matter of practice, allowing some flexibility to adapt to specific circumstances. Do not assume that codes that lack explicit fair process provisions mean that the jurisdiction is not practicing fair process. The choice is not whether or not to provide a fair process, but rather how and where to define it.

INITIATION: What triggers the process?

How is the enforcement process initiated and who can make a complaint?	The process is typically initiated by a complaint, and complaints are allowed from any member of the Council or Board. In some cases, committee members and/or staff may also make a complaint, and in a few cases, complaints are accepted from “any person,” which would include all of the above as well as members of the public.
How is the complaint made, and what must it contain?	Typically, the complaint must be in writing, and most require these to be signed and dated by the complainant. There are varying degrees of specificity in the detail to be provided, with some codes saying nothing about this, and others requiring more specifics (e.g., detailed description of the conduct, witnesses and supporting documents).
To whom is the complaint made?	Most are delivered to the mayor/chair and/or a staff official (e.g. CAO), with provision that if the mayor/chair is involved, delivery is to the acting mayor/chair. In a few cases, delivery is to mayor and Council/chair and Board, and in some cases, complaints go to an investigator if one has been appointed.

Considerations:

- › **Fair process/cost and capacity:** Fairness would dictate that at a minimum, anyone subject to a code of conduct should be allowed to make a complaint. From a public trust perspective, consideration could be given to allowing complaints from anyone impacted by the conduct (e.g., members of the public who are impacted by the erosion of good governance resulting from the conduct). The volume, and perhaps the complexity, of complaints tends to increase as the number of potential complainants increases, which will have cost and capacity impacts.
- › **Fair process:** Consider timelines for making a complaint. Existing practice examples: some codes don’t explicitly provide a deadline, while others tie a deadline to the breach (e.g., as soon as possible after, or within six months).
- › **Fair process:** Consider how much detail to require in a complaint. Part of a fair process is enabling the respondent to respond, which would be difficult without sufficient detail as to the allegation. To be clear about process, consider explicitly stating that the respondent is to be provided notice of the allegations and an opportunity to respond before a decision to proceed to an investigation is made, perhaps with some deadlines. Existing practice examples: some codes do not provide this explicitly, while others do and provide deadlines (e.g. must respond within 14 days of notification).
- › **Confidentiality/transparency:** Consider measures to ensure confidentiality until an investigation of the allegations is complete.

INFORMAL RESOLUTION: What informal resolution processes are available?

When does informal resolution occur and how is it triggered?

Most codes explicitly provide for informal resolution. Some create an informal complaint process, and encourage complainants and respondents to try informal resolution before a formal complaint is made. Some other codes encourage an attempt at informal resolution after a formal complaint has been submitted and before the complaint review process; in these cases, the CAO and/or mayor/chair become involved in that informal resolution step.

What is the informal resolution process?

Some codes that provide for informal resolution are silent as to the process. However, most others call for the complainant to address the issue directly with the respondent to encourage compliance, and/or to request the assistance of the mayor/chair to attempt to resolve the issue. In one case, a senior staff official could be called on to assist the complainant in that process, and third-party mediation is an option if these steps aren't successful in reaching resolution.

What are the timelines and fair process provisions?

There is no deadline for informal resolution where it occurs prior to receiving a formal complaint, because the de facto deadline is when a formal complaint is made. Most codes that encourage informal resolution after a formal complaint is made set a 30-day deadline to attempt informal resolution prior to an investigator being appointed. Most do not have specific fair process or transparency/confidentiality provisions for this informal stage. However, in some cases, there are specific provisions for confidentiality, and where mediation is part of the process, legal or other representation for the complainant and respondent are offered for that part of the process.

Considerations:

- › **Cost/capacity/efficiency/effectiveness:** Local governments may want to consider encouraging informal resolution because that can be less costly and lead to better outcomes than investigation and sanction processes (see Chapter 3, Resolving Conduct Issues Informally).
- › **Confidentiality/transparency:** Consider measures to keep informal resolution processes confidential.

APPOINTMENT OF INVESTIGATOR: Who is appointed to investigate and how are appointments made?

<p>Who is the investigator, who makes the appointment, and on what basis?</p>	<p>In the majority of cases, the investigator is an independent third party, typically appointed by either the mayor/chair, the person acting in their place, or jointly by the mayor/chair and CAO. Exceptions include when the code assigns investigator duties to a position (e.g., senior staff official), or when the investigator is defined as the Council/Board or an individual or body appointed by the Council/Board. In cases where a senior staff official is assigned in the code as investigator, the code also provides for that individual to appoint an independent third party to investigate instead of the senior staff official.</p>
<p>What duties does the investigator perform?</p>	<p>Typically, investigators undertake the complaint review process, investigation and reporting of findings. In at least one case, a senior staff official is responsible for the complaint review process, and the investigator is appointed only after the complaint review process is complete, if needed. In one case, the investigator is assigned a broader range of responsibilities.⁶</p>
<p>What are the timelines and fair process provisions?</p>	<p>Several jurisdictions require the investigator be appointed within 30 days of receipt of a formal complaint (unless the matter is resolved informally within that time frame). See “Who is the Investigator” above for fair process provisions.</p>

Considerations:

- **Fair process/investigator independence, expertise and authority:** Choosing an investigator who is free from bias is critical. This would indicate a need to appoint an independent third party, and/or ensure other mechanisms are in place to protect investigator independence. Assigning an investigation to a senior staff position, such as a CAO, is not recommended for most investigations as it would be very difficult to achieve the needed level of independence, and because the investigation could harm the staff-Council/Board relationship, compromising both the ability of the Council/Board to provide good governance and the CAO’s ability to effectively perform their duties. Providing for input from the complainant and respondent on the choice of investigator can help ensure all parties agree the investigator is unbiased and qualified; this effect can be enhanced by provisions that refer to the need for investigators to have professional skills/expertise.
- **Confidentiality/transparency:** The choice of who appoints the investigator (e.g., Council/Board, mayor/chair and/or CAO) may impact when complaint information becomes public, since Council/Board decisions may need to be made in an open meeting.

⁶ City of Surrey Bylaw 20018 creates an Ethics Commissioner position and assigns a number of roles to the position, including providing advice and delivering training. See link in Chapter 6, Resources.

COMPLAINT-REVIEW PROCESS: How are complaints initially dealt with and by whom?

What is the complaint review process and who carries it out?	If informal resolution is not reached, complaints undergo an initial assessment and are either dismissed or proceed to investigation. Almost always, the investigator is responsible for the initial assessment, although in at least one code of conduct, this role is assigned to a senior staff official.
On what basis can a complaint be dismissed?	Reasons that a complaint may be dismissed are usually provided, but there is some variation on the grounds for dismissal. Many refer to complaints that are frivolous, vexatious and/or not made in good faith. Several also mention complaints that are unfounded, based on insufficient grounds, unlikely to succeed and/or beyond the jurisdiction of the code or other conduct policy.
What is the process if a complaint is dismissed?	Many do not provide a specific process. Where one is provided, there is a requirement to inform the complainant and, in at least one code of conduct, the Council or Board.
What are the timelines and fair process provisions?	Codes don't typically set timelines for this step. Some codes provide that the respondent must be notified and given an opportunity to provide an initial response prior to the complaint review process; of these, a few provide deadlines for the initial response (e.g., within 14 days of notification).

Considerations:

- › **Cost, capacity, efficiency, effectiveness:** Local governments will want to consider some form of complaint-review process, to ensure that investigations aren't required when not warranted by the nature of the complaint.
- › **Fair process:** Both fair process and public trust can be enhanced by being clear about the types of complaints that can be dismissed, while providing some discretion for investigators to make decisions based on their professional judgement and specific circumstance. Local governments may also want to consider whether to provide some deterrents for vexatious complaints (see Other Enforcement-Related Provisions table).
- › **Confidentiality/transparency:** For complaints that are dismissed, local governments will want to consider how to treat the involved parties fairly when making decisions about whether or not to provide notification about the complaint and the reasons it has been dismissed, and the extent of that notification. For complaints that proceed to investigation, fair process would require notification to both the complainant and respondent, and opportunities for the respondent to respond during the investigation (see the Investigation table below).

INVESTIGATION: How are complaints investigated?

What is the purpose of the investigation and how is it conducted?	<p>Investigations tend to be described quite generally (e.g., independent, impartial investigation of complaint; determine the facts, review relevant documents, conduct interviews), which provides considerable room for investigators to use their professional judgement to adapt the investigative process to meet the circumstances. Specific provisions relate to fair process, described below.</p>
What are the timelines?	<p>Some codes do not provide timelines. Where they are provided, timelines can refer to when the investigation begins (e.g., within 10 days, or as quickly as possible), when updates are provided (e.g., updates within 90 days after investigator's appointment) and/or when the investigation finishes (e.g., within 30 days, with extensions possible).</p>
What are the fair process provisions?	<p>Codes typically provide for confidential investigations and require participants to respect that confidentiality. All codes have investigation fair process provisions, that are either general (e.g., investigate in a manner that is fair, timely, confidential and otherwise accords with the principles of due process and natural justice), or more specific (e.g., complainant and respondent are provided notice, and relevant documents, respondents must be given opportunity to respond, and participants may be represented (including legal counsel)).</p>

Considerations:

➤ **Fair process:** Whether or not specific provisions are included in the code, participants must be afforded fair process. Local governments will need to consider how they will provide key fairness elements, like:

- How respondents will be able to effectively participate, including how and when they will be provided with relevant documents, how and when they can respond (ensuring they are given sufficient time to prepare that response); and when are respondents and potentially others given an opportunity to be represented and by whom; and
- How to ensure the decision is based on relevant information (e.g., considerations around things like documentation of evidence, findings and decisions).

In addition, local governments will want to consider how much of this to detail within their code. More detail helps to ensure processes are consistently applied and things don't get missed, but may make the process less flexible and more difficult to adapt to emerging circumstances.

➤ **Confidentiality/transparency:** Considerations typically relate to how to ensure allegations and evidence remain confidential during the investigation process.

REPORTING FINDINGS: How are investigation findings and recommendations reported and to whom?

What must be in the investigator's report?	Reports must provide investigation findings. In some cases, there is a specific requirement to include findings as to whether there has been a contravention, and/or recommendations on resolution of the complaint.
Can sanctions be recommended if there has been a contravention?	There are two approaches: specific authority for the recommendations of sanctions from among a list of potential sanctions in the code; OR no specific mention of the ability to recommend sanctions, even though the code lists potential sanctions.
Can additional recommendations be made in the report?	A number of codes specifically allow any recommendation an investigator deems appropriate and also specifically provide for a recommendation that the complaint be dismissed.
To whom is the report delivered?	There are two general approaches, with some slight variation: to the Council/ Board, with some also provided to a staff official; OR to the mayor/chair (with provision for the acting mayor/chair if that person is involved) with most also being provided to a staff official.
What are the timelines and fair process provisions?	There are few timelines for reporting (see Investigation table above for details). In many cases, there are explicit provisions for reports to be provided to both the complainants and respondents. A few state that the report to the mayor/chair is confidential, and in one case, there is explicit provision that if there is insufficient evidence in an investigation, the investigator reports that finding but there is to be no permanent record of the complaint.

Considerations:

- **Fair process:** Consider how and when the complainant and respondent are informed of the findings of the investigation. Consider whether different approaches are needed if no contravention has been found as opposed to if the findings indicate a contravention.
- **Confidentiality/transparency:** Consider whether the investigator's report is provided confidentially or not. The choice of who receives the investigator's report may impact the extent to which the report is confidential, since if the report is delivered to the Council/Board, this may be in an open meeting. Where reports are not confidential, consider whether some information must be severed to comply with legislated privacy rules. Consider whether different approaches are needed if no contravention has been found as opposed to if the findings indicate a contravention.

FINAL RESOLUTION: What actions can be taken once findings have been reported and by whom?

If the investigator's report goes to mayor/chair, does it also go to Council or Board?	Some codes require the mayor/chair to provide the report, or a summary of it, to the Council/Board, others allow that person to decide whether it should go to the Council/Board, and the remainder do not give direction to the mayor/chair as to whether or not the report should be provided to the Council/Board.
What happens if the investigation finds a contravention?	Some codes state that the decision about whether there was a contravention rests with the Council/Board. Others are less explicit, stating only that the investigator's report must state whether there has been a contravention.
If there was a contravention, who imposes sanctions and what are the parameters around that?	In no case can an investigator impose sanctions. That decision rests with the Council/Board. Codes describe what sanctions may be imposed, and in many cases, a Council/Board can choose from among those provided. In some cases, the only sanctions that can be imposed are some or all of those recommended by the investigator. In at least one case, the Council/Board is directed to consider specified factors (e.g., nature or impact of the conduct).
What are the timelines and fair process provisions?	Some codes do not articulate fair process. Others do, including: notification to the respondent prior to Council/Board consideration, stating that the respondent is entitled to respond and given time to prepare response (e.g., two weeks), stating that the respondent is entitled to be represented, including by legal counsel (some have indemnification; see 'Other Enforcement-related Provisions' table below). Some codes provide for Council/Board consideration in open meetings, while others provide for closed meetings for this.

Considerations:

- **Fair process:** Whether or not specific provisions are included in the code, participants must be afforded fair process. Local governments will need to consider how they will provide key fairness elements and how much to detail this within their code. **Refer to the fair process discussion in the 'Investigation' table above, which is relevant for this step also.** In addition, consider how to ensure an unbiased decision on sanctions. Some local governments find that limiting Council/Board discretion (e.g. may only impose sanctions recommended by investigator, or must consider specific factors) can help to reduce the potential for bias and/or ensure the decision is based on relevant information.
- **Confidentiality/transparency:** Consider relevant meeting rules and the nature of the matter. If these matters are dealt with in open meetings, consider whether some personal information should be severed; if dealt with in closed meetings, consider when and how the respondent is informed of decisions, and when and to what extent information is made available to the public (as a void of information can ultimately be filled by misinformation). Consider also whether different approaches are needed if no contravention has been found as opposed to if the findings indicate a contravention.

OTHER ENFORCEMENT-RELATED PROVISIONS: A sample of other key enforcement provisions that may be included in a code.

<p>What enforcement provisions are there for different groups that are subject to a code?</p>	<p>Many codes apply only to members of the Council/Board; some also include committee members and/or staff. Where these other groups are included, codes tend to modify enforcement provisions (e.g., who deals with complaints and how this is done; what sanctions may be imposed) for each group.</p>
<p>Do codes provide for reimbursement of legal costs for a person involved in an enforcement process?</p>	<p>Some codes make provisions for reimbursement of a respondent's legal costs under certain circumstances, and with certain limits (e.g., if the person did not act in a dishonest, grossly negligent or malicious way; for the first occurrence, but not subsequently unless agreed in advance; upon request; only reasonable costs are reimbursed, sometimes with specified dollar limits).</p>
<p>What are the responsibilities of persons subject to the code?</p>	<p>Most codes require that members refrain from discussing allegations at open meetings until after investigations and Council/Board decisions on them.</p> <p>Some codes require that members endeavour to resolve disputes in good faith, cooperate with informal resolution and/or not obstruct the Council/Board in investigations.</p> <p>Some also require that members not act or threaten reprisal/retaliation against involved persons (i.e., complainant, respondent, witness, staff). In at least one case, for complaints that are vexatious, malicious or in bad faith, complainants are subject to disciplinary action, including sanctions in the code.</p>

Considerations:

- **When code applies to committee members and/or staff:** All processes must be fair, and all will need to consider the confidentiality/transparency balance, but how these are applied is often different for each group. There may also be different legal or contractual requirements that would guide enforcement processes that must be considered (particularly with respect to staff).
- **Reimbursement:** Fairness can be enhanced by providing clear policy in the code, rather than dealing with reimbursement of legal costs on a case-by-case basis. In considering the potential to offer reimbursement of legal costs and limitations around that, local governments may wish to consider whether their indemnification policy could inadvertently act as a deterrent to trying to work things out informally.
- **Responsibilities:** Local governments may wish to consider whether the fairness and/or effectiveness of their enforcement processes could be enhanced by provisions such as these.

Sanctions

As described in the 'Final Resolution' table above, if the findings of an investigation indicate that there has been a conduct contravention, a Council or Board may consider what, if any, sanctions to impose.

As with other elements of a code of conduct enforcement process, legal advice is recommended as sanctions are being designed and when they are imposed.

Current Practice for Sanctions

Codes of conduct that provide details of an enforcement process also typically set out a range of sanctions that the Council or Board could impose for contraventions.

Sanctions are stated specifically, generally, or as a combination of these. For example, some codes say that the Council/Board "may impose sanctions" and follow this with a few examples, while others provide a specific list of sanctions, sometimes followed with a general provision for "any other sanction considered appropriate" by the investigator in some cases and the Council/Board in others.

Some codes also provide overarching statements that sanctions may only be imposed if they do not prevent the member from fulfilling their legislated duties of elected office.

Specific sanctions included in a sampling of B.C. codes of conduct are:

- Request letter of apology
- Mandatory education, training, coaching or counselling
- Suspension/removal from some or all committees or other bodies
- Public censure
- Letter of reprimand or formal warning
- Publication of reprimand or request for apology and member's response
- Suspension or removal as deputy/acting mayor/chair
- Restrictions on representing the local government or attending events or conferences
- Limits on travel/expenses beyond those in corporate policies
- Limiting access to certain local government facilities
- Requirement to return local government property provided for convenience
- Restrictions on how documents are provided to the member
- Reduction in compensation (in accordance with remuneration bylaw)⁷
- Written pledge promising to comply

Readers are cautioned that this listing merely presents a compilation of sanctions currently included within B.C. local government codes of conduct. They should be considered in the context of evolving law and the legal uncertainty that is discussed above. Given this, legal advice is advised on sanctions as well as other elements of a code of conduct enforcement process.

⁷ This sanction is provided for in the District of North Cowichan's code of conduct, and it is specifically linked to its Council remuneration bylaw. See Chapter 6, Resources for link.

Considerations When Imposing Sanctions

- **Fair process:** Fairness can be enhanced and the potential for bias reduced by providing direction to the Council or Board about what it must consider in making sanction decisions, or limiting Council/Board discretion to only imposing some or all of the sanctions recommended by the third-party investigator.
- **Effectiveness:** While sanctions can be imposed as a way of distancing the Council or Board from the member's conduct (e.g., public rebuke) or to penalize the member for the contravention (e.g., reduction in remuneration, imposing limits on travel or suspension of committee appointments), local governments may also wish to consider how sanctions may be used to support a return to responsible conduct and to prevent conduct issues in the future. For example, providing coaching, skills building or training can help to avoid conduct issues that stem from a misunderstanding about roles and responsibilities, from cultural assumptions or from frustration with not being able to get one's point across at a meeting. Additionally, restricting how documents are provided to the member can help to prevent a recurrence of a contravention of a duty of confidentiality.
- **Legal risk:** Sanctions are not specifically mentioned in B.C. local government legislation but local governments have been found by the courts to have the ability to manage conduct; this may include the ability to sanction in cases of the misconduct of a Council or Board member. The edges of that authority – in terms of what specific sanctions may be imposed – aren't yet clear, but some key questions to think about in imposing sanctions are set out in this graphic. Ensuring that each question can be answered with a "yes" may mean that the legal risk related to the proposed sanction is lower.

Could the sanction fall within the local government's legislated powers?

(e.g. CC/LGA fundamental and included powers; power to rescind appointments.)



If the sanction were imposed, would the elected official still be capable of fulfilling their duties of office?

(e.g., a suspension or disqualification from office would mean the elected official could not fulfill their duties of office; removal from rotation as acting mayor/chair or from a committee would not have that effect.)



Is the sanction consistent with other policies and procedures of the local government?

(e.g., do policies related to compensation allow for reduced remuneration if an elected official is found to have contravened the code of conduct?)



Were processes to determine the contravention and impose sanctions procedurally fair, with due regard to natural justice?

(e.g. notice, opportunity to be heard, open-minded decision-making, and consideration of relevant facts?)

How to Improve the Post-sanction Environment

Disqualification is not a sanction that can be imposed by a local government. Consequently, an elected official found to be in contravention of a code of conduct will continue to be a Council or Board member. By the time formal complaints are made, relationships among Council or Board members may be very strained, and the investigation and sanction process will likely further damage these relationships.

Finding effective ways to work together will become even more important, and local governments may wish to consider what specific support could be provided to the elected official found to be in contravention, and to the collective to facilitate them working effectively together again. In addition, consideration may be given to whether policy or procedure changes could support a return to responsible conduct. Local governments may also wish to consider whether to give the investigator an ability to make these types of restorative and support recommendations, which could help to move away from a singular focus on sanctions.



FOOD FOR THOUGHT

- › Is informal resolution something that would be suitable for the conduct issue at hand? If so, have we attempted that? If not, why not?
- › What enforcement processes and sanctions does our code of conduct include? Are they sufficient?
- › Do we have a process in place to review our code of conduct and what it covers? What can we learn from what we have just gone through for any future situations?
- › Does our code refer to legislated conduct rules? If so, is it clear about which enforcement processes refer to what code provisions? (e.g., court-based processes for conflict of interest, WorkSafe BC processes for bullying and harassment involving an employee, code of conduct enforcement for all others).
- › Have we done everything we can to make sure investigations and decisions are free from bias and administratively fair, and that the entire enforcement process reduces the potential for the process to be used for purely political purposes?
- › Are we providing the same standard of fairness to everyone?

“Justice Crawford sounded one important note of caution on the right of an elected council to take action regarding a council member’s misconduct. The power to decide whether a council member’s conduct falls below the expected standard of conduct must be exercised with great care and discretion:

‘Far too easily, this could turn into an abuse of process for cheap political gain, and any council that sets out in this direction must be careful in what it is doing.’”

(From the Young Anderson paper Controlling Councillor Conduct)

CLICK HERE for links to resources referenced in this chapter.

CHAPTER 5

Conclusion

Forging the Path to Responsible Conduct

Local governments are finding that putting sustained effort towards fostering responsible conduct and resolving conduct issues informally is an effective way to avoid lengthy, divisive enforcement processes, and is also necessary to sustain and maintain good governance.

Key success factors include:

- Initiating discussions towards adoption of a code of conduct before conduct issues emerge;
- Adopting a code of conduct, including details of the enforcement process to be used to address alleged contraventions of the code and the range of sanctions that may be imposed by the Council or Board if a contravention is determined;
- Building supporting structures, including policy alignment, and supporting elected official leadership and skills development;
- Finding ways to work effectively together and to build trustful, respectful working relationships, through such means as regular Council or Board check-ins; and
- Not allowing conduct issues to fester, but rather taking steps to resolve them informally early on and identify and address their underlying causes (e.g., preconceptions, mistrust, misinformation) in order to avoid future conduct issues.

“The time to adopt a code of conduct is not when you’re in the middle of a crisis – it’s when things are going well, and when it can be aspirational.”

(A B.C. regional district CAO)

When enforcement processes are needed, local governments are well served by having articulated their process within their code of conduct in advance. Key factors to consider include ensuring a high standard of fairness throughout the process (e.g., the person affected by the decision is able to participate in the process before the decision is made, the decision-maker is open-minded, and the decision is based on relevant information).

Subsequent to enforcement processes, local government have found a need to take a renewed interest in improving working relationships among the Council or Board that tend to have further eroded during the enforcement process. Efforts towards continuous improvement in fostering responsible conduct and maintaining good governance are helpful – in particular, rebuilding respectful and trustful relationships.

CHAPTER 6

Resources

Click the name of the resource in dark blue to link to the website.

Please note: the following links were up-to-date at time of publication. If the links do not work, most of these resources can be found by conducting a web search using the name and organization listed below.

Chapter 1: Fostering Responsible Conduct

Featured Resources

- Working Group on Responsible Conduct materials:
 - [Foundational Principles of Responsible Conduct for BC Local Governments](#) describes key principles to guide elected officials' conduct.
 - [Getting Started on a Model Code of Conduct for Your Council/Board: Model Code of Conduct](#) and its [Companion Guide](#) provide a model code that local governments can modify to meet their needs, and describes things to think about when developing a code; the Companion Guide provides links to numerous resources, including several B.C. local government codes of conduct.
 - The Ministry of Municipal Affairs and Local Government Management Association publication [Procedure Bylaw Guide: For B.C.'s Local Governments](#) explains legislative requirements, provides best practices, and sets out questions to consider in developing procedure bylaw amendments.
- Other local government resources:
 - Oath of office: [City of Kelowna](#)
 - Social media policies: [District of Saanich Code of Conduct, s.6](#)
 - Information-sharing practices: District of North Vancouver policy [Staff Handling of Individual Council Member Requests for Information](#) (see Corporate Administration tab)
 - Conduct expectations for the public: [District of North Cowichan Public Input and Meeting Conduct Policy](#) and [Respectful Places Bylaw](#)
 - Checklists and educational tools: [District of Sparwood Code of Conduct Quick Reference Guide to Accepting and Disclosing Gifts](#)

Click the name of the resource in dark blue to link to the website.

Other Resources

- [B.C. Human Rights Code](#)
- [Local Government Leadership Academy website](#)
- [Local Government Management Association resources webpage](#)
- Institute for Local Government (California) publications:
 - [Developing a Local Agency Ethics Code: A Process-oriented Guide](#)
 - [Ethics Code Menu/Worksheet](#)
- Province of B.C. video [Roles and Responsibilities of a Locally Elected Official](#)
- Province of B.C. video [Characteristics of Effective Locally Elected Officials](#)

Chapter 2: Maintaining Good Governance

Featured Resources

- [Enhancing Collaboration in British Columbia's Regional Districts](#) (2014, by Jennie Aitken of the University of Victoria in collaboration with the Ministry of Community, Sport & Cultural Development, Union of B.C. Municipalities and LGMA) is a research study with findings that show what can support collaboration, and it provides a number of recommendations in relation to this; a [checklist](#) summarizes these recommendations.
- [Local Government External Resource Database](#) provides areas of speciality and contact information for professionals who work with local governments on governance and other critical issues.
- The Province of B.C.'s short videos [What Contributes to Effective Local Government Decision-making](#) and [Roles and Responsibilities of a Locally Elected Official](#) focus on key elements related to effective governance.
- [Sample customizable self-evaluation checklists for Councils and Boards](#).
- [B.C. Ombudsperson Complaint Handling Guide](#) and [First Nations Health Authority](#) provide information on treating people with dignity and respect and building cultural humility.

Other Resources

- Ministry of Municipal Affairs webpage [Local Government Open Meeting Rules](#)
- B.C. Ombudsperson special report [Open Meetings: Best Practices Guide for Local Governments](#)
- Candice Martin presentation on Prezi.com [Unproductive Conflict vs. Productive Conflict](#)
- Institute for Local Government (California) publications:
 - [Leadership & Governance: Tips for Success](#)
 - [Tips for Promoting Civility in Public Meetings](#)
 - [Understanding the Role of the Chair](#)
 - [Working Together to Achieve Ones' Goals](#)
 - [Dealing with Bumps in the Road](#)

Click the name of the resource in dark blue to link to the website.

Chapter 3: Resolving Conduct Issues Informally

Featured Resources

- B.C. Ombudsperson report [The Power of an Apology: Removing the Legal Barriers](#) and [Quick Tips on Apologies](#)
- *Public Management* article [Preparing Councils for their Work](#), Julia Novak and John Nalbandian (August 2009, pg. 27)
- [Local Government External Resource Database](#) provides areas of speciality and contact information for professionals who work with local governments on governance and other critical issues.
- Institute for Local Government (California) publication [Dealing with Bumps in the Road](#) provides strategies for dealing with elected official and staff relationship challenges, which may also be useful when taking informal steps to resolve conduct issues among elected officials informally.

Resources

- [Getting to Yes: Negotiating an Agreement Without Giving In](#); Roger Fisher and William Ury, with Bruce Patton, Editor
- Institute for Local Government (California) publication: [Attributes of Exceptional Councils](#)

Chapter 4: Essentials of Code of Conduct Enforcement

Featured Resources

- [Getting Started on a Model Code of Conduct for Your Council/Board: Model Code of Conduct](#) and its [Companion Guide](#) – of particular interest to enforcement are links to several B.C. local government codes of conduct, many of which articulate enforcement provisions, located within the *Companion Guide*.
- [City of Surrey Bylaw 20018](#) creates an Ethics Commissioner position and assigns a number of roles to the position, including providing advice and delivering training.
- District of North Cowichan's code of conduct provides for a sanction to reduce remuneration, noted in its [Council remuneration bylaw](#).

Other Resources

- B.C. Ombudsperson resources [Fairness in Practice Guide](#), along with [Fairness by Design](#) and [Quick Tips: Essentials of Procedural Fairness](#)
- Young Anderson report [Controlling Councillor Conduct](#) by Barry Williamson, 2013.
- B.C. Ministry of Municipal Affairs webpage [Ethical Standards for Locally Elected Officials](#)
- Union of British Columbia Municipalities fact sheet [Conflict of Interest](#)
- WorkSafe BC's [bullying and harassment resource toolkit](#) along with [A Handbook on Addressing Workplace Bullying and Harassment](#)
- [B.C.'s Office of the Human Rights Commissioner](#) and [B.C. Human Rights Tribunal](#) websites provide links to information and resources about the Human Rights Code, prohibited discrimination and how to file a complaint with the Human Rights Tribunal.

WORKING GROUP ON RESPONSIBLE CONDUCT

The Working Group on Responsible Conduct is a joint initiative between the Union of BC Municipalities, the Local Government Management Association of British Columbia, and the B.C. 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.



District of Barriere

REPORT TO COUNCIL

Request for Decision

Date: November 18, 2024	File: 530.20/Rpts
To: Council	From: Chief Administrative Officer
Re: Code of Conduct Update	
Recommendation: THAT Council gives first three readings to the Council Code of Conduct Bylaw No. 250.	

Purpose

For Council to consider giving first three readings to the Council Code of Conduct Bylaw No 250. The best-practice recommendation from the Province (Ministry of Municipal Affairs), Local Government Management Association (LGMA) and Union of BC Municipalities (UBCM) is to review the Code of Conduct periodically, at least once per Council term.

Background

General

As part of the overall Responsible Conduct in Local Government program review to strengthen the Districts posture and reduce risk in this area based on recent challenges in other communities across British Columbia, several of the District policies and bylaws require some form of update or amendment based on current best practices on the topic. Council will also be reviewing changes to Council's Remuneration Policy at this meeting, as well as the Council's Procedure Bylaw over the coming weeks. Other policies that are connected to these policies are also being reviewed and amendments will be recommended based on current best practices, and in some instances, legal opinion.

Code of Conduct Policy

The current Council Code of Conduct is established as Council Policy No. 42 from 2021 (see attached). It was established by Council based on recommendations from the Working Group on Responsible Conduct Guide from 2021, to ensure that best practices in governance were implemented for the District.

Although the current Policy is a strong Code of Conduct, based on recent local government challenges with applying their Codes within their respective organization, additional updates are now recommended by consultants, legal counsels, investigators, and other governance professionals throughout BC to protect individual municipal organizations and to further best practices in good governance.

Key Changes

Bylaw vs. Policy - One of the biggest changes has been a transition to a Bylaw vs a Policy. A Bylaw generally includes a different layout and structure compared to a policy, some items like Where As clauses, additional definitions, and slightly adjusted wording throughout the Bylaw had to be implemented to conform with best practices for a Bylaw.

Conflict of Interest Policy No. 3 components that pertained to Council and committees of Council were also implemented which will allow for revisions of Policy No. 3 at a future meeting. This change ensures that there is no conflicting language in two separate governance documents for Council and that a single document can be used for Council in relation to good governance and ethics.

Definitions – Definitions were added or updated to clarify certain key terms, but most importantly definitions for Bullying and Harassment, and Sexual Harassment, were added due to recent feedback from municipalities that had related challenges. Although this is part of WorksafeBC legislation, if not clearly stated, an investigator would not be able to investigate those breaches under the Code of Conduct if they occur.

Purpose and Interpretation, Application, and Severability (S.1.3-1.5) – These sections include additional information on how the Code applies to Council, Committee Members, and Staff. In Staff's case, this Bylaw only applies in regards to Part 5 of the Bylaw (Reprisals, Obstruction, and Vexatious Allegations). A section for severability was also added which, if a court challenge on the bylaw occurred, would allow for only that section to be declared invalid and not the entire Bylaw.

Standards and Values (Part 2) – This section outlines the overall Foundational Principles and Roles and Responsibilities of Council in a general context under the Community Charter. Most of this language is identical to the Policy; however, the formatting was adjusted for Bylaw purposes, and some minor clarification under Section 2.2.1 (Interpretation) was added.

Under **General Conduct** Section 3.1.5 and 3.1.6 were added. These items were previously found in the Conflict of Interest Policy.

Roles, Responsibilities, and Interactions with Staff and Advisory Body Members (S.3.2)

- Sections 3.2.3 and 3.2.4 were reworded to closer match the general language on the one employee of Council model that the District follows with the current practices in place, which still allows some communications with staff. (As a note, other municipalities, strictly prohibit this and all communications has to be initiated through the CAO)
- Section 3.2.9 was edited to allow for certain communication to a service provider, if the Council Member was authorized to do so by Council.
- Section 3.2.10 was added to outline that Council Members should not communicate with a proponent on a project regarding the procurement. If a Council Member would communicate with a proponent this could create a severe financial and legal risk for the District.
- Section 3.2.16 was added to outline the general role that Staff has which is to “provide professional advice to Council and carry out decisions in an effective, efficient, and non-partisan manner.”

Interactions with the Public and the Media; Public Meetings (S. 3.3-3.4) – Language was added to clarify the role of a member of Council when interacting with the public or media. By virtue of the role of the Mayor, generally the Mayor is the spokesperson for a municipality; however, recent events have shown that a Council can change this through a resolution or by establishing a Policy (see Section 3.3.3). In addition, a link was created to the Council Procedure Bylaw, as amended or replaced from time to time, which generally governs the process for Public Meetings (see Section 3.4.1).

Social Media (S. 3.6) – Section 3.6.1 and 3.6.5 were added to ensure a) that the Code also applies to personal and official social media accounts and b) no social media accounts under a false identity are used by members of Council.

Conflict of Interest (S. 3.7) - This was previously more a component of the Conflict of Interest Policy and has now been added to this Bylaw which includes updated language to be in line with a Bylaw compared to a Policy.

Use of Influence (S. 3.8) – This was previously more a component of the Conflict of Interest Policy and has now been added to this Bylaw which includes updated and expanded language.

Gifts and Personal Benefits, and Reporting (S. 3.9) – Section 3.9.4 was added to ensure that Committee Members who are not Council Members have to declare any gifts received.

Breaches and Complaint Handling and Disciplinary (Part 4 - S.4.2.9.e)

- Under Section 4.2.1 and Section 4.2.7 and option was provided to use another written form of complaint as long as the general required information is provided.
- Section 4.2.9.(e) received an update on various options Council would have to hold another member of Council, that was found to have violated the Code, accountable for their actions. Again, this list is now based on current best practices gleaned from challenges in other communities throughout BC. Below is the full list of potential remedies (highlighted in red are the new items added):
 - i. dismissal of the complaint; or
 - ii. public censure¹ of the Council Members for misbehaviour or a breach of this Code of Conduct;
 - iii. a recommendation that a Council Members apologize to any person adversely affected by a breach of this Code of Conduct;
 - iv. training or counselling of a Council Member or Members;
 - v. mandatory training on District businesses, the Community Charter, or this Bylaw;
 - vi. mandatory training on respectful workplace communications or other interpersonal skills;
 - vii. a letter of reprimand from Council addressed to the Council Member;
 - viii. a request from Council that that the Council Member issue a letter of apology;
 - ix. limitations and restrictions on access to certain District facilities and resources;
 - x. in accordance with the Community Charter, suspension or removal of the Member from some or all Committees and bodies to which the Member was appointed;
 - xi. prohibition from representing the District at events and/or attending conferences or seminars;
 - xii. directions to the CAO or their designate regarding the terms and conditions upon which the Member may receive Council or other District documents, including documents containing Confidential Information;
 - xiii. prohibition from representing the District at events and/or from being reimbursed for attending conferences and seminars;

- xiv. referral to a prosecutor or police;
- xv. suspension or removal of the appointment of a Council Member as the Acting Mayor;
- xvi. reduction in compensation in accordance with the Council Remuneration and Expense Bylaw, as amended or replaced from time to time; and/or
- xvii. Any other sanctions, corrective actions, and other measures recommended by the Investigator or considered appropriate by Council, so long as those sanctions, corrective actions, and other measures are within Council's authority.

Reprisals, Obstruction, and Vexatious Allegations (Part 5) – This part is entirely new and based on feedback from other municipalities. Items such as Interference during investigations, or if a reprisal against a complainant is undertaken were added. This section also for example protects members of Council from vexatious complaints and how such complainants would be held accountable (in case of Council, see the list above under S. 4.2.9 (e), in case of Staff, disciplinary action and possible dismissal).

Summary

Overall, a thorough review of the Code of Conduct was undertaken and based on the general consensus within local governments and their advisors and consultants, the best standard going forward is to establish a Bylaw with updated clauses based on the most recent challenges throughout BC. If adopted, Policy No. 3 would be brought back for revisions, and Policy No. 42 would need to be rescinded.

Benefits or Impact

General

Review of the Code of Conduct policy is recommended at least once each term of Council. The municipal by-election is less than 6 months away.

Finances

N/A

Strategic Impact

N/A

Risk Assessment

Compliance: Best practices as recommended by the Ministry of Municipal Affairs, UBCM, LGMA Working Group; proposed Draft Remuneration Bylaw; current Code of Conduct and Conflict of Interest Policies

Risk Impact: Low

Internal Control Process: Staff reviewed bylaw structure and changes with a local government consultant.

Next Steps / Communication

- The Bylaw would be presented for final reading at the December 16, 2024, meeting.
- The Code of Conduct Policy would need to be rescinded at the same time.
- The Conflict of Interest Policy will require revisions as part of the process.
- The Code of Conduct will be referenced in the upcoming proposed Procedure Bylaw amendment which will include an updated Oath of Office, and by the proposed Council Remuneration Bylaw which will be presented for first readings at the same meeting as this report.

Attachments

- Draft Council Code of Conduct Bylaw No. 250 (**red font** indicates larger revisions)
- Current Council Code of Conduct Policy No. 42
- Current Council Conflict of Interest Policy No. 3
- Working Group on Responsible Conduct Guide from 2021. The group is working on an updated version based on current challenges across the Province. (see attached to the Draft Remuneration Bylaw)

Recommendation

THAT Council gives first three readings to the Council Code of Conduct Bylaw No. 250.

Alternative Options

1. Council could provide additional changes to the Bylaw before providing third reading.
2. Council could choose to leave the Code of Conduct and related policies unchanged.

Prepared by:

D. Drexler, Chief Administrative Officer

DISTRICT OF BARRIERE

DRAFT - BYLAW NO. 250

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 authority granted by 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;

AND WHEREAS Council and Committee Members wish to conduct their 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 guiding principles of integrity, accountability, respect, leadership and collaboration;

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

AND WHEREAS a Code of Conduct Bylaw expresses standards of conduct expected for members of District Council and Committees;

AND WHEREAS Council and Committee Members have primary responsibility for ensuring that the standards of conduct herein are understood and met, thereby fostering public confidence in the integrity of the government of the District of Barriere;

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

PART 1 – GENERAL

1.1 Title

This Bylaw may be cited as “*District of Barriere Council Code of Conduct Bylaw No. 250*”.

1.2 Definitions

In this bylaw:

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

Bullying and Harassment and **Bully or Harass** means and includes:

- (a) any conduct that would be contrary to any of the policies or guidelines established by the District concerning bullying or harassment;
- (b) any unwelcome or objectionable conduct or comment that would be considered discriminatory under the Human Rights Code;
- (c) Sexual Harassment;
- (d) any other unwelcome or objectionable conduct or comment by a Member toward another person that causes that individual to be humiliated or intimidated, including verbal aggression or insults, making derogatory comments, including questioning the professional competence of a Member, Staff, or Volunteer, calling someone derogatory names, or spreading malicious and untrue rumours.

CAO means the Chief Administrative Officer appointed by Council for the District of Barriere or their designate under the *Community Charter*.

Committee means a committee, advisory board, sub-committee, task force, working group, commission, board, or other body established by Council under the Community Charter Division 4 of Part 5 – Committees, Commissions and Other Bodies, or under the *Local Government Act*.

Committee Member means a person appointed to a Committee who is not a Council Member.

Complaint means a formal allegation, in accordance with the complaint procedure set out in this policy, that a Council Member has breached this policy.

Complainant means a person who has submitted a Complaint.

Confidential Information means information that could reasonably harm the interests of individuals or organizations, including the District of Barriere, 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.

Conflict of Interest means a situation when an individual is, or could be, influenced, by a personal interest, financial or otherwise, when carrying out their public duty. Personal interest can include direct or indirect financial interest, bias, pre-judgment, close-mindedness or undue influence.

Corporate Officer means the District Officer position that has been designated the Corporate Officer under section 148 of the *Community Charter*.

Council means the governing body of the District of Barriere.

Council Member means the Mayor and Councillors for the District.

District means the District of Barriere.

Gifts and Personal Benefits means items or services of value that are received by Members 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, and invitations to social functions.

Investigator means the person appointed to fulfill the duties and responsibilities assigned in this Bylaw.

Member means a Council Member or Committee Member; including the Mayor.

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 means the same meaning as in the *Freedom of Information and Protection of Privacy Act*.

Respondent means a Council Member or Committee Member whose conduct is the subject of a Complaint.

Sexual Harassment means any verbal, written, or physical conduct, comment, gesture, or contact of a sexual nature that may cause offence or humiliation to a Member, Staff, Volunteer, or a member of the public or that might reasonably be perceived by Staff, a Volunteer, or a Member as placing a condition of a sexual nature on employment or on any opportunity for appointment, 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, or hugging;
- (f) intimidation, threat, or actual physical assault of a sexual nature; and
- (g) sexual advances with actual or implied work-related consequences.

Staff means an employee, contractor, consultant, or other service provider of the District of Barriere, and includes volunteer firefighters.

Volunteer means a person serving the District who is not a Member or Committee Member.

Workplace means and includes, but is not limited to, work sites owned, operated, or controlled by the District, including the municipal hall, meeting rooms, 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, and electronic messaging.

1.3 Purpose and Interpretation

1.3.1 This Bylaw governs the conduct of all Members, and sets out the rules Members must follow in fulfilling their duties and responsibilities as elected officials or appointed Committee Members, and the powers and procedures of Investigators in exercising oversight over Member conduct. Without limitation, this Bylaw applies in respect of the Workplace and elsewhere, including the use of social media by a Member.

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*.

1.4 Application

(a) This Bylaw applies to Council Members and Committee Members.

(b) For clarity, the provisions of this bylaw that reference Committee Members only, are intended to apply also to Council Members acting in their capacity as Committee Members.

(c) Unless otherwise provided, 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 District governance.

(d) This Bylaw does not apply to Staff; except as it pertains to Part 5 of this Bylaw.

- (e) In the event of a conflict between this Bylaw and another District bylaw or Council policy governing Member conduct, this Bylaw prevails.
- (f) Nothing in this bylaw is intended to preclude Members, prior to the filing of a Complaint, from speaking to each other in order to resolve matters which may otherwise be captured by this Bylaw.

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

The key statements of principle that underline this Code of Conduct are as follows:

- (a) **Integrity:** Members are keepers of the public trust and must uphold the highest standards of ethical behaviour. Members must:
 - i. make decisions that benefit the community;
 - ii. act lawfully and within the authorities of the *Community Charter, Local Government Act* and other applicable enactments; and
 - iii. be free from undue influence and not act, or appear to act, in order to gain financial or other benefits for themselves, family, friends, organized associations for which they are a member of, or personal business interests.
- (b) **Accountability:** Members are obligated to answer for the responsibility that has been entrusted to them. Members 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.
- (c) **Leadership:** 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 local government. Members will provide leadership to District staff through the CAO.

(d) **Respect:** Members must conduct public business efficiently and with decorum. They must treat each other and others with respect at all times. Members must:

- i. not use derogatory language in formal meetings or towards others;
- ii. respect the rights of other people; and
- iii. treat people with courtesy and recognition of the different roles others play in local government decision making.

(e) **Openness:** Members 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.

2.2 Interpretation

2.2.1 The foundational principles above are to inform the interpretation of the substantive provisions of this Bylaw and are not stand-alone bases for complaints.

2.2.2 In this Bylaw, 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.

2.2.3 This bylaw applies to the use of social media by Council Members in relation to District related matters.

PART 3 – CONDUCT OF ELECTED OFFICIALS

3.1 General Conduct

3.1.1 Members must adhere to the key principles and provisions of the Code of Conduct.

3.1.2 Members 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.

3.1.3 Members have an obligation to consider issues and exercise powers, duties and functions in a manner that avoids arbitrary and unreasonable decisions.

3.1.4 Members must avoid behaviour that could constitute an act of disorder or misbehaviour. Specifically, Council Members must avoid conduct that:

- contravenes this bylaw;
 - 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.
- 3.1.5 Council Members are prohibited from utilizing any District facilities or resources for personal or non-official purposes to ensure transparency, fairness, and the proper use of public resources.
- 3.1.6 For a period of twelve months after leaving office, abide by these guidelines except those related to confidential information which shall apply in perpetuity, or until public release of such information as authorized by Council.

3.2 **Roles, Responsibilities, and Interactions with Staff and Advisory Body Members**

- 3.2.1 Members have a responsibility to govern the District in accordance with the *Community Charter* and other legislation.
- 3.2.2 The Mayor has a statutory responsibility to provide leadership to the Council and to provide general direction to the CAO, respecting the municipal policies, programs and other directions of Council as set out in the *Community Charter*. Outside of this additional function and being the Chair of Council Meetings, the Mayor is an equal member of Council in the way of the decision-making process of Council.
- 3.2.3 The District follows the one employee model where Council's point of contact with staff is the CAO.
- 3.2.4 Members are not to contact Staff other than the CAO, unless it is in regard to basic inquiries, such as, but not limited to, conference attendance or accommodation bookings.
- 3.2.5 Members are to direct inquiries regarding departmental issues or questions to the CAO and refrain from contacting other Staff without first discussing the issue with the CAO whenever possible.
- 3.2.6 Advice to Members from Staff will be vetted and approved by the CAO.
- 3.2.7 Members will refrain from seeking opinions of staff directly.
- 3.2.8 Members will invite the CAO to be present at any meeting between a member and a member of staff where such attendance is requested by the staff member.

- 3.2.9 Members are not to issue instructions to any of the District's contractors, tenderers, consultants, or other service providers **unless expressly authorized to do so.**
- 3.2.10 **Outside of a Council or Committee meeting, a Member shall not communicate with a tenderer or proponent regarding the subject matter of the procurement.**
- 3.2.11 Members must not make public statements attacking or disparaging staff or Advisory Body Members and shall show respect for the professional capacities of staff.
- 3.2.12 Members must not involve staff in matters for political purposes (local or otherwise).
- 3.2.13 Members must not publish or report information or make statements attacking or reflecting negatively on the work of staff or Advisory Body Members except to the CAO as appropriate to bring a complaint to the attention of the CAO for follow up.
- 3.2.14 Significant information provided to any member, which is likely to be used in Council or in political debate, should also be provided to all other members of Council, and to the CAO.
- 3.2.15 Members must treat members of the public, other members of Council, Advisory Body Members and staff appropriately, and without bullying, abuse or intimidation in order to preserve a workplace free from harassment.
- 3.2.16 **Staff provide professional advice to the Council and carry out decisions in an effective, efficient, and non-partisan manner.**

3.3 Interactions with the Public and the Media

- 3.3.1 Members 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.
- 3.3.2 When discussing the fact that a decision was not supported, or voted against the decision, or that another Council Member did not support a decision or voted against a decision, a Council Member will refrain from making disparaging comments about other Council Members or about Council's processes and decisions.
- 3.3.3 **A Member must not communicate on behalf of the District unless authorized to do so:**
 - (a) pursuant to a District Communication Policy;
 - (b) by Council resolution;
 - (c) or by virtue of a position or role the Member has been authorized to undertake by Council.

3.3.4 Without limiting the ability of the Council Member to hold a position on an issue and respectfully express an opinion, a Member must ensure that:

- (a) 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) 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.

3.4 Public Meetings

3.4.1 A Member must act with decorum at Council and Committee meetings and in accordance with District of Barriere's Council Procedure Bylaw, as amended or replaced from time to time.

3.5 Collection and Handling of Information

3.5.1 Members must:

- (a) Collect and use personal information in accordance with *Freedom of Information and Protection of Privacy Act* legislation and the Protection of Privacy Policy;
- (b) Protect information that is specifically marked confidential, that is Personal Information and other material identified or understood to be confidential in nature;
- (c) not discuss or disclose Confidential Information with or to Staff, or with persons outside the organization except as authorized;
- (d) not discuss or disclose any Personal Information with or to other Members, 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*.
- (e) Take reasonable care to prevent the examination of confidential material or access to Personal Information by unauthorized individuals;
- (f) Not use Confidential Information except for the purpose for which it is intended to be used;
- (g) Only release information through the FOI Head and in accordance District policies, procedures and in compliance with the *Freedom of Information and Protection of Privacy Act*;
- (h) 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

- (i) Not disclose details on Council's in-camera deliberations or specific detail on whether individual Councillors voted for or against an issue.
- 3.5.2 Except in the normal course of duties, Members must not in any way change or alter District records or documents.
- 3.5.3 When dealing with Personal Information, Members 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.

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 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.
- 3.6.3 Members will refrain from using or permitting use of their social media accounts for purposes that include generating or recirculating:
 - (a) defamatory remarks, obscenities, profane language or sexual content;
 - (b) negative statements disparaging other members of Council;
 - (c) negative statements disparaging staff or calling into question the professional capabilities of staff or their work;
 - (d) 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;
 - (e) 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;
 - (f) promotion of illegal activity;
 - (g) information that may compromise the safety or security of the public or public systems;
 - (h) statements that may be construed as bias regarding development, planning or bylaw matters in which a public hearing has not yet been conducted;
 - (i) Comment or interact with a social media post relating to bylaw enforcement matters or, planning and development matters.

3.6.4 Members must regularly monitor their social media accounts and immediately take measures to remove messages or postings by others that violate this bylaw.

3.6.5 Members must not create or use false identity social media accounts.

3.7 Conflict of Interest

3.7.1 Members shall not participate in a discussion of a matter or vote on a question in respect of that matter, in respect of which the Member has a Conflict of Interest as required in the *Community Charter*.

3.7.2 In respect of each matter before Council, a Council Member 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 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 any meeting 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 Members must not attempt to influence a decision of the Council, a Committee, a Municipal Officer, or Staff if the Member has a pecuniary Conflict of Interest in relation to that decision.

3.8.2 Members 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 Members must not intimidate, improperly influence, threaten, or coerce Staff.

3.9 Gifts and Personal Benefits, and Reporting

- 3.9.1 Section 105(1) of the *Community Charter* prohibits Council Members from directly or indirectly accepting a fee, gift or personal benefit connected with the official's performance of the duties of office.
- 3.9.2 Section 105(2) of the *Community Charter*, a Council Member may accept gifts and personal benefits received as an incident of the protocol or social obligations that normally accompany the responsibilities of elected office.
- 3.9.3 Members 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.
- 3.9.4 Committee Members must comply with 3.9.1, 3.9.2 and 3.9.3 as though they were Council Members.
- 3.9.5 Where a gift or personal benefit that may be accepted under the *Community Charter* has a value in excess of \$100.00, the member 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.
- 3.9.6 Members 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.
- 3.9.7 Members 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.
- 3.9.8 If a Members 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 member must file a disclosure form.
- 3.9.9 The content of the disclosure must comply with section 106(2) of the *Community Charter* and must be filed "as soon as reasonably practicable" with the Corporate Officer.
- 3.9.10 It is the responsibility of Members 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.

- 3.9.11 The value of each gift or personal benefit shall be determined by its replacement cost.
- 3.9.12 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.

PART 4– BREACHES, COMPLAINT HANDLING AND DISCIPLINARY ACTION

4.1 General

- 4.1.1 This section, Breaches, Complaint Handling and Disciplinary Action, is for internal use only. Members and Staff within the District of Barriere can use this section to lodge a complaint against a member of Council in relation to their own interactions with that Council Member.
- 4.1.2 Members are to abide by the requirements of the *Community Charter* and this bylaw and shall endeavour to resolve interpersonal disputes in good faith, recognizing that interpersonal rancour does not facilitate good governance.

4.2 Members of Council (and Committees)

- 4.2.1 Alleged breaches by members shall be submitted in a written complaint, as per the **Breach Sample Template 1 attached to and forming part of this bylaw, or a similar written form containing all the information required as per the Sample Template 1** form, addressed to the Mayor and the CAO within six (6) months of the last alleged breach.

In the event that the:

- (a) 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 and the CAO unless that individual is the subject of, or implicated in the complaint; or
 - (b) CAO 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 Corporate Officer unless that individual is the subject of or implicated in the complaint.
- 4.2.2 Upon receipt of a complaint under section 4.2.1, the Mayor or designated Councillor, and the CAO or designate (Corporate Officer) shall review the bylaw and the details of the alleged breach.

The role of the Mayor and CAO (or designate) 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.

- 4.2.3 If the situation is not able to be resolved through the informal process within thirty (30) days, the Mayor and the CAO 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 be contacted and the individual with the next available opening in their schedule will be appointed to the matter.

- 4.2.4 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.
- 4.2.5 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 4.2.1 and 4.2.3 may also be considered grounds for a complaint under the policy.

- 4.2.6 Throughout both the informal or formal investigation, either party can have legal counsel present to assist them. Legal counsel must follow rules of in-camera or procedural bylaws process that are applicable.
- 4.2.7 To protect confidentiality, information provided to the Respondent(s) will be limited to the Breach Sample Template completed by the Complainant, **or a similar written form containing all the information required as per the Sample Template 1 Form.**
- 4.2.8 The Third-Party Investigator 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.

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

- (a) 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;
- (b) Provide an investigation update within ninety (90) days of their appointment to the Mayor and the CAO or designates, as applicable, and to the Complainant and the Respondent;
- (c) 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 CAO or designates, as applicable;
- (d) Provide recommendations regarding if a copy of or selected sections of the final Report should be provided to the Complainant and the Respondent; and
- (e) Provide recommendations in the Report as to the appropriate resolution of the complaint, which recommendations may include:
 - i. dismissal of the complaint; or
 - ii. public censure¹ of the Council Member or Officials for misbehaviour or a breach of this Code of Conduct;
 - iii. a recommendation that a Council Member or Officials apologize to any person adversely affected by a breach of this Code of Conduct;
 - iv. training or counselling of a Council Member or Members;
 - v. mandatory training on District businesses, the *Community Charter*, or this Bylaw;
 - vi. mandatory training on respectful workplace communications or other interpersonal skills;
 - vii. a letter of reprimand from Council addressed to the Council Member;
 - viii. a request from Council that that the Council Member issue a letter of apology;
 - ix. limitations and restrictions on access to certain District facilities and resources;
 - x. in accordance with the Community Charter, suspension or removal of the Member from some or all Committees and bodies to which the Member was appointed;
 - xi. prohibition from representing the District at events and/or attending conferences or seminars;

- xii. directions to the CAO or their designate regarding the terms and conditions upon which the Member may receive Council or other District documents, including documents containing Confidential Information;
- xiii. prohibition from representing the District at events and/or from being reimbursed for attending conferences and seminars;
- xiv. referral to a prosecutor or police;
- xv. suspension or removal of the appointment of a Council Member as the Acting Mayor;
- xvi. reduction in compensation in accordance with the Council Remuneration and Expense Bylaw, as amended or replaced from time to time; and/or
- xvii. Any other sanctions, corrective actions, and other measures recommended by the Investigator or considered appropriate by Council, so long as those sanctions, corrective actions, and other measures are within Council's authority.

1 Note to Reader on Public Censure (ii.) - 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.

- 4.2.10 The Mayor and the CAO or designates shall consider whether the Report or an executive summary of the Report should be presented to Council.
- 4.2.11 The Corporate Officer will receive and retain all reports prepared related to the complaint.
- 4.2.12 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.
- 4.2.13 Where a Member alleges a breach of this Code of Conduct by a fellow Council Member, all Council Members 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.
- 4.2.14 Members 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*.
- 4.2.14 Staff who retain legal counsel to represent themselves in proceedings under this section may request, in writing, reimbursement of reasonable costs from the District.

PART 5 - REPRISALS, OBSTRUCTION, AND VEXATIOUS ALLEGATIONS

5.1 No Interference or Obstruction

- 5.1.1 No Member, or Staff will threaten, interfere with, or otherwise obstruct the Investigator in relation to the Investigator carrying out their duties and responsibilities under this policy.
- 5.1.2 No Member or Staff will tamper with or destroy documents or electronic records related to any matter under investigation pursuant to this Bylaw or refuse to respond to the Investigator when questioned regarding an investigation.

5.2 No Reprisals

- 5.2.1 No Member shall threaten or undertake any reprisal against a Complainant or against a person who provides information to the Investigator in the context of an investigation.

5.3 Disciplinary Action

- 5.3.1 A breach by any person of sections 5.1.1, 5.1.2, or 5.1.3 may result in appropriate disciplinary action, including, without limitation:
 - (a) in the case of Member, Council may impose censures, sanctions, corrective actions, and other measures described in section 4.2.9 (e); and
 - (b) in the case of Staff and Volunteers, disciplinary action or the termination of employment or appointment for just cause, as applicable.

5.4 Vexatious Allegations and Complaints

- 5.4.1 Any person 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, including, without limitation:
 - (a) in the case of Members, Council may impose censures, sanctions, corrective actions, and other measures described in section 4.2.9 (e); and
 - (b) in the case of Staff and Volunteers, disciplinary action or the termination of employment or appointment for just cause, as applicable.

PART 6 - ATTACHMENTS

6.1 Attachments

6.1.1 Attached to and forming part of this bylaw are the following **sample** templates that could be utilized as part of the information resolution process:

- Proactive Apology² by Council Member (**Sample** Template 2)
- Apology² by Council Member if held by Council to have violated the Code of Conduct (**Sample** Template 3)

2 – Note to Reader regarding Apology: 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.

READ A FIRST TIME THIS day of , 2024.

READ A SECOND TIME THIS day of , 2024.

READ A THIRD TIME THIS day of , 2024.

ADOPTED THIS day of , 2024.

Acting Mayor Rob Kerslake

Tasha Buchanan, Corporate Officer

SAMPLE

TEMPLATE 1 – Complaint

DATE OF COMPLAINT: _____

NAME OF PERSON MAKING THE COMPLAINT: _____

NAME OF COUNCIL MEMBER 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 MEMBER TO LET THEM KNOW ABOUT YOUR CONCERNS?

Y____ N____

WHAT IS THE RESOLUTION THAT YOU ARE SEEKING?

SAMPLE

TEMPLATE 2 – Proactive Apology by Council Member

[DATE]

PERSONAL AND CONFIDENTIAL

[Name of Recipient]

[Title]

District of Barriere

[Address]

[City, Province Postal Code]

Attention: [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]

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

[DATE]

PERSONAL AND CONFIDENTIAL

[Name of Recipient]

[Title]

District of Barriere

[Address]

[City, Province Postal Code]

Attention: [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]



DISTRICT OF BARRIERE

POLICY MANUAL

Approval Date: December 20, 2021

NO: 42	
DEPARTMENT:	COUNCIL
SUBJECT:	COUNCIL CODE OF ETHICS AND CONDUCT POLICY

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 Barriere, 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: all seven members of Council

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

Staff: an employee, volunteer, or contract employee of the District of Barriere, 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, organized associations for which they are a member of, or personal 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 in formal meetings or 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 Barriere;
 - 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) through the FOI Head;
 - 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, organizations that they are personally a member of, or personal and family 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 Barriere. It has the responsibility to govern the District in accordance with the *Community Charter* and other legislation.
- 5.2. The Mayor is the head of the District and has a statutory responsibility to provide leadership to the Council and to provide *general* direction to the CAO, respecting the municipal policies, programs and other directions of Council as set out in the *Community Charter*. Outside of this additional function and being the Chair of Council Meetings, the Mayor is an equal member of Council in the way of the decision making process of Council.
- 5.3. Council officials are to contact staff including Municipal Officers, according to the Council Procedure Bylaw and the 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 Chief Administrative Officer and refrain from contacting other staff without first discussing the issue with the CAO whenever possible.
- 5.5. Advice to Council from staff will be vetted, approved and signed by the Chief Administrative Officer. Council officials will refrain from seeking opinions of staff directly.
- 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, including the Mayor, 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 (local or otherwise).
- 5.9. Council officials must not publish or report information or make statements attacking or reflecting negatively on the work of 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 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 or their work;
 - 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;
 - statements that may be construed as bias regarding development, planning or bylaw matters in which a public hearing has not yet been conducted;
 - Comment or interact with a social media posts relating to bylaw enforcement matters or, planning and development matters.
- 6.3. 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 Barriere 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 Corporate Officer 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 (Corporate Officer) 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 Corporate Officer 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 Barriere

[Address]

[City, Province Postal Code]

Attention: [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 Barriere

[Address]

[City, Province Postal Code]

Attention: [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]



DISTRICT OF BARRIERE COUNCIL POLICY MANUAL

Page 1 of 10

Approval Date: December 17, 2007

NO: 3

SECTION: GENERAL ADMINISTRATION

SUBJECT: CONFLICT OF INTEREST GUIDELINES

[NOTE: Where the masculine is used in these Guidelines, it includes the feminine where the context requires.]

The proper operation of democratic local government requires that elected officials be independent, impartial and duly responsible to the people. To this end, it is imperative that the following three principles be followed:

1. Government decisions and policy be made through the proper and lawful channels of government structure.
2. Public office not be used for personal gain.
3. The public have confidence in the integrity of its government.

(1) THE LAW

It is your personal responsibility to comply with the law and to avoid conflicts of interest.

Therefore, make sure that you have read and understood the provisions of the Community Charter, the Financial Disclosure Act, the Criminal Code of Canada and the summary of the common law provided to you with this Guide.

You should remember that if some or all of your financial or property interests are held otherwise than in your own name and the nature of them does not appear in your disclosure statement under the Financial Disclosure Act that in certain circumstances you may have to declare those interests in order to comply with these guidelines. Similarly you may have to declare the interest of your family.

If you are in any doubt as to the meaning, requirements or application of any of these laws you should seek advice; possibly from your own solicitor, from experienced Councillors, or from senior Staff.

You shall not assume that any unethical activities not covered by or specifically prohibited by these guidelines, or by legislation, are therefore condoned.

Remember that the responsibility is always yours.

(2) PUBLIC DUTY AND PRIVATE INTERESTS

- (i) Your overriding duty as a Councillor is to all of the residents of the District of Barriere.
- (ii) Whenever you have, or any member of your family has, a private or personal interest in any question which Councillors must decide, you must not do anything to let that interest influence the decisions.

You shall:

- Declare to Council at the first opportunity your interests or known interests of any close relatives, in any enterprise which proposes to transact business with the Municipality;
 - Make no effort whatsoever to influence Council or Staff in any decisions on the matter;
 - Leave the place of the meeting prior to discussions and vote on the subject, and;
 - Of course, not vote on the matter
- (iii) Do nothing as a Councillor which you could not justify to the public.
- (iv) It is not enough to avoid actual impropriety; you should at all times avoid any occasion for suspicion or the appearance of improper conduct.
- (v) As each matter comes before Council, each member shall decide for himself whether he has a specific property, business or financial interest, direct or indirect, which could be affected to the benefit or detriment of the member, his family or associates. If he has, he should then decide whether the effect would be a personal benefit to himself, family, or associate as opposed to an effect on the community as a whole. If it would not affect the whole community, but would have a similar effect on a majority of, or substantial number of persons in the community with similar interest, then his acting on the matter would probably not result in a conflict of interest.

(3) DISCLOSURE OF PECUNIARY AND OTHER INTERESTS

- (i) The law makes specific provision requiring you to disclose pecuniary interest, direct and indirect. But interests which are not pecuniary can be just as important. Kinship, friendship, membership of an association,

religion, partisanship, institutional or ethnic interests and so forth can sometimes influence your judgment and give the impression that you might be acting for personal motives. A good test is to ask yourself whether others will think that the interest, in the circumstances of the matter at issue, is of a kind to make this possible. If you think they would, or if you are in doubt, disclose the interest and withdraw from the meeting unless you are specifically invited to stay.

- (ii) The principles about disclosure of interest should be borne in mind in your unofficial relations with other Councillors or informal or social occasions no less scrupulously than at formal meetings of Council, its Committees or Sub-Committees.

(4) MEMBERSHIP AND CHAIRMANSHIP OF COUNCIL COMMITTEES AND SUB-COMMITTEES

- (i) You, or a firm or body with which you are personally connected, may have professional business or personal interests within an area for which the Council is responsible; such interests may be substantial and closely related to the work of one or more of the Council's Committees or Sub-Committees, concerned with (say) planning or developing land, personnel matters or the letting of contracts for supplies, services or works. Before seeking or accepting membership of any such Committee or Sub-Committee, you should seriously consider whether your membership would involve you:
 - (a) In disclosing an interest so often that you could be of little value to the Committee or Sub-Committee, or;
 - (b) In weakening public confidence in the impartiality of the Committee or Sub-Committee.
- (ii) You should not seek or accept the Chairmanship of a Committee or Sub-Committee whose business is closely related to a substantial interest or range of interests of yourself or of any body with which you are associated.

(5) COUNCILLORS AND OFFICERS

- (i) Both Councillors and Officers are servants of the public, and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council and are permanently appointed. An Officer's job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council and its Committees.

- (ii) Mutual respect between Councillors and Officers is essential to good local government. Close personal familiarity between individual Councillors and Officers can damage this relationship and prove embarrassing to other Councillors and Officers.

(6) USE OF CONFIDENTIAL AND PRIVATE INFORMATION

- (i) As a Councillor you necessarily acquire much information that has not yet been made public and is still confidential. It is a grave betrayal of trust to use confidential information for personal advantage of yourself or of anyone known to you.
- (ii) You must not communicate information designated confidential to anyone not entitled to receive it.

If you disagree with the designation of such information as confidential, or the designation of those entitled to receive it, under no circumstances should you arbitrarily disclose it. First you should advise Council in writing at an “In Camera” meeting of your disagreement and the reasons for it. If the disagreement is not resolved before you decide to disclose the information, you should carefully reflect your decision against the first and third principles which preface these guidelines.

(7) GIFTS AND HOSPITALITY

Treat with extreme caution any offer or gift, favour or hospitality that is made to you personally. The person or organization making the offer may be doing or seeking to do business with the Council, or may be applying to the Council for planning permission or some other kind of decision. Working lunches and other social occasions arranged or authorized by Council or by one of its Committees or Sub-Committees may be a proper way of doing business, provided that no extravagance is involved. Nor can there be any hard and fast rule about acceptance or refusal of tokens of goodwill on special occasions. But you are personally responsible for all such decisions and for avoiding the risk of damage to public confidence in local government. The receipt or offer of gifts should be reported to the Chief Administrative Officer.

(8) EXPENSES AND ALLOWANCES

There as a Councillor. These rules should be scrupulously observed.

(9) USE OF COUNCIL FACILITIES

Make sure that any facilities – such as transport, stationery, or administrative support services – provided by the Council for your use in your duties as a Councillor are used strictly for those duties and for no other purpose.

(10) UNDUE INFLUENCE

Do not use your position to secure special privileges, favours or exemptions for yourself or any other person.

(11) CONDUCT AFTER LEAVING OFFICE

For a period of twelve months after leaving office, abide by these guidelines except those related to confidential information which shall apply in perpetuity, or until public release of such information as authorized by Council.

GUIDELINES FOR COUNCIL APPOINTEES TO
CIVIC BOARDS, COMMITTEES AND COMMISSIONS

[NOTE: Where the masculine is used in these Guidelines, it includes the feminine where the context requires.]

All such bodies are called “Committees” in the Guidelines.

It is essential that Council, in its deliberations and in its conduct of municipal affairs, should have available to it the wisdom, expertise, experience and advice of competent members of the community. It is also essential that members of such Committees be seen to act with integrity to ensure a continued confidence in the process by the citizenry.

In most cases, the advice and guidance of such persons is sought because they have practical experience and special knowledge in the areas of endeavor covered by the mandate of the particular Committee on which they are invited to serve and generally will have business and property interests in those fields of endeavor.

But it is essential and is a matter of law that such members not allow themselves to become involved in conflict of interest situations.

A summary of the law on conflicts of interest is available to you through the Corporate Administration Office.

A member of a Committee stands as a trustee for the local community and he is not to vote or to deal so as to gain or appear to gain private advantage out of matters over which he is asked to comment and advise.

1. Your overriding duty as a member of a Committee is to all residents of the District of Barriere.
2. Whenever you have, or any member of your family has, a private or personal interest in any question on which you must advise, you must not do anything to let that interest influence the advice.

3. It is not enough to avoid actual impropriety; you should at all times avoid any occasion for suspicion or the appearance of improper conduct.
4. As a Committee member you often acquire information that has not yet been made public. It is a grave betrayal of trust to use confidential information for personal advantage of yourself or anyone known to you.
5. You must not communicate information designated confidential to anyone not entitled to receive it.
6. Do not use your position to secure special privileges, favours or exemptions for yourself or any other person.
7. Avoid any situations that may cause any person to believe that you may have brought bias or partiality to a question before Council.
8. As each matter comes before a Committee, each member should decide for himself whether he has a specific property, business or financial interest, direct or indirect, which could be affected to the benefit or detriment of the member, his family or associates. If he has, he should then decide whether the effect would be a personal benefit to himself, family or associate as opposed to an effect on the community as a whole. If it would not affect the whole community, but would have a similar effect on a majority of, or substantial number of persons in the community with similar interests, then his acting on the matter would probably not result in a conflict of interest.

Such a financial business or property interest would include an interest as an advocate or lobbyist whether the member was being paid for his services or not. It would be difficult to conceive of a situation where such advocacy would not result in a conflict of interest. Therefore, a member should always withdraw and take no part whatsoever to influence the Committee on any question if he has been engaged to influence in any way the decision on that question. He should always declare such an interest – preferably for his own protection – in writing.

If a member does have such an interest whether personal or community as above discussed, he should declare it to the Committee as soon as possible. The Committee Chair shall then report the conflict in writing to Council as soon as possible.

If it is personal, the member should:

1. Leave the place of a meeting'
2. Take no part in the discussion
3. Do nothing to influence the other members of the Committee;
4. Not vote; and,

5. Take no part in drafting the report of the Committee insofar as it touches on that particular matter.

If he deems his to be a community interest he should continue to act as a member of the Committee.

It may be that a member has business or property interests which, for sound business or other reasons, it would be imprudent to declare at that time. Therefore, because secrecy, no matter how prudent, can give rise to suspicion in others, the member should proceed as though for the time being at least, his interest is personal – even if when it becomes public knowledge it would be clearly a community interest.

In summary, before seeking or accepting membership on any Council-appointed Board, Committee or Commission, an individual should seriously consider whether such membership would involve the individual;

1. In disclosing an interest so often that he would be of little value to the Board, Committee or Commission, or
2. In weakening public confidence in the impartiality of the Board, Committee or Commission.

CONFLICT OF INTEREST CODE (MUNICIPAL EMPLOYEES)

“District” means the District of Barriere

“Employee” means an Officer of the District or a Management/Excluded Employee of the District as designated by “**MANAGEMENT TERMS AND CONDITIONS OF EMPLOYMENT**” AND THE DISTRICT OF BARRIERE INDEMNIFICATION BYLAWS.

Impartiality and Equality of Service:

1. An Employee shall carry out his/her duties with integrity, impartiality and equality of service to the general public.

Preferential Treatment:

2. An Employee shall not go beyond his/her official duty to assist those dealing with the District where this would result in preferential treatment.

Public Interest:

3. An Employee shall exercise care in the management of his/her private affairs so as not to benefit, or be perceived by the public to benefit from, any District transactions over which he/she can influence decisions (for example: investments, borrowing, purchases, sales, contracts, grants, regulatory or discretionary approvals and appointments).

Confidential information:

4. An Employee shall not use information which is not available to the general public for his/her own personal profit or advantage, and shall not provide such information to others unless it is in the course of the Employee's duties to do so.

Outside Remuneration:

5. An Employee may engage in outside employment, carry on business or receive public funds for personal activities provided that it does not place demands inconsistent with his/her job, or jeopardize his/her objectivity, and in particular that:
 - (i) It does not interfere with the performance of his/her duties;
 - (ii) It does not represent a conflict of interest as herein set out;
 - (iii) He/she does not have an advantage derived from his/her employment;
 - (iv) It is not performed in such a way as to appear to be an official act; and
 - (v) It does not involve the use of District premises, services, equipment, information or supplies which he/she has access to by virtue of his/her employment with the District.
6. An Employee shall forthwith file a written disclosure of any activity as set out in Section 5 with the Chief Administrative Officer.
7. On receipt of a written disclosure by an Employee, the Chief Administrative Officer shall forward a copy of same to members of Council.

Hospitality, Gifts and Other Benefits:

8. An Employee shall not solicit or accept hospitality, gifts or other benefits which might influence his/her conduct at work, or which could compromise the objectivity of the Employee or result in a public perception that his/her objectivity is compromised.

District Materials, Equipment and Facilities:

9. An Employee shall not use, or allow the use of, District materials, equipment and facilities for unapproved activities.

Property (Land):

10. An Employee shall not deal in property directly or indirectly within the District other than his/her personal residence without first informing the Chief Administrative Officer in writing.
11. An Employee shall declare to the Chief Administrative Officer his/her interest, direct or indirect, in any property which is subject to a rezoning proposal or subdivision within the District.

Private Interests:

12. An Employee shall declare to the Chief Administrative Officer, in writing, any personal or corporate interest held directly or indirectly by the Employee or by an immediate relative of the Employee in a contract or a proposed contract with the District, or in any enterprise which proposes to transact business with the District.

For the purpose of this Section:

“immediate relative” means a spouse (including common-law spouse), parent, child, brother, sister, brother-in-law or sister-in-law.

“indirectly” means through any other person, including a company, trustee or immediate relative.

Plans for, or Offers of, Outside Employment:

13. An Employee shall not allow himself/herself to be influenced in the pursuit of his/her official duties and responsibilities by plans for, or offers of, outside employment.

Post-Employment Behavior:

14. Former Officers of the District who have provided advice to the District on ongoing, specific matters may not switch sides by acting for another employer on the same matter.

Reporting of Conflict of Interest:

15. An Employee shall report to the Chief Administrative Officer any conflict of interest or potential conflict of interest of which he/she is aware involving himself/herself or his/her family, or any other Employee of the District. The Chief Administrative Officer shall then report the conflict to District Council.

16. The Chief Administrative Officer shall report to the District Council any conflict of interest or potential conflict of interest of which he/she is aware involving himself/herself or his/her family, or any other Employee of the District.

Previous Revision/s: None

District of Barriere

REPORT TO COUNCIL

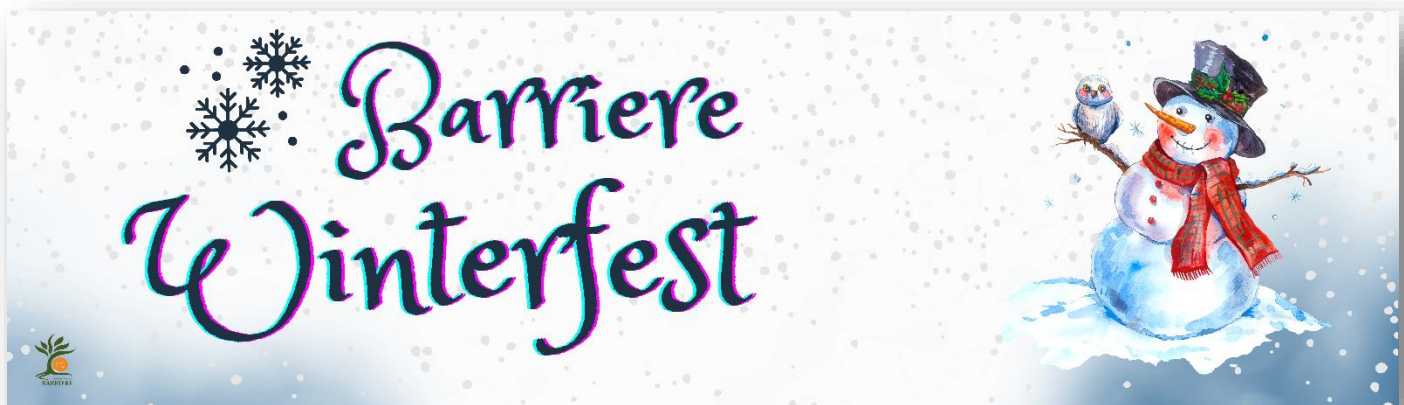
Date: November 18, 2024	
To: Council	From: Department Heads
Re: Departmental Updates	

CORPORATE OFFICER:

- Reminder: The District Official Community Plan (OCP) refresh process is underway. The 1st **Public Open House** is scheduled for **Wednesday, November 20th – 6pm – 8pm at the Seniors Hall.**
- Attended a Young Anderson Law Group Seminar in Vancouver on November 8th. Key topics reviewed were new Provincial Housing legislation, Code of Conduct & Workplace Complaints (related to both Council and staff), Finance, Common Issues, Human Rights, FOI, Bylaw Enforcement and Caselaw updates.
- Attended a November 9th, 2024 Board of Variance Hearing as staff liaison.
- Reviewed nine (9) new Business Licence applications submitted within the last week.
- Participated in a free By-Election refresher seminar hosted by the Local Government Management Association (LGMA)
- Continues to support the Finance department in compiling information related to the 2023 audit.
- Simpcw First Nation has offered to host the 2025 Community to Community (C2C) Forum and has suggested one of the following dates:
 - Friday, April 4, 2025
 - Wednesday, April 9, 2025
 - Friday, April 11, 2025

Recreation

- Organizing this year's Winterfest event continues. – **Sunday, December 8, 2024 in Fadear Park, from 1:00pm to 5:00pm** (*Street Hockey Tournament starts at noon*)



PUBLIC WORKS MANAGER:

Roads

- JDV Lot Restoration Winter Road Maintenance contract started on November 1st. Contractor are storing their equipment and sand at Septage Receiving. Plow operators reside locally.
- Dixon Creek Road was recently graded.

Parks

- Holiday decorating in the park and Barriere Town Road Bridge is scheduled this week.

Utilities

- Staff have reviewed the proposed WWTP design from TRUE Consulting. They will be presenting the design to Council in December.
- 4740 Yellowhead Hwy watermain installation will be commencing in the next week or two.
- Reservoir ground maintenance/vegetation control completed.
- New Garbage Truck is expected to arrive by the end of the week

Facilities

- Security cameras are now installed at the BBC.

FIRE DEPARTMENT:

- 5 Calls: Fire Burning Complaint, Fire Alarm, Fire Burning Complaint, Rural Rescue, Fire Alarm
 - Both Fire Burning Complaints were permitted slash piles – Follow up with BCWS was completed in regards to finding local permits
 - Both Fire Alarms were false
- Training: BCHES Landing Zone, Forcible Entry, Radio Communications,
- Working with TNRD on a file within the fire boundary
- Halloween Fireworks success
- Main Extrication Pump pulled from service for maintenance work – loaner supplied by Associated Fire

CHIEF ADMINISTRATIVE OFFICER:

Finance:

- After the discussion at the November 4, 2024, Council meeting, Staff reviewed outstanding utility bills for the District.
 - Regarding recovering any unpaid charges:
By default, at year end, any unpaid utility charges will roll over to property taxes. These charges would incur a penalty and interest charges and would be included in the property tax bills in 2025. For most properties, this would mean that after 2 more years, the District would be able to start a property tax sale process to recover any unpaid utilities and taxes.
 - Regarding the outstanding balances:
Including the recent billing cycle, roughly \$116,000 are currently outstanding (as of November 14, 2024). If the most recent billing cycle is removed, for the first three cycles of the year, the total outstanding amount is roughly \$59,000. The District has around 850 utility accounts, currently roughly 280 accounts are not fully paid up, some of which may be on monthly payment plans though.
- Detailed review of departmental budgets has started with department heads.

Administration:

- Focused primarily on reviewing the Council Code of Conduct, Council Remuneration Bylaw, and Council Procedure Bylaw; and all related policies. Two Bylaws are presented at this meeting for consideration. Other bylaws and policy updates will be introduced in the coming weeks.
- Another primary focus area has been the preparation for the Strategic Planning session for Council on November 22/23. Invites have been sent to Council. Materials are expected to be ready early next week.

**submitted for information*

District of Barriere

REPORT TO COUNCIL

Request for Decision

Date: November 18, 2024	File: 530.20/Rpts
To: Council	From: Chief Administrative Officer
Re: Phone System – Early Budget Approval	
Recommendation: THAT Council approves an early budget approval in the amount of up to \$7,000 for a replacement of the Districts Voice over Internet Protocol (VoIP) Phone System, with the funding source to be determined as part of the 2025 budget process.	

Purpose

For Council to consider giving early budget approval for up to \$7,000 to upgrade the District's VoIP Phone System.

Background

The District procured a VoIP Phone system in early 2022 which converted the previously analog service to a modern, digital one. The annual costs for the service are roughly \$5,000 which provided over \$3,000 in operational savings each year. So, in total, the District has saved over \$9,000 in the past 3 years by utilizing the VoIP system. In return, for signing up for a 3-year agreement, the current provider supplied the various devices for free. This structure was the most cost effective one of the proposals at that time and has provided a good cost/value benefit for the first few years of service.

Over the last year, the usability of the phone system has drastically deteriorated. Numerous support calls to the VoIP provider have been unsuccessful in correcting the various problems. At the moment, efficient operations within the organization are hindered by calls being dropped, transferred to wrong extensions, not ringing at the correct phone, or transferring directly to voicemail, which subsequently leads to a great level of frustration by staff and the public.

At this point, Staff intends to start the procurement process for a new system and new provider as soon as possible. The current 3-year agreement expires early February 2025, and the agreement details a 30-day termination notice clause which would be January 1, 2025.

In an ideal world, we need to select the preferred provider and phones by December 10, 2024, to allow time for cancelling the current contract, and planning the replacement throughout December and January.

Preliminary inquiries with another potential provider show that the annual costs for the service will continue to be roughly \$5,000 per year regardless of which provider we choose.

However, the upfront costs of the equipment and setup/installation costs may fluctuate, depending on provider and quality of equipment they supply. On the high side, the setup costs are estimated at \$2,000 and the equipment is estimated at \$5,000; so, \$7,000 as a one-time upfront fee.

Some providers offer options to include the equipment costs as a 3-year incremental payment. If staff chooses to go with that route, it would increase the \$5,000 annual costs to roughly \$6,666 for 3 years, so an annual increase of roughly \$1,666.

Please also note that Staff won't necessarily choose the most affordable option, but rather an option that has positive feedback all around for provider and equipment, and further that is aligned with our overall technology infrastructure and providers to ensure that the least amount of potential conflict exists between the different providers.

Due to the uncertainty of the options available by providers, Staff is asking for early budget approval for 2025 for up to \$7,000 to cover the one-time expenses in either a lumpsum or if applicable as a component of the annual fees. Once the proposals are received, Staff will review the options and either present the final 2025 budget with an annual variance in the operating budget for 3 years, or a single payment, or a combination.

Staff is reviewing other options regarding internet connectivity and amalgamation of services throughout the organization which is intended to provide either cost savings or increase efficiency.

Summary

Staff is asking for a \$7,000 early budget approval to accommodate a phone system replacement early in 2025 before the budget is finalized. If the current provider is not cancelled before January 1, 2025, then the District would be required to continue to use the current provider.

Benefits or Impact

General

Phone system replacement to provide better service to the public.

Finances

Continued \$5,000 annual costs, no increase in this category.

Either a roughly \$7,000 one-time fee for 2025, or a distribution over several years.

The District has saved over \$9,000 over the past 3 years by choosing a VoIP phone system.

Strategic Impact

N/A

Risk Assessment

Compliance: N/A

Risk Impact: Low

Internal Control Process: Staff is reviewing contracts and overall technology needs

Next Steps / Communication

- Initiate procurement process, and select preferred provider in December.
 - Replace phone system in January 2025, to be active for February 2025.
-

Attachments

- N/A

Recommendation

THAT Council approves an early budget approval in the amount of up to \$7,000 for a replacement of the Districts Voice over Internet Protocol (VoIP) Phone System, with the funding source to be determined as part of the 2025 budget process.

Alternative Options

1. Council could choose not to support the request. With this option, the District would remain on the current system for at least another year and an increased risk of customer satisfaction exists.

Prepared by:

D. Drexler, Chief Administrative Officer