

DISTRICT OF BARRIERE

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.
- 3.1.7 Council Members must not attend meetings, conferences, seminars, educational courses, or other functions while representing the District of Barriere under the influence of alcohol, drugs, or any other substance that impairs ability to perform duties effectively, ethically, and responsibly. After hours social events at any function are excluded, as is the use of medically prescribed substances.
- (a) If a Council Member is found to be under the influence at a meeting, conferences, seminars, education course, or other function, the Council Member will be required to leave the meeting and take appropriate steps to address the impairment before returning to official duties.
 - (b) Repeated instances of such behavior may be subject to disciplinary actions as outlined in this Bylaw under Part 4.

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 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 18th day of November, 2024.

READ A SECOND TIME THIS 18th day of November, 2024.

READ A THIRD TIME THIS 18th day of November, 2024.

ADOPTED THIS 16th day of December, 2024.

Original signed by,
Acting Mayor Rob Kerslake

Original signed by,
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]