

District of Barriere

# REPORT TO COUNCIL

## Request for Decision

<b>Date:</b> December 16, 2024	<b>File:</b> 530.20/Rpts
<b>To:</b> Council	<b>From:</b> Chief Administrative Officer
<b>Re: Code of Conduct Update</b>	
<b>Recommendation:</b> <b>THAT Council gives final reading to the Council Code of Conduct Bylaw No. 250.</b>  <b>THAT Council rescinds Policy No. 42 – Council Code of Ethics and Conduct.</b>	

### **Purpose**

For Council to consider giving final reading 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.

### **Update:**

At the Regular Meeting on November 18, 2024, Council considered the draft Bylaw and amended it by adding Section 3.1.7 to the Bylaw regarding alcohol and substance use. Thereafter Council provided first three readings. Below is the text amendment that was added 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.**

The Bylaw is now presented for final reading. If adopted, Policy No. 42 will need to be rescinded.

## **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 censure<sup>1</sup> 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

- If adopted, the Code of Conduct Policy will 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 is presented for final reading 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 final reading to the Council Code of Conduct Bylaw No. 250.**

**THAT Council rescinds Policy No. 42 – Council Code of Ethics and Conduct.**

## **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

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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 censure<sup>1</sup> 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.

<sup>1</sup> *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 Apology<sup>2</sup> by Council Member (Sample Template 2)
- Apology<sup>2</sup> 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 18<sup>th</sup> day of November, 2024.

READ A SECOND TIME THIS 18<sup>th</sup> day of November, 2024.

READ A THIRD TIME THIS 18<sup>th</sup> day of November, 2024.

ADOPTED THIS day of , 2024.

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Acting Mayor Rob Kerslake

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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:

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

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

Y\_\_\_\_ N\_\_\_\_

WHAT IS THE RESOLUTION THAT YOU ARE SEEKING?

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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]

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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 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

### POLICY MANUAL

Approval Date: December 20, 2021

<b>NO: 42</b>	
<b>DEPARTMENT:</b>	<b>COUNCIL</b>
<b>SUBJECT:</b>	<b>COUNCIL CODE OF ETHICS AND CONDUCT POLICY</b>

#### 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]

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**Re: Apology [subject]**

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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]**

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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]