

Policy Title:	COUNCIL CODE OF CONDUCT
Issue Date:	December 3, 2018
Revised Date:	September 26, 2022
Prepared by:	Lisa Spitale, Chief Administrative Officer
Document #:	1305468

1. PURPOSE

The public expects a responsive local government with the highest standards of professional conduct from Members elected to it. Honesty, integrity, objectivity, due diligence and accountability are some of the core ethical values reflected in this Code. Council Officials are expected to perform their functions of office faithfully and to the best of their knowledge and ability, in accordance with these core ethical values.

The purpose of this Code is to establish minimum expectations for the ethical and interpersonal conduct of Council Officials.

2. SCOPE & EFFECT

All Council Officials and the Chief Administrative Officer.

3. DEFINITIONS

The following definitions are used in this policy:

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

Complaint: means a formal allegation that a Member has breached this Code of Conduct and submitted in accordance with Part 6 of this Code.

Complainant: means a person who has submitted a Complaint under this Code.

Confidential Information: Confidential Information includes information that could reasonably harm the interests of individuals or organizations, including the City of New Westminster, if disclosed to persons who are not authorized to access the information, as

well as information that may or must be considered by Council in a Closed meeting to which section 117 of the *Community Charter* applies, including:

- a) decisions, resolutions or report contents forming part of the agenda for or from a closed meeting of Council until a Council decision has been made for the information to become public or otherwise released;
- b) information about the acquisition, disposition or expropriation of land or improvements if disclosure could reasonably be expected to harm the interests of the city;
- c) negotiations and related discussions respecting the proposed provision of an activity, work or facility that are at their preliminary stages if disclosure could reasonably be expected to harm the interests of the city;
- d) advice that is subject to any privilege at law; and
- e) personal information that is prohibited from disclosure under the provisions of the Freedom of Information and Protection of Privacy Act.

Council Official: the Mayor and Council Members.

Personal Information: has the same meaning as in the *Freedom of Information and Protection of Privacy Act* (the “Act”) including recorded information about an identifiable individual other than contact information as defined in Schedule 1 of the Act.

Respondent: means a Member or Advisory Board Member whose conduct is the subject of a Complaint.

Staff: an employee or contract employee of the City of New Westminster, 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 City’s Officers Establishment and Indemnity Bylaw under that section.

4. 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 City of New Westminster related matters.

5. POLICY STATEMENTS:

5.1 Key Principles

- 5.1.1 *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 or business interests.
- 5.1.2 *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.
- 5.1.3 *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 City staff through the Chief Administrative Officer (CAO).
- 5.1.4 *Respect:*** Council Officials must conduct public business efficiently and with decorum. They must treat each other, staff and members of the public with respect at all times. This means not using derogatory language towards each other, staff and members of the public, respecting the rights of each other, staff and members of the public, treating people with courtesy and recognition of the different roles others play in local government decision making.
- 5.1.5 *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.

5.2 General Conduct

- 5.2.1** Council Officials must adhere to the key principles and provisions of the Code of Conduct.
- 5.2.2** 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.

- 5.2.3** Council Officials have an obligation to consider issues and exercise powers, duties and functions in a manner that avoids arbitrary and unreasonable decisions.
- 5.2.4** Members shall perform their duties in accordance with the policies and procedures and rules of order established by the City Council governing the deliberation of public policy issues, involvement of the public, and implementation of policy decisions of the Council by City staff.
- 5.2.5** 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 City Bylaws and Policies including the City's Respectful Workplace Policy; and
 - is an abuse of power or otherwise amounts to improper discrimination, intimidation, harassment or verbal abuse of others.

5.3 Conduct of Meetings

Council Officials shall prepare themselves for meetings, listen courteously and attentively to all discussions before the body, and focus on the business at hand. Council Officials shall not interrupt other speakers, make personal comments not germane to the business of the body, or otherwise interfere with the orderly conduct of a meeting.

5.4 Collection and Handling of Information

- 5.4.1** Council Officials shall respect the confidentiality of information concerning the property, personnel, legal affairs, or other information of the City distributed for the purposes of, or considered in, a closed Council meeting. Members shall neither disclose confidential information without proper authorization, nor use such information to advance their own or anyone's personal, financial or other private interests. Council Officials shall not disclose Council resolutions or staff report contents from a closed meeting of Council unless and until a Council decision has been made for the information to become public, and shall not disclose detail on Council's closed meeting deliberations or how individual members voted on a question in a closed meeting.
- 5.4.2** When dealing with Personal Information, Council Officials must comply fully with the provisions of the Freedom of Information and Protection of Privacy Act and the City's Privacy policy. 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.

5.5 Conflict of Interest

- 5.5.1** 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, or business interests.
- 5.5.2** 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*.

5.6 Interactions of Council Officials with Staff and Advisory Body Members

- 5.6.1** The Mayor is the head and chief executive officer of the City and has a statutory responsibility to provide leadership to the Council and to provide general direction to municipal officers respecting the municipal policies, programs and other directions of the Council as set out in the *Community Charter*.
- 5.6.2** As a general principle, Council Officials are to direct inquiries or questions to the CAO or the appropriate Department Director and refrain from contacting other staff without first discussing the issue with the Director.
- 5.6.3** Advice to Council from staff will be vetted, approved and signed by the CAO.
- 5.6.4** Council Officials shall respect the Advisory Committee format and understand that these committees are not able to task staff with work directly, and that recommendations for staff action arising from committees must be referred to Council for approval before staff can be tasked.
- 5.6.5** Council Officials must not make public statements, publish or report information or make statements attacking or reflecting negatively on staff, members of the public, community groups, (or any person/organization the City has a contractual relationship with) or Advisory Body Members except to the CAO as appropriate to bring a complaint to the attention of the CAO for follow up.
- 5.6.6** Significant information provided to any member of Council, which is likely to be used in Council or in political debate, will also be provided to all other Council members, and to the CAO.

5.7 Council Officials Use of Social Media

- 5.7.1** Council Officials use of social media for City business is governed by the City's Social Media Policy.
- 5.7.2** Council Officials will include an "in my opinion", or similar disclaimer, either within the banner of their individual social media site(s) or separately when making follow up

posts to the City's social media postings and when creating original posts pertaining to City related business.

- 5.7.3** Council Officials must regularly monitor their social media accounts and immediately take measures to deal with the publication of messages or postings by others that violate this Code of Conduct. If material is deleted this action should be reported to the City Clerk.

5.8 Interactions with the Public and the Media

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.

5.9 Gifts and Personal Benefits

Council Officials must not, directly or indirectly, accept a fee, gift or personal benefit that is connected with the member's performance of their duties, except in accordance with the provisions of the Community Charter and City's Code of Conduct.

5.10 Use of Public Resources

Council Officials shall not use City public resources such as staff time, equipment, supplies or facilities, for private gain or personal purposes. Specifically, members shall not undertake municipal election campaign related activities at City Hall or on other premises owned by the City during regular working hours, unless such activities are organized by the City (e.g. all-candidate information sessions). Council Officials shall not use City-owned equipment, technology or other property for municipal election campaign work (e.g. photocopiers, computers, cell phones, etc.).

5.11 5.11 Advocacy

Council Officials shall represent the Official policies or positions of the City Council to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, Council Officials shall explicitly state they do not represent Council or the City, nor shall they allow the inference that they do.

6. CONSEQUENCES OF NON-COMPLIANCE – COMPLAINT AND RESOLUTION PROCEDURES

This Code expresses standards of ethical conduct expected for Council Officials, who themselves have the primary responsibility to assure that this code is understood and met, thus allowing the public to continue to have full confidence in the integrity of the governance of the City. Council Officials shall respect the integrity of this Code and the enforcement of it.

However, to ensure accountability and fairness of process, Council Officials agree to the following breach, complaint and disciplinary handling procedure. This procedure flows from the City's Respectful Workplace Policy.

- a) Alleged breaches of this Code of Conduct by Council Officials shall be submitted in a written Complaint addressed to the Mayor and the CAO within six (6) months of the last alleged breach of the Complaint. In the event that the Mayor is the subject of, or is implicated in the Complaint, the Complaint shall be addressed to the Acting Mayor unless that individual is the subject of, or implicated in the Complaint, in which case the Complaint goes to the next succeeding Acting Mayor.
- b) A Complaint must be in writing and describe with sufficient detail:
 - the name of the Complainant;
 - the name of the Respondent;
 - the conduct that the Complainant alleges to have breached with this Code;
 - the date of the alleged conduct;
 - the part or parts of this Code that the complainant alleges has or have been breached; and
 - the basis for the complainant's knowledge about the conduct.
- c) A Complainant may specify in the complaint if they are willing to participate in an informal resolution of the complaint.
- d) Upon receipt of a complaint, the Mayor, or Acting Mayor, and the CAO shall, if they are not able to resolve the matter informally, within thirty (30) calendar days, appoint an independent third party identified and agreed between the Complainant(s) and Respondent(s) as having the necessary professional skills, knowledge and experience to investigate the complaint (the "Investigator"). If the parties cannot agree on the choice of Investigator-within 30 calendar days of filing a complaint, the Mayor or Acting Mayor shall appoint an Investigator.
- e) The Investigator:

Preliminary Assessment

- The 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 subject

to another proceeding, such as a court proceeding, a Human Rights Complaint or a non-compliance with the Freedom of Information and Protection of Privacy Act, beyond jurisdiction or unlikely to succeed within 30 calendar days of the appointment;

Informal Resolution

- When the Investigator has decided to proceed with a complaint, the Investigator must determine whether the complaint requires a formal investigation, or whether the complaint may be resolved informally. In the latter case, the Investigator may, at their discretion, either attempt to resolve the complaint directly, or refer the complaint to:
 - i. the Mayor, if the complaint is made by a Council Official, unless the complaint is against the Mayor, in which case the complaint will be referred to the Acting Mayor; or
 - ii. the Chief Administrative Officer, if the complaint is made by a City employee or the public.
- Where the Investigator refers the complaint ~~in accordance with section 6.17,~~ the Mayor, the Acting Mayor, or the CAO, as the case may be, may agree to assist in resolving the complaint directly, or may appoint a third party to assist in resolving the complaint at their discretion.
- The person assisting in the informal resolution of a complaint will assess the suitability of the complaint for settlement or resolution on an ongoing basis and may decline to assist at any point.
- The Complainant, or the Respondent, can decline to participate in an informal resolution at any time.
- If a Complaint is resolved informally, the person assisting in resolving the Complaint must notify the Investigator in writing of the terms of the resolution, upon receipt of which, the Investigator must close the Complaint.
- If a Complaint cannot be resolved informally, the person assisting in resolving the Complaint must refer the complaint back to the Investigator for a formal investigation.

Formal Resolution

- f) If the Investigator determines to continue the complaint, the Investigator shall:
 - 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;
 - The Investigator must serve the Complaint on the Respondent with a request that the Respondent provide a written response to the Complaint together with any submissions the Respondent chooses to make within 10 days, subject to the Investigator's discretion to extend the timeline.
 - The Investigator may serve the Complainant with the Respondent's written response together with any submissions, on a strictly confidential basis, and request a reply in writing within 10 days, subject to the Investigator's discretion to extend the timeline.
 - The Investigator may:
 - iii. speak to anyone relevant to the complaint;

- iv. request disclosure of documents relevant to the complaint;
- v. access any record in the possession or control of the city, except a record that is subject to privilege; or
- vi. access non-personal phone records.
- The Investigator must ensure that the formal investigation complies with the rules of procedural fairness and natural justice required in the circumstances.
- Provide an investigation update within thirty (30) calendar days of their appointment to the Mayor, Acting Mayor or CAO, as applicable, and to the Complainant and the Respondent;
- 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, Acting Mayor, or CAO as applicable, and to the Complainant and the Respondent within 90 calendar days of their appointment and if this time frame is not practical the decision date may be extended once for a period of up to 30 days on provision of writer notice to both the Complainant and Respondent; and
- Provide recommendations in the Report as to the appropriate resolution of the Complaint, which recommendations may include:
 - i. dismissal of the complaint;
 - ii. public censure of a Council Official or Officials for misbehaviour or a breach of this Code of Conduct;
 - iii. a recommendation that a Council Official or Officials apologize to any person adversely affected by a breach of this Code of Conduct;
 - iv. counselling of a Council Official or Officials, and/or
 - v. such other recommendations as are deemed appropriate in the professional judgment of the Investigator.
- g) The Mayor or Acting Mayor or CAO shall consider whether the Report should be presented to Council.
- h) The City Clerk will retain and maintain the confidentiality of all Reports prepared in the investigation.
- i) 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 meetings of Council pending the conclusion of the Report and any decision of Council on the Report.
- j) A violation of this Code shall not be considered a basis for challenging the validity of a Council decision.

Final Determination by Council

- Council must, within 30 days of delivery of the investigation report, or a longer period if approved by a vote of Council, decide on the appropriate measures, if any, that are warranted by the breach of this Code, and will take such actions as Council considers appropriate in the circumstances.

- Prior to Council making any decision regarding the findings and recommendations set out in the investigative report, the Respondent must be provided with an opportunity, either in person or in writing, to comment on the decision and any recommended censure, sanctions or corrective actions.
- While an investigation report provided to Council may be considered in a closed meeting for the purpose of receiving legal advice, or other valid reason, when Council deliberates and votes on the investigation report, it will do so in a public meeting and the investigation report must be made available to the public.

7. CONFIDENTIALITY OF THE INVESTIGATION

- The Investigator must make all reasonable efforts to investigate complaints in confidence.
- The Investigator and every person acting under the Investigator's instructions must preserve confidentiality with respect to all matters that come into the Investigator's knowledge in the course of any investigation or complaint except as required by law.
- An investigation report must only disclose such matters as in Investigator's opinion are necessary for the purpose of the investigation report.

8. REPRISALS AND OBSTRUCTION

- No Council Official or City employee will obstruct the Investigator in the carrying out of the Investigator's duties or responsibilities.
- No Council Official or City employee will threaten or undertake any active reprisal against a complainant or against a person who provides information to the Investigator in the context of an investigation.
- No Council Official or City employee will tamper with or destroy documents or electronic records related to any matter under investigation under this Code or refuse to respond to the Investigator when questioned regarding an investigation.

9. REIMBURSEMENT OF COSTS

- If appropriate after considering all circumstances, Council may resolve to reimburse legal fees reasonably incurred by a Council Official in relation to a complaint in accordance with the provisions of the *Community Charter*.