Governance Committee

Special Electronic Meeting Agenda

Date:	Monday, June 24, 2024
Time:	10:00 am - 12:00 pm
Location:	Electronic meeting, Public venue Islands Trust 200-1627 Fort Street Victoria, BC V8R 1H8

The next Governance Committee business meeting is scheduled Friday, July 12, 2024, 9:00 a.m. to 12:00 p.m. to be held electronically.

*Approximate time is provided for the convenience of the public only and is subject to change without notice.

BRIEFING

To:	**Governance Committee**	**For the Meeting of:**	June 24, 2024
From:	**Executive Assistant**	**Date Prepared:**	June 19, 2024
SUBJECT:	**Schedule a Special Meeting re: draft Code of Conduct**		

PURPOSE: To restate the Governance Committee's May 13, 2024, business meeting decision to schedule a Special Meeting to discuss and work on the draft Code of Conduct.

BACKGROUND: At its May 13, 2024, regular business meeting the Governance Committee (GC) addressed item 7.2 Draft Code of Conduct Update – Briefing. The following excerpt is taken from the May 13th draft minutes:

(Item) 7.2 Draft Code of Conduct Update – Briefing

Director of Legislative Services (DLS) Marlor spoke to the briefing as presented.

Discussion ensued on next steps the Committee wished to take to address the draft Code of Conduct.

Chair Gedye commented that this item to be added to the work program matrix as urgent and important/high priority.

GC-2024-016
It was MOVED and SECONDED,
That Governance Committee schedule a Special Meeting at the earliest possible convenience to discuss and work on the Code of Conduct draft policy.

CARRIED

The GC May 13 draft minutes were circulated to the Committee and posted to the meeting's webpage on May 16.

Governance Committee members were polled on May 17, 2024, to find the earliest possible date to discuss and work on the Code of Conduct draft policy. On May 28, 2024, all members concurred via email that June 24, 2024, 10AM to 12PM was a convenient date and time.

Resolution without meeting No. GC-RWM-2024-02 was carried June 19, 2024, confirming June 24, 2024, beginning at 10 AM to be the Special Electronic meeting date and time.

ATTACHMENT(S):

1. Governance Committee Resolution without Meeting No. GC-RWM-2024-02

FOLLOW-UP:

As directed.

Prepared By: **Lori Foster, Executive Assistant**

Reviewed By/Date: **David Marlor, Director of Legislative Services / June 19, 2024**

GOVERNANCE COMMITTEE
<u>RESOLUTION WITHOUT MEETING</u>

RESOLUTION WITHOUT MEETING NO. GC-RWM-2024-02

The following matter is considered urgent and necessary in order for the Governance Committee to schedule a Special Electronic Meeting for the purpose of reviewing the Code of Conduct Policy.

Trustees were notified, via email, of the call for resolution on June 14, 2024
Trustees were notified, via email, of the call for the vote on June 17, 2024

It was Moved by Trustee Peterson and Seconded by Trustee Patrick,
That Governance Committee schedule a Special Electronic meeting to be held Monday, June 24, 2024, beginning at 10:00 a.m. for the purpose of reviewing the Code of Conduct Policy.

TRUSTEES CONTACTED	DATE VOTE RECEIVED	VOTE
1. Joe Bernardo	June 17, 2024	In Favour
2. Laura Patrick	June 17, 2024	In Favour
3. Jamie Harris	June 17, 2024	Opposed
4. Kate-Louise Stamford	June 17, 2024	In Favour
5. Lisa Gauvreau	June 18, 2024	In Favour
6. Judith Gedye	June 18, 2024	In Favour
7. Tim Peterson	June 19, 2024	In Favour

<u>TRUSTEES VOTE NOT AVAILABLE</u>

8. Lee Middleton

FINAL VOTE COUNT (6) IN FAVOUR (1) OPPOSED DECISION **<u>CARRIED</u>**

THE CHAIR DECLARED THE ABOVE RESOLUTION CARRIED PURSUANT TO SECTION 13 OF THE *ISLANDS TRUST ACT* ON JUNE 19, 2024

____
CHAIR'S SIGNATURE

____
RECORDER'S SIGNATURE

BRIEFING

To:	**Governance Committee**	**For the Meeting of:**	May 13, 2024
From:	**David Marlor, Director, Legislative Services**	**Date Prepared:**	May 3, 2024
SUBJECT:	**Draft Code of Conduct Update**		

PURPOSE: To provide the Governance Committee with an update on draft Code of Conduct revisions.

BACKGROUND:
At its regular meeting on April 12, 2023, the Executive Committee requested Staff to provide a briefing with respect to options for better understanding of the policy regarding Code of Conduct for vice-chairs, trustees and the public. The Executive Committee amended this in November 2023 to ask Staff to review against Provincial guidelines and provide recommendation for any amendments.

The attached Request for Decision (RFD) and draft Code of Conduct was considered by the Executive Committee on April 24, 2024. At that meeting, the Executive Committee passed the following resolution:

> *that the Executive Committee forward the draft Code of Conduct to Trust Council Committee of the Whole in June 2024 for discussion and recommendation to Trust Council.*

Details of draft changes to the Code of Conduct are included in the attached RFD.

Staff has added this to the Governance Committee agenda for information, and because an appropriate code of conduct is central to good governance. The Governance Committee may want to review and provide input into the development of a new Code of Conduct, or provide advice to Trust Council on appropriate Code of Conduct language.

ATTACHMENT(S):

- Request for Decision to Executive Committee, and Draft Code of Conduct
- Existing Islands Trust Standards of Conduct

FOLLOW-UP:

As requested by the Governance Committee.

Prepared By: **David Marlor, Director, Legislative Services**

Reviewed By/Date: **Russ Hotsenpiller, CAO/May 3, 2024**

REQUEST FOR DECISION

To:	Executive Committee	**For the Meeting of:**	April 24, 2024
From:	**David Marlor, Director, Legislative Services**	**Date Prepared:**	April 17, 2024
SUBJECT:	**Code of Conduct**		

RECOMMENDATION:

THAT the Executive Committee forward the draft Code of Conduct to Trust Council Committee of the Whole in June 2024 for discussion and recommendation to Trust Council.

CHIEF ADMINISTRATIVE OFFICER COMMENTS:
Trust Council's Standards of Conduct policy has been amended but is not consistent with updated (2022) guidelines provided by the Province. This recommendation establishes a robust code of conduct to facilitate the efficient operation of Islands Trust decision making bodies.

1 **PURPOSE:**
To provide the Executive Committee with an overview of the Islands Trust Code of Conduct and how it compares to guidelines provided by the Provincial Government.

2 BACKGROUND:
At its regular meeting on April 12, 2023, the Executive Committee requested Staff to provide a briefing with respect to options for better understanding of the policy regarding Code of Conduct for vice-chairs, trustees and the public. The Executive Committee amended this in November 2023 to ask Staff to review against Provincial guidelines and provide recommendation for any amendments.

Islands Trust Code of Conduct

Islands Trust Policy 2.1.2 Standards of Conduct was adopted in December 1997, and was updated June 2000, December 2003, December 2010, December 2017 and November 2021. The policy establishes that ethical principles shall govern conduct of elected trustees and groups them into four categories: Performance of Duties, Organisational Responsibility, Personal Interests, and Meetings. The policy establishes an internal review process.

Provincial Government Guidelines on Code of Conduct

In October 2022, the Working Group on Responsible Conduct, put together jointly by the Local Government Management Association (LGMA), Union of British Columbia Municipalities (UBCM) and the Province of British Columbia, released a model code of conduct entitled “Getting Started on a Code of Conduct for your Council/Board (the Guide)”.

What is a code of conduct? The guide states that “a code of conduct is a written document that sets shared expectations for conduct or behaviour”, and that “responsible conduct of elected official is not optional; it is essential to good governance”.

The model code of conduct reflect foundational principles of integrity, respect, accountability and leadership and collaboration. For each, it provides model conduct that reflects the foundational principle. The Guide also indicates that local governments may: add examples of specific behaviour to further elaborate the standards of conduct; add additional standards that address specific topics important to the local government; and include provisions to support compliance, such as a complaint and resolution process.

Staff has review the existing Standards of Conduct against the model code of conduct and has concluded that the current standards of conduct could do with an update to bring them in line with the recommended model code of conduct.

Attached is a revised draft code of conduct for consideration by the Executive Committee and Trust Council. This code of conduct applies to all elected trustees and appointed members of the Islands Trust Conservancy Board. Staff has added in the foundational principles and conduct that exemplifies that behaviour at the start, followed by specific codes of conduct covering personal interests, conduct in meetings, collection and handling of information, interactions with staff and advisory bodies, use of social media, and interactions with public and media.

Staff has revised the enforcement process to make it clear that the Chair and CAO are not adjudicating the dispute, but are only there to ensure a process is followed. Complaints under this policy, as per the model, are only permitted from staff, trustees or Islands Trust Conservancy Board appointees.

There is no mechanism for public complaints under this policy. Public complaints regarding trustees are dealt with under the Trust Council’s Handling of Administrative Fairness Complaints Policy.

The Guide recommends that Council owns the code of conduct, as it is essential for the success of adhering to the code. This may be obtained by allowing Trust Council initially time to review and comment on the code of conduct, discuss the code of conduct in a Committee of the Whole meeting, before finally adopting it as policy. Beyond that, the policy’s foundational principles, and the behaviours should be front and centre on every agenda or meeting. Inclusion of a session on the code of conduct during new term orientation, and a commitment by Trust Council to hold learning sessions on good conduct behaviours throughout the term is another means to ensure ownership and understanding of the code of conduct.

The draft has the following changes:

- **Policy Name** - changed from “Standards of Conduct” to “Code of Conduct”
- **Section A** – from existing policy with minor edits
- **Section B** - definitions added for “Confidential Information”, “Member”, “Officer”, “Personal Information”, “Staff”, and “Trust Body”.
- **Section C Introduction** – NEW – adapted from the Guide
- **Section D Scope** – NEW – adapted from the Guide
- **Section E Foundational Principles of Responsible Conduct** – NEW – adapted from the Guide
- **Sections F.1 Integrity, F.2 Respect, F.3 Accountability** and **F.4 Leadership and Collaboration** – NEW – adapted from the Guide.
- **Section F.5 Personal Interest** – from existing policy with some edits
- **Section F.6 Meetings** – from existing policy with some edits

- **Sections F.7 Collection and Handling of Information,** and **F.8 Staff and Advisory Bodies** – an amalgamation of some existing policies with mostly new language adapted from District of Saanich and other municipalities' codes of conduct.
- **Section F.9 Social Media** – NEW – adapted from other local municipalities codes of conduct.
- **Section F.10 Public and Media** – NEW – adapted from District of Saanich code of conduct.
- **Section G Enforcement** – NEW – adapted from District of Saanich code of conduct.

Recommended Process:

- **April 2024** – review by Executive Committee and forward to Trust Council Committee of the Whole.
- **June 2024** – Trust Council Committee of the Whole reviews and makes recommendations to Trust Council. Staff to revise policy based on Committee of the Whole discussion.
- **September 2024**– Trust Council to consider adoption of amended Code of Conduct Policy.

3 IMPLICATIONS OF RECOMMENDATION

ORGANIZATIONAL:
No organizational implications

FINANCIAL:
No financial implications
POLICY:
Revised Code of Conduct policy.

IMPLEMENTATION/COMMUNICATIONS:
Placed on next Trust Council Committee of the Whole agenda. No other communications required at this stage.

FIRST NATIONS:
No First Nations implications.

OTHER:
No other implications.

4 RELEVANT POLICY(S):
Trust Council Policy 2.1.2 Standards of Conduct

5 ATTACHMENT(S):
Draft revised Trust Council Policy 2.1.2 Code of Conduct

RESPONSE OPTIONS

Recommendation:
THAT the Executive Committee forward the draft Code of Conduct to Trust Council Committee of the Whole in June 2024 for discussion and recommendation to Trust Council.

Alternative:
The Executive Committee may request Staff to edit the draft Code of Conduct before sending to Trust Council Committee of the Whole for discussion.

Prepared By: **David Marlor, Director, Legislative Services**

Reviewed By/Date:

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Policy:	2.1.2
Approved By:	Trust Council
Approval Date:	1992-09-12
Amendment Date(s):	1997-12-06 2000-06-17 2003-12-05 2010-12-08 2017-12-06 2021-11-30 2024-__-__
Policy Holder:	Chief Administrative Officer

CODE OF CONDUCT

A. Purpose:

Elected trustees, and Islands Trust Conservancy Board appointees, by their declaration, are obliged to execute the duties of their office. The purpose of this policy is to set minimum standards of conduct to guide elected officials and appointed board members in carrying out their duties to ensure: impartial and equal service to all, faithful discharge of their duties without fear or favour, and democratic processes which are duly responsible to the public and which foster public confidence in the Islands Trust's integrity. These standards are in addition to those established in provincial law.

B. Definitions:

Confidential Information includes information that could reasonably harm the interests of individuals or organizations, including the Islands Trust, 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.

Member means a trustee and a person appointed to the Islands Trust Conservancy Board by the Provincial Government.

Officer means a member of staff designated as an officer under s.17 of the *Islands Trust Act,* and includes deputy officers.

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

Staff means an employee or contract employee of the Islands Trust, and includes staff that supports advisory bodies.

Trust Body means any one or more of Trust Council, Executive Committee, local trust committees, and the Islands Trust Conservancy Board, all as defined in the *Islands Trust Act.*

Trustee means local trustees and municipal trustees as defined in the *Islands Trust Act.*

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C. Introduction:

C.1. We recognize that responsible conduct is essential to providing good governance for the Islands Trust.

C.2. We further recognize that responsible conduct is based on the foundational principles of integrity, accountability, respect, and leadership and collaboration.

C.3. In order to fulfill our obligations and discharge our duties, we are required to conduct ourselves to the highest ethical standards by being an active participant in ensuring that these foundational principles, and the standards of conduct set out below, are followed in all of our dealings with every person, including those with other members, staff, and the public.

D. Scope:

D.1. This code of conduct applies to the members of Trust Council, local trust committees, and Islands Trust Conservancy Board. It is each member's individual responsibility to uphold both the letter and the spirit of this code of conduct in their dealings with other members, staff, and the public.

D.2. Members must conduct themselves in accordance with the law. This code of conduct is intended to be developed, interpreted and applied by members in a manner that is consistent with all applicable federal and provincial laws, as well as the bylaws and policies of the Trust Bodies, the common law and any other legal obligations which apply to members individually or as a collective council, committee or board.

E. Foundational Principles of Responsible Conduct:

E.1. **Integrity** – means conducting oneself honestly and ethically.

E.2. **Respect** – means valuing the perspectives, wishes, and rights of others.

E.3. **Accountability** – means an obligation and willingness to accept responsibility or to account for one's actions.

E.4. **Leadership and Collaboration** – means an ability to lead, listen to, and positively influence others; it also means coming together to create or meet a common goal through collective efforts.

F. Standards of Conduct:

F.1. **Integrity:** Integrity is demonstrated by the following conduct:

F.1.1. Members will be open and truthful in all local government dealings, while protecting confidentiality where necessary.

F.1.2. Members will behave in a manner that promotes public confidence, including actively avoiding any perceptions of conflicts of interest, improper use of office, or unethical conduct.

F.1.3. Members will act in the best interest of the public and community.

F.1.4. Members will ensure actions are consistent with the shared principles, values, policies, and bylaws collectively agreed to by the council or board.

F.1.5. Members will demonstrate the same ethical principles during both meetings that are open and closed to the public.

F.1.6. Members will express sincerity when correcting or apologizing for any errors or mistakes made while carrying out official duties.

F.2. **Respect:** Respect is demonstrated through the following conduct:

F.2.1. Members will treat elected officials, staff, and the public with dignity, understanding, and respect.

F.2.2. Members will acknowledge that people's beliefs, values, ideas, and contributions add diverse perspectives.

F.2.3. Members will create an environment of trust, including displaying awareness and sensitivity around comments and language that may be perceived as offensive or derogatory.

F.2.4. Members will refrain from any form of discriminatory conduct against another elected official, staff, or the public.

F.2.5. Members will honour the offices of local government and fulfill the obligations of Chair and trustees dutifully.

F.2.6. Members will recognize and value the distinct roles and responsibilities of local government staff.

F.2.7. Members will call for and expect respect from the community towards elected officials and staff.

F.2.8. Members will ensure that public statements and social media posts that concern other elected officials, staff, and the public are respectful.

F.3. **Accountability:** Accountability is demonstrated through the following conduct:

F.3.1. Members will be transparent about how they carry out their duties and how council, committees and the Islands Trust Conservancy Board conducts business.

F.3.2. Members will ensure any information and decision-making processes are accessible to the public while protecting confidentiality where necessary.

F.3.3. Members will correct any mistakes or errors in a timely and transparent manner.

F.3.4. Members will accept and uphold that the council, committees and the Islands Trust Conservancy Board are collectively accountable for local government decisions, and that individual elected officials are responsible and accountable for their behaviour and individual decisions.

F.3.5. Members will listen to and consider the opinions and needs of the community in all decision making and allow for public discourse and feedback.

F.3.6. Members will act in accordance with the law, which includes, but is not limited to, the statutes, bylaws, and policies that govern local government.

F.4. **Leadership and Collaboration:** Leadership and collaboration is demonstrated through the following conduct:

F.4.1. Members will demonstrate behaviour that builds public confidence and trust in the Islands Trust.

F.4.2. Members will provide considered direction on Islands Trust policies and support colleagues and staff to do the same.

F.4.3. Members will educate colleagues and staff on the harmful impacts of discriminatory conduct, and take action to prevent this type of conduct from reoccurring if necessary.

F.4.4. Members will create space for open expression by others, take responsibility for one's own actions and reactions, and accept the decisions of the majority.

F.4.5. Members will advocate for shared decision-making and actively work with other members, staff, the public, and other stakeholders to achieve common goals.

F.4.6. Members will foster positive working relationships between members, staff, and the public.

F.4.7. Members will commit to building mutually beneficial working relationships with First Nations with interest in the Islands Trust Area to further advance reconciliation efforts.

F.4.8. Members will positively influence others to adhere to the foundational principles of responsible conduct in all Islands Trust dealings.

F.5. **Conduct Related to Personal Interests:**

F.5.1. Members will avoid lobbying activities toward any Trust body for personal interests or profit and/or for any other person.

F.5.2. Members will declare to the relevant chair and/or Chief Administrative Officer their direct or indirect interest or the known interests of any close relatives in any enterprise that proposes to transact business with the Islands Trust.

F.5.3. Members will declare their interest, direct or indirect, or the known interests of any close relatives in any property that is subject to an application to the Islands Trust, to the Executive Committee.

F.5.4. Members will avoid situations, related to their duties, which could result in securing special privileges, favours or exemptions for themselves, or any other person.

F.5.5. Members will not commit organizational resources of any kind for activities that are not directly related to the official business of the Islands Trust.

F.5.6. Members will not undertake election campaign related activities on Islands Trust property unless specifically organized by the Islands Trust (i.e. candidate procedures, all candidate orientation, etc.).

F.5.7. Members will not request or use any Islands Trust resources or property for election campaign work including staff time, equipment such as photocopiers and computers, supplies, facilities or email lists, etc.

F.6. Conduct in Meetings:

F.6.1. Members must prepare for and regularly attend meetings of trust bodies to which they have been elected or appointed. Members have an obligation to attend meetings and the expectation is that members will attend meetings for the duration of the meeting, unless they notify the chair of the trust body that they are ill or have compelling reasons which prevent them from attending. Section 125(5) of the Community Charter [unexcused absence from council meetings] applies to members.

F.6.2. Members will recognize the importance of the role of the chair of meetings, and treat that person with respect at all times.

F.6.3. During meetings, members shall listen courteously and attentively to all discussions before the body, and focus on the issues and facts.

F.6.4. The diverse perspectives of each member, as they reflect the interest of their own communities, will be respected.

F.6.5. When making decisions, members must consider all relevant facts, opinions, debate and analyses of which they should be reasonably aware.

F.6.6. Disagreements will be seen as a natural part of Council, committee and board work. Such disagreements will not be taken personally, nor made personal.

F.6.7. Members can expect courteous behaviour from each other. Members shall not interrupt other speakers, make personal comments or comments not germane to the business of the body, or otherwise disturb a meeting. Meetings shall provide an environment for transparent and healthy debate on matters requiring deliberation by the trust body.

F.6.8. When speaking publicly and at trust body meetings, members shall avoid inflammatory language. They are expected to speak in an objective manner.

F.7. **Conduct in Collection and Handling of Information:**

F.7.1. Members must collect and use personal information in accordance with *Freedom of Information and Protection of Privacy Act* legislation and policies and guidelines regarding protection of privacy as established by the Islands Trust Council.

F.7.2. Members must protect information that is specifically marked confidential, that is personal information and other material identified or understood to be confidential in nature.

F.7.3. Members must refrain from discussing or disclosing any confidential information with persons outside the organization except as authorized.

F.7.4. Members must refrain from discussing or disclosing any personal information with or to other members, 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*.

F.7.5. Members must take reasonable care to prevent the examination of confidential material or access to personal information by unauthorized individuals.

F.7.6. Members must not use confidential information except for the purpose for which it is intended to be used.

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F.7.7. Members must only release information in accordance with established Islands Trust policies and procedures and in compliance with the *Freedom of Information and Protection of Privacy Act* (British Columbia).

F.7.8. Members must not disclose decisions, resolutions or report contents forming part of the agenda for or from an in-camera meeting until a corporate decision has been made for the information to become public.

F.7.9. No members shall disclose or release to the public, confidential information acquired by virtue of their office, in either oral or written form except when required by law or authorized by the relevant Trust Body to do so.

F.7.10. No members shall disclose the substance of deliberations of an in-camera meeting or details of in-camera deliberations or specific details on whether individual members voted for or against an issue, until the relevant Trust Body discusses the information at a meeting that is open to the public or releases the information to the public.

F.7.11. 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.

F.8. **Conduct in Interactions with Staff and Advisory Bodies:**

F.8.1. Members are to contact staff according to the procedures authorized by Trust Council and/or the Chief Administrative Officer regarding the interaction of trustees, board members and staff.

F.8.2. Members are to direct enquiries regarding Trust Council or Trust-wide issues or questions to the Chief Administrative Officer or the Director of the appropriate department and refrain from contacting other staff without first discussing the issue with the relevant Director.

F.8.3. Members are to direct enquiries regarding local trust committee business or issues to the Director, Planning Services, to the appropriate Regional Planning Manager, or to the designated Island Planner, and must refrain from contacting other staff without first discussing the issue with the Director, Regional Planning Manager or Island Planner.

F.8.4. Members are not to issue instructions to any of the Islands Trust's contractors, tenderers, consultants or other service providers.

F.8.5. Members must not make public statements attacking or disparaging staff or advisory body members and shall show respect for the professional capacities of staff. Members must not involve staff in matters for political purposes.

F.8.6. Members must not publish or report information or make statements attacking or reflecting negatively on 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.

F.8.7. Significant information provided to any member of a Trust Body, which is likely to be used in a meeting or in political debate, should also be provided to all other members of the relevant Trust Body, and to the Chief Administrative Officer.

F.8.8. Members must treat the public, other members, advisory body members and staff appropriately, and without bullying, abuse or intimidation in order to preserve a workplace free from harassment.

F.9. **Conduct in Use of Social Media:**

F.9.1. It is not the role of members to report directly on Islands Trust related business. 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 the relevant Trust Body.

F.9.2. Members 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 Islands Trust social media postings and when creating original posts pertaining to Islands Trust related business. (Sample Disclaimer – "Opinions expressed are my own and do not reflect the view or opinions of the [Islands Trust Council] [Islands Trust Conservancy Board] [____Island Local Trust Committee]").

F.9.3. Members 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 a Trust Body;
- negative statements disparaging staff or calling into question the professional capabilities of staff;

- 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; and
- information that may compromise the safety or security of the public or public systems.

F.9.4. Members must regularly monitor their social media accounts and immediately take measures to remove messages or postings by others that violate this Code of Conduct.

F.10. **Interactions with the Public and the Media:**

F.10.1. Members will accurately communicate the decisions of the relevant Trust Body, even if they disagree with the majority decision, and by so doing affirm the respect for and integrity in the decision-making processes of Council.

F.10.2. When discussing the fact that they did not support a decision, or voted against the decision, or that another member did not support a decision or voted against a decision, a member will refrain from making disparaging comments about other members or about the relevant Trust Body's processes and decisions.

G. Enforcement Process:

This section is for internal use only. Members and staff within the Islands Trust can use this section to lodge a complaint against a member in relation to their own interactions with that member.

G.1. 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.

G.2. Alleged breaches of this Code of Conduct by members shall be submitted in a written complaint addressed to the Trust Council Chair and the Chief Administrative Officer within six (6) months of the last alleged breach. In the event that the Chair 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 a Vice-Chair 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 Director, Legislative Services unless that individual is the subject of or implicated in the complaint.

G.3. Upon receipt of a complaint under section G.2 the Chair or designated Vice-Chair, and the Chief Administrative Officer or designate (Director, Legislative Services) shall review the Policy and the details of the alleged breach. The role of the Chair and Chief Administrative Officer (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 Chair / Chief Administrative Officer or designates to give advice about the processing or quality of resolution of the complaint.

G.4. The parties may come to an informal agreement on a resolution, which may include:

- dismissal of the complaint; or
- public censure of the member for misbehaviour or a breach of this Code of Conduct;
- a recommendation that a member apologize to any person adversely affected by a breach of this Code of Conduct;
- counselling of a member; and/or
- such other recommendations as are deemed appropriate by the parties.

G.5. If the situation is not able to be resolved through the informal process within thirty (30) days, the Chair 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 Chair and Chief Administrative Officer or designate 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.

G.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.

G.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 G.4G.5 and G.6 may also be considered grounds for a complaint under the policy.

G.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.

G.9. As confidentiality is key, information provided to the Respondent(s) will be limited to the written complaint completed by the Complainant.

G.10. The Third Party Investigator:

G.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:

G.10.1.1. 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.

G.10.1.2. Provide an investigation update, within ninety (90) days of his or her appointment, to the Chair and the Chief Administrative Officer or designates, as applicable, and to the Complainant and the Respondent.

G.10.1.3. 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 Chair and the Chief Administrative Officer or designates, as applicable.

G.10.1.4. Provide recommendations regarding if a copy of or selected sections of the final Report should be provided to the Complainant and the Respondent.

G.10.1.5. 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 member for misbehaviour or a breach of this Code of Conduct;

- a recommendation that a member apologize to any person adversely affected by a breach of this Code of Conduct;
- counselling of a member; and/or
- such other recommendations as are deemed appropriate in the professional judgment of the Third Party Investigator.

G.11. The Chair and the Chief Administrative Officer or designates shall consider whether the Report or an executive summary of the Report should be presented to Trust Council.

G.12. The Director, Legislative Services will receive and retain all reports prepared related to the complaint.

G.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.

G.14. Where a member alleges a breach of this Code of Conduct by a fellow member, all members shall refrain from commenting on such allegations at open meetings pending the conclusion of the Report and any decision of Trust Council on the Report.

G.15. Members who retain legal counsel to represent them in proceedings under this section may request in writing that the Islands Trust Council indemnify them for their reasonable costs of representation, subject to limitations in Trust Council Bylaw 145.

G.16. Staff who retain legal counsel to represent themselves in proceedings under this section may request, in writing, reimbursement of reasonable costs from the Islands Trust subject to limitations in Trust Council Bylaw 145.

H. Legislated References:

H.1. Policy and Procedures Manual:

- Statutory Rules of Conduct (2.1.1)
- Governance Principles (2.1.3)

H.2. Local Trust Committee Procedural Bylaw

H.3. Trust Council Procedural Bylaw

DISTRICT OF SQUAMISH

BYLAW NO. 2919, 2022

A BYLAW TO REGULATE THE CONDUCT FOR COUNCIL AND COMMITTEE MEMBERS

WHEREAS Council and Committee Members are keepers of the public trust and must uphold the highest standards of ethical behaviour in order to build and inspire the public's trust and confidence in local government;

AND WHEREAS Council and Committee Members are expected to:

(a) make decisions that benefit the community;
(b) act lawfully and within the authority granted by the *Community Charter, Local Government Act* and other applicable enactments; and
(c) be free from undue influence and not act to gain financial or other benefits;

AND WHEREAS Council and Committee Members wish to conduct their business in a transparent, efficient, accountable and respectful fashion;

AND WHEREAS it is to the benefit of the community for Council and Committee Members to conduct their business in accordance with the guiding principles of integrity, accountability, respect, leadership and collaboration;

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

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

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

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

PART I – GENERAL

1.1 Title

This Bylaw may be cited as "District of Squamish Code of Conduct Bylaw No. 2919, 2022".

1.2 Definitions

In this bylaw:

"CAO"	Means the Chief Administrative Officer for the District of Squamish.

"Committee Member"	Means a person appointed to a committee, sub-committee, task force, commission, board, or other Council established body under the *Community Charter* – Part 5, Division 4 – Committees, Commissions and Other Bodies or the *Local Government Act.*
"Complaint"	Means a formal allegation, in accordance with the complaint procedure set out in Part 4 of this Bylaw, that a Member has breached this Bylaw.
"Complainant"	Means a person who has submitted a Complaint.
"Confidential Information"	Means information or records held in confidence by the District, including information or records to which Section 117 of the *Community Charter* applies. For certainty, this includes all information and records from closed meetings of Council until publicly released.
"Conflict of Interest"	Refers to pecuniary and non-pecuniary conflicts of interest governed by the *Community Charter* and the common law.
"Council Member"	Means the Mayor and Councillors for the District of Squamish.
"Gifts and Personal Benefits"	Means an item or service of value that is received by a Member for personal use or enjoyment.
"Investigator"	Means the person appointed to fulfill the duties and responsibilities assigned in Part 5 of this Bylaw.
"Member"	Means a Council Member or a Committee Member
"Municipal Officer"	Means a member of Staff designated as an officer under Section 146 of the *Community Charter.*
"Personal Information"	Has the same meaning as in the *Freedom of Information & Protection of Privacy Act.*
"Respondent"	Means a Council or Committee Member whose conduct is the subject of a Complaint.
"Staff	Means an employee or contractor of the District.
"Volunteer"	Means a person serving the District who is not a Council Member or Committee Member.

1.3 Purpose and Interpretation:

1.3.1 This Bylaw sets out the rules Members must follow in fulfilling their duties and responsiblities as elected or appointed officials, and the powers and procedures of the Investigator in exercising oversight over Council Members.

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.

(e) In the event of a conflict between this Bylaw and another District bylaw or Council policy governing Member conduct, this Bylaw prevails.

(f) In this Bylaw, a reference to a person who holds an office includes a reference to the persons appointed to act for that person from time to time.

(g) 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 caputured 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) Members shall serve and be seen to serve their constituents in a conscientious and diligent manner;

(b) Members shall be committed to performing their duties and functions with integrity and avoiding improper use or influence of their office, and conflicts of interest;

(c) Members are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny; and

(d) Members shall seek to serve the public interest by upholding both the letter and spirit of the laws of the Federal Parliament and British Columbia Legislature, and the laws and policies adopted by the District Council.

2.1.1 Interpretation

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 Roles and Responsibilities

(a) Council is the governing body of the District. It has the responsibility to govern the District in accordance with Part 5 of the *Community Charter* and other applicable legislation.

(b) The Mayor is the head and chief executive officer of the District and has a statutory responsibility to provide leadership to the Council and to provide general direction to Municipal Officers respecting District policies, programs and other directions of the Council as set out in Part 5 of the *Community Charter.*

(c) Staff provide professional advice to the Council and carry out decisions in an effective, efficient and non-partisan manner.

PART 3 – CONDUCT OF ELECTED OFFICIALS

3.1 General Conduct

3.1.1 A Member shall not:

(a) contravene this Bylaw, as amended or replaced from time to time;
(b) contravene any other District bylaw or policy, as amended or replaced;
(c) contravene a law of British Columbia or Canada, including the British Columbia *Human Rights Code* or the *Freedom of Information and Protection of Privacy Act;* or
(d) defame a Member, Staff, or Volunteer.

3.1.2 A Member shall treat other Council Members, Committee Members, Staff, and Volunteers with respect and dignity.

3.1.2 A Council Member shall not:

(a) breach their oath sworn upon taking office as a Council Member; or
(b) abuse their office.

3.2 Interactions with Staff, Volunteers and Committee Members

3.2.1 A Member must direct inquiries regarding departmental issues or questions to the CAO, General Manager, or department Director of the appropriate department and refrain from contacting Staff directly unless the communication is minor and for the purpose of seeking administrative clarity.

3.2.2 A Member must not interfere with, hinder or obstruct Staff, Volunteers or other Committee Members in the exercise of performance of their roles, responsibilities, powers, duties or functions, nor shall they impair the ability of Municipal Officers and Staff to implement Council policy decisions in accordance with Section 153 of the *Community Charter*.

3.2.3 A Member must not request or require Staff to undertake personal or private work on behalf of a Member.

3.2.4 A Member must not compel Staff to engage in partisan political activities or subject them to reprisal of any kind for refusing to engage in such activities.

3.2.5 A Member must not publish, on social media or otherwise, statements attacking Members, Staff, or Volunteers.

3.2.6 A Member must not directly or indirectly request, induce, encourage, aid, or permit Staff to do something which, if done by the Member, would be a breach of this Code of Conduct.

3.3 Interactions with the Public and Media

3.3.1 A Member must not communicate on behalf of the District unless authorized to do so:

(a) pursuant to the Communication and Media Policy;
(b) by Council resolution;
(c) or by virtue of a position or role the Member has been authorized to undertake by Council.

3.3.2 Without limiting the ability of the Council Member to hold a position on an issue and respectfully express an opinion, a Council 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.

3.3.3 A Member shall not issue instructions to any of the District's contractors, tenderers, consultants or other service providers unless expressly authorized to do so.

3.3.4 Outside of a Council or committee meeting, a Member shall not communicate with a tenderer or proponent regarding the subject matter of the procurement.

3.4 Public Meetings

3.4.1 A Member must act with decorum at Council and Committee meetings and in accordance with District of Squamish Procedure Bylaw No. 2099, 2009, as amended or replaced from time to time.

3.5 Collection and Handling of Information

3.5.1 A Member must:

(a) comply with the provisions of the *Freedom of Information and Protection of Privacy Act* and the policies and guidelines as established by the District;

(b) comply with section 117 of the *Community Charter,* including by protecting, and not disclosing publicly, Confidential Information;
(c) only access information held by the District for District business, and not for personal purposes; and
(d) not alter District records unless expressly authorized to do so.

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 must regularly monitor their social media accounts and immediately take measures to deal with the publication of messages or postings by others that violate the provisions of this Bylaw.

3.6.3 For clarity, section 3.6 applies only to social media accounts in respect of which a Member has primary moderation control.

3.7 Conflict of Interest

3.7.1 A Member 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.

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 A Member 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 A Member 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 A Member must not intimidate, improperly influence, threaten, or coerce Staff.

3.9 Gifts and Personal Benefits

3.9.1 A Council Member must not accept a Gift or Personal Benefit, unless accepted in accordance with section 105 of the *Community Charter*.

3.9.2 A Council Member 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.*

3.9.3 Committee Members must comply with 3.9.1 and 3.9.2 as though they were Council Members.

3.10 Campaign Activities

3.10.1 A Council Member shall not use District facilities, equipment, supplies, services, or other resources of the District for any election-related activities.

3.10.2 A Member must not use the services of Staff for election-related purposes during the hours in which those Staff Members are in the paid employment of the District or paid by the use of District resources.

3.10.2 A Council Member shall comply with all applicable election legislation including, but without limitation, the *Local Government Act* and *Local Elections Campaign Financing Act*.

3.11 Business Relations

3.11.1 A Council Member who engages in another profession, business, or occupation concurrently while holding elected office shall not allow such activity to materially affect the Council Member's integrity, independence or competence.

PART 4 – COMPLAINT AND RESOLUTION PROCEDURES

4.1 Council Members

4.1.1 Confidential Requests

(a) If a Council Member, Committee Member, or Staff believes that they have been subject to conduct by a Council Member in breach of this Bylaw, that person may approach the CAO on a confidential basis, without the need to file a Complaint, to request that the CAO inform the Council Member of the alleged breach. Upon receipt of the confidential request, the CAO may attempt to address the conduct with the Council Member.

(b) The CAO must protect the confidentiality of a person making a request under 4.1.1(a) unless the person making the request consents in writing to disclosure.

4.1.2 Complaint Procedure

(a) A Member, Staff, or Volunteer may submit a Complaint to the CAO or, if the Complainant is the CAO or the Complaint involves or is about the CAO, then to the Corporate Officer.

(b) Upon receipt of a Complaint, the CAO (or Corporate Officer if the Complainant is the CAO or the Complaint involves or is about the CAO) shall retain an Investigator.

(c) A Complaint must be in writing and describe with sufficient detail:

i. the name of the Complainant;
ii. the name of the Respondent;
iii. the conduct that the Complainant alleges to have been breached;
iv. the date of the alleged conduct;
v. the parts of this Bylaw that the Complainant alleges have been breached; and
vi. the basis for the Complainant's knowledge about the conduct.

(d) A Complainant may specify in the Complaint if they are willing to participate in an informal resolution of the Complaint.

(e) The CAO (or Corporate Officer, if the CAO is the Complainant or the Complaint involves or is about the CAO) may accept a Complaint notwithstanding that the form of the Complaint does not comply with all of the requirements set out in Section 4.1.2 (c) if the circumstances warrant.

(f) The Investigator must not accept multiple Complaints concerning the same matter. In the event that the Investigator receives multiple Complaints concerning the same matter, the Investigator must proceed with the first Complaint accepted, but may expand the Complaint and/or add Complainants for the purpose of conducting the investigation and preparing the investigation report.

(g) The Investigator must reject a Complaint received more than 90 days after the Complainant knew, or reasonably ought to have known, of the alleged breach of this Bylaw. The Investigator is authorized to extend this 90 day deadline up to an additional 90 days if circumstances warrant an extension.

(h) The Investigator must reject a Complaint received regarding a Council Member seeking re-election in the period from the first day of the nomination period to the general voting day.

(i) In the 90 days prior to general voting day, the Investigator may suspend any investigation that is underway.

4.1.3 <u>Dismissal or Suspension of Complaint</u>

(a) If a Complaint is submitted that, on its face, is not made with respect to a breach of this Bylaw, or if a Complaint would be more appropriately addressed through another process, including if the Complaint is:

i. with respect to non-compliance with the *Freedom of Information and Protection of Privacy Act;*
ii. with respect to non-compliance with a more specific Council policy or bylaw with a separate Complaint procedure; or
iii. with respect to a matter that is subject to another outstanding process, such as a court proceeding or human rights complaint,

the Investigator may reject the Complaint, or part of the Complaint, and must notify the Complainant in writing that the Complaint is not within the jurisdiction of this Bylaw, or that the Complaint would be more appropriately addressed through another process, as the case may be, and set out any additional reasons and referrals the Investigator thinks appropriate.

(b) If the Investigator, at any stage in the Complaint procedure, determines that there are reasonable grounds to believe that there has been a contravention of the *Criminal Code* then the Investigator must immediately refer the matter to the appropriate authorities and suspend the investigation until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to Council.

(c) Where a Complaint is made against a Council Member who, during the course of the Complaint procedure, ceases to hold office, the Investigator may close the Complaint and notify the Complainant and Respondent of this decision.

4.1.4 Preliminary Assessment

(a) On receipt of a Complaint, the Investigator must conduct a preliminary assessment and if at that time, or any time thereafter, the Investigator is of the opinion that:

i. the Complaint is not with respect to a breach of this Bylaw;
ii. the Complaint is frivolous, vexatious, or not made in good faith;
iii. the investigation is or might be hampered, or the Council Member might be prejudiced, by the Complainant's failure to comply with Section 4.1.2(c), or otherwise cooperate with the investigation;
iv. the Complainant wishes to withdraw the Complaint, and it would be appropriate in the circumstances to allow the withdrawal; or
v. there are no grounds or insufficient grounds to conclude that a violation of this Bylaw has occurred,

the Investigator must notify the Complainant and the Respondent in writing that the Investigator is closing the Complaint, set out the reasons therefore, and close the Complaint.

(b) Notwithstanding Section 4.1.4 (a), the Investigator may request further information from the Complainant before determining whether or not there are sufficient grounds for believing that a breach of this Bylaw may have occurred.

4.1.5 Informal Resolution:

(a) 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 either attempt to resolve the Complaint directly or refer the Complaint to the CAO.

(b) In making a determination under subsection (a), the Investigator shall give a strong preference to the informal resolution process wherever possible.

(c) When determining whether the Complaint may be resolved informally, the Investigator may consider culturally appropriate, transformative or restorative justice approaches, and may engage a third party to assist the Investigator for this purpose.

(d) Where the Investigator refers the Complaint in accordance with Section 4.1.5(a) the CAO may agree to assist in resolving the Complaint directly, or may appoint at their discretion a third party to assist in resolving the Complaint.

(e) The third party assisting in the informal resolution of a Complaint will assess the suitability of the Complaint for settlement or resolution on an on-going basis and may decline to assist at any point.

(f) The Complainant, or the Respondent, can decline to participate in an informal resolution at any time.

(g) If a Complaint is resolved informally, the third party 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.

(h) If a Complaint cannot be resolved informally, the third party assisting in resolving the Complaint must refer the Complaint back to the Investigator for a formal investigation.

4.1.6 Formal Resolution:

(a) If a Complaint is not rejected, closed, or resolved informally, the Investigator must proceed with a formal investigation.

(b) The Investigator must deliver the Complaint to 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.

(c) The Investigator may deliver 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.

(d) The Investigator may:

i. speak to anyone relevant to the Complaint;
ii. request disclosure of documents relevant to the Complaint; or
iii. access any record in the possession or control of the District, except a record that is subject to solicitor-client privilege.

(e) The Investigator must ensure that the formal investigation complies with the rules of procedural fairness and natural justice required in the circumstances.

(f) Notwithstanding subsection (a) above, nothing prohibits the Investigator from summarily dismissing a Complaint where it becomes apparent, after some investigation, that the Complaint has no chance of success.

(g) If the Investigator summarily dismisses a Complaint in the Formal Resolution stage, the Investigator shall report to the Complainant and Respondent in the manner similar to that as set out in 4.1.4(a).

4.1.7 Adjudication and Reporting:

(a) The Investigator must make a decision within 90 days of making the determination to proceed with a formal investigation, unless the Investigator determines that doing so is not practicable, in which case the Investigator must notify the Complainant and Respondent of the delay and provide a revised decision date. The revised decision date may be extended by periods of up to 30 days on provision of written notice to the Complainant and the Respondent.

(b) A notification issued pursuant to sections 4.1.3(a), 4.1.3(b), 4.1.4(a), or subsection (a) is confidential and must not be disclosed except in the following circumstances:

i. to Council for the purpose of considering a resolution for reimbursement of legal fees pursuant to section 4.4.2; and
ii. the Respondent may disclose the fact that the Complaint has been closed, or that a finding has been made that the Respondent did not breach this Bylaw.

(c) If after reviewing all material information, the Investigator determines that the Respondent did not violate this Bylaw, then:

i. the Investigator must prepare a written investigation report providing reasons for their determination that the Council Member did not breach the Bylaw;
ii. the Investigator must deliver a copy of the investigation report to the Complainant, Respondent and Council; and
iii. the Investigator must make the investigation report or a summary publicly available on the next available Council agenda after delivery of the investigation report to the Complainant, Respondent and Council.

(d) If after reviewing all the material information, the Investigator determines that a Council Member did violate this Bylaw, then:

i. the Investigator must prepare a written investigation report providing reasons for their determination that the Council Member breached this Bylaw;
ii. the investigation report must make recommendations as to the appropriate sanction for the breach;
iii. if the Investigator determines the Council Member took all reasonable steps to prevent the breach, or that the breach was trivial or done inadvertently or because of an error in judgment made in good faith, the Investigator will so state in the investigation report and may recommend that no sanction be imposed;
iv. the Investigator must deliver, on a strictly confidential basis, a copy of the investigation report to the Respondent; and
v. the Investigator must deliver a copy of the investigation report to the Complainant and Council forty eight (48) hours after delivery of the investigation report to the Respondent.

(e) In all circumstances, the Investigator may choose to distribute the investigation report to Council through the Corporate Officer.

4.1.8 Final Determination by Council

(a) Council must, within 30 days of delivery of the investigation report pursuant to Section 4.1.7(d)(v), or a longer period if approved by a 2/3 vote of Council, decide on the appropriate measures, if any, that are warranted by the breach of this Bylaw, and will take such actions as Council considers appropriate in the circumstances.

(b) Prior to Council making any decision regarding the findings and recommendations set out in the investigation 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.

(c) While an investigation report provided to Council may be considered in a closed meeting for the purpose of receiving legal advice, or for another valid reason, when Council deliberates and votes on the investigation report, it will do so in a public meeting and the investigation report, or a summary, must be made available to the public in a form that complies with section 4.1.10(b).

(d) Notwithstanding subsection (c), Council may deliberate on and vote on a report in a closed meeting where there is a valid reason to close the meeting under section 90 of the *Community Charter.* For certainty, this means the investigative report or summary may not be publicly released.

4.1.9 Remedies

(a) Sanctions that may be imposed for a violation of this Bylaw include the following:

i. a letter of reprimand from Council addressed to the Council Member;

ii. a request from Council that the Council Member issue a letter of apology;
iii. the publication of the letters contemplated in subsections (i) and (ii), along with the Council Member's written response, if any;
iv. directions to the CAO regarding the provision of documents, including documents containing Confidential Information, to the Council Member;
v. a recommendation that the Council Member attend specific training or counselling;
vi. limitations on access to certain District facilities;
vii. suspension or removal of the Council Member from some or all Council committees and bodies to which the Council Member was appointed;
viii. prohibition from representing the District at events and/or attending conferences and seminars;
ix. suspension or removal of the appointment of a Council Member as the Acting Mayor;
x. public censure of a Council Member;
xi. any other sanction recommended by the Investigator, so long as that sanction is within the authority of Council.

(b) The Investigator may recommend that Council consider commencing an application for disqualification under section 111 of the *Community Charter* or for damages under section 117 of the *Community Charter,* as applicable.

4.1.10 <u>Report to be Public</u>

(a) Unless deliberations have, pursuant to section 4.1.8(d), taken place in a closed Council meeting, the District must, after delivering a copy of the investigation report to the Complainant and Council, make the investigation report, or a summary of the report, available to the public.

(b) In all circumstances, the District will ensure that the investigation report or a summary complies with the District's obligations regarding disclosure of personal information set out in the *Freedom of Information and Protection of Privacy Act,* and ensure that appropriate redactions are applied prior to any release to the public.

4.1.11 <u>Remuneration</u>

(a) Where the Investigator finds that a Council Member:

i. breached this Bylaw; or

ii. submitted a complaint that was frivolous, vexatious, or made in bad faith

the remuneration to which that Council Member would otherwise be entitled shall be reduced in accordance with the Remuneration and Expenses Bylaw No. 1503, 1997, as amended or replaced from time to time.

(b) Notwithstanding subsection (a)(i), the remuneration of a Council Member shall not be reduced if the Investigator makes a finding under section 4.1.7(d)(iii) that:

i. the Council Member took all reasonable steps to prevent the breach;

ii. the breach was trivial or inadvertent; or

iii. the breach was because of an error in judgment made in good faith.

4.1.12 Confidentiality of the Investigation

(a) The Investigator must make all reasonable efforts to investigate Complaints in confidence.

(b) The Investigator and every person acting under the Investigators' 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.

(c) An investigation report must only disclose such matters as, in the Investigator's opinion, are necessary for the purpose of the investigation report.

4.1.13 Interpretation

For clarity, and despite section 4.2, the procedure in section 4.1 is to apply to all allegations against Council Members including in their capacity as Committee Members.

4.2 Committee Members

4.2.1 A Complaint of an alleged breach of this Bylaw by a Committee Member shall be submitted simultaneously in writing addressed to both the Mayor and CAO and within 90 days of the last alleged breach.

4.2.2 A Complaint must comply with the standards set out at section 4.1.2.

4.2.3 The Mayor shall consider the Complaint and direct that any enquiries considered appropriate or desirable be undertaken, including a referral to the CAO or the Investigator. For certainty, if the Complaint is referred to the CAO or the Investigator, then the processes and procedures in section 4.1 of this Bylaw may be utilized to the extent deemed necessary and appropriate.

4.2.4 Nothing in this Code is intended to abrogate the power of the Mayor or Council, as applicable, to remove, at their pleasure and at any time, any Committee Member from any committee to which they have been appointed.

4.3 Reprisals and Obstruction

4.3.1 No Council Member, Committee Member, or Staff will threaten, interfere with, or otherwise obstruct the Investigator in relation to the Investigator carrying out the duties and responsibilities under this Bylaw.

4.3.2 No Council Member, Committee Member, or Staff will threaten or undertake any reprisal against a Complainant or against a person who provides information to the Investigator in the context of an investigation.

4.3.3 No Council Member, Committee Member, or Staff will tamper with or destroy documents or electronic records related to any matter under investigation under this Bylaw or refuse to respond to the Investigator when questioned regarding an investigation.

4.3.4 Any individual covered by this Bylaw who is found to have engaged in any reprisal or retaliation in violation of this Bylaw will be subject to appropriate disciplinary action, which action may include, and is not limited to, the sanctions and remedies described above or the termination of employment for just cause, as applicable.

4.4 Reimbursement of Costs

4.4.1 A Council Member may make a request to Council for reimbursement for the costs of legal advice and representation in responding to the formal complaint process outlined in this Bylaw. If appropriate after considering all circumstances, Council may resolve to reimburse legal fees reasonably incurred by a Council Member, provided that all of the following are met:

(a) it is the Council Member's first formal complaint process; and
(b) the amount does not exceed $10,000.

4.4.2 For clarity, the provisions of the Indemnification Bylaw No. 2373, 2015, as replaced or amended from time to time, do not apply to requests for reimbursement under this Bylaw.

4.5 Vexatious Allegations and Complaints

4.5.1 Any individual covered by this Bylaw 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, which action may include, but is not limited to:

(a) in the case of Council Members, sanctions and remedies described in Section 4.1.9;
(b) in the case of Committee Members, termination of the Committee Member's appointment;
(c) in the case of Staff, disciplinary action or the termination of employment for just cause, as applicable.

PART 5 – APPOINTMENT OF INVESTIGATOR

5.1 Appointment of Investigator

5.1.1 The CAO shall, upon receipt of a Complaint, appoint an Investigator to fulfill the duties and responsibilities described in section 5.2.

5.2 Duties and Responsibilities

5.2.1 The duties and responsibilities of the Investigator are as follows:

(a) to assist with informal resolution of a confidential request or Complaint;

(b) to receive and assess a Complaint to determine if the Complaint must be rejected, closed, resolved or investigated;

(c) to investigate and conduct inquiries as to alleged violations of this Bylaw;

(d) to report to Council as to whether a Member has breached this Bylaw; and

(e) to make recommendations on an appropriate remedy, if the Investigator determines that a Member has breached this Bylaw.

5.2.2 The Investigator must perform the duties and responsibilities under this Bylaw in an independent manner.

5.2.3 An Investigator may only be dismissed for cause.

PART 6 – ENACTMENT

6.1 Effective Date

This bylaw comes into force and effect on adoption.

READ A FIRST, SECOND and THIRD time this 12 day of July, 2022.

ADOPTED this 19 day of July, 2022.

Karen Elliott, Mayor

Robin Arthurs, Corporate Officer