

**COUNCIL POLICY
 STANDARDS OF CONDUCT**

Last Updated: June 6, 2018

Policy Category: Administration

Approved By: Council

CONTENTS

PREAMBLE FOR COUNCIL2

PURPOSE2

SCOPE2

STATUTORY PROVISIONS2

DEFINITIONS3

INTERPRETATION4

POLICY STATEMENTS.....4

 1. Foundational Principles4

 2. General Conduct5

 3. Roles and Responsibilities6

 4. Collection and Handling of Information6

 5. Conflict of Interest7

 6. Interactions with Staff7

 7. Use of Social Media8

 8. Interactions with the Public and Media9

 9. Gifts and Personal Benefits.....9

 10. Breaches, Complaint Handling and Disciplinary Action 10

PREAMBLE FOR COUNCIL

Being a Member of Council answerable to the public, comes with standards of ethical behaviour that are different than the standards that may be found in one's other roles in the community. This Standards of Conduct policy is a guide to assist Council in decisions faced in the course of carrying out Council duties and to support them in being proactive toward ethical dilemmas that may arise in the course of Council activities.

This policy does not cover every possible situation Council may face so it is important that actions are in harmony with the spirit and intent of these Standards of Conduct.

PURPOSE

To set the expectation that District of North Cowichan ("District") Council and Committee Members adhere to these Standards of Conduct in carrying out their duties and functions.

SCOPE

This policy applies to District Council and Committee Members. This Standards of Conduct applies to all interactions of Council and Committee Members in relation to District matters whether in duly constituted meetings, interactions with Staff or the public and during their use of social media.

STATUTORY PROVISIONS

The Standards of Conduct policy is a supplement to the existing statutes, laws and policies governing the conduct of Council and Committee Members including but not limited to:

- *The British Columbia Human Rights Code;*
- *The British Columbia Community Charter;*
- *The British Columbia Local Government Act;*
- *The British Columbia Local Elections Campaign Finance Act;*
- *The Worker's Compensation Act of British Columbia;*
- *The Freedom of Information and Protection of Privacy Act;*
- *The District's Respectful Workplace Policy; and,*
- *The Criminal Code of Canada.*

Council and Committee Members must familiarize themselves with, and recognize that their behaviour is governed by, these statutes, laws and policies.

Provincial legislation and other statutory obligations supersede this Council policy.

DEFINITIONS

Committee Member	A person appointed to a District committee, subcommittee, task force, commission, board, or other Council established body under the <i>Community Charter</i> or <i>Local Government Act</i> .
Confidential Information	Information or records that could reasonably harm the interests of individuals or organizations, including the District, if disclosed to persons who are not authorized to access the information, as well as information to which section 117 of the <i>Community Charter</i> applies. For clarity, this includes all information and records from closed meetings of Council until publicly released.
Conflict of Interest	A conflict of interest exists when an individual is, or could be, influenced, by a personal interest, financial or otherwise, when carrying out their public duty. Personal interest can include direct or indirect financial interest, bias, pre-judgment, close-mindedness or undue influence.
Council	The Mayor and Councillors.
Gifts and Personal Benefits	Gifts and personal benefits are items or services of value that are received by Council and Committee Members for personal use. These would include, but are not limited to, cash, gift cards, tickets to events, items of clothing, jewellery, pens, food or beverages, discounts or rebates on purchases, free or subsidized drinks or meals, entertainment and admission fees to social functions.
Immediate Relative	A spouse (including common-law spouse), parent, parent-in-law, child, brother, sister, brother-in-law or sister-in-law, grandparent, grandparent-in-law or grandchild.
Municipal Officer	A member of Staff designated as an officer under section 146 of the <i>Community Charter</i> .
Personal Information	As defined in the <i>Freedom of Information and Protection of Privacy Act</i> .
Staff	An employee or contractor of the District. For the purposes of this policy, volunteers are also defined as Staff. Council are not Staff of the District.

INTERPRETATION

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.

POLICY STATEMENTS

1. Foundational Principles

These foundational principles provide a basis for how Council and Committee Members fulfill their roles and responsibilities, including in their relationships with each other, Staff and with the public.

1.1 Integrity: being honest and demonstrating strong ethical principles.

Council and Committee Members are expected to act with **integrity** by:

- (a) Behaving in a manner that promotes public confidence in the District, including actively avoiding any perceptions of Conflicts of interest, improper use of office or unethical conduct.
- (b) Being truthful, honest and open in all dealings.
- (c) Upholding the public interest and making decisions in the best interests of the community.
- (d) Following through on commitments, engaging in positive communication with the community and correcting errors in a timely and transparent manner.
- (e) Acting lawfully and within the authority of the *Community Charter, Local Government Act, Workers Compensation Act of B.C. and B.C. Human Rights Code*.

1.2 Accountability: an obligation and willingness to accept responsibility or to account for one's actions.

Council and Committee Members are expected to act with **accountability** by:

- (a) Being transparent in how they individually and collectively conduct business and carry out their duties.
- (b) Ensuring information is accessible, and that citizens can view the process and rationale behind each decision and action, while protecting confidentiality where appropriate or necessary.
- (c) Accepting and upholding that they are collectively accountable for local government decisions, and that individually elected or appointed officials are responsible and accountable for the decisions they make in fulfilling their roles.
- (d) Listening to and considering the opinions and needs of the community in all decision making, and allowing for respectful discourse and feedback.

1.3 Respect: having due regard for others' perspectives, wishes and rights; displaying deference to the offices of local government, and the role of local government in community decision-making.

Council and Committee Members are expected to act with **respect** by:

- (a) Treating every person, including other Council or Committee Members, Staff and the public with dignity.
- (b) Showing consideration for colleagues and Staff.
- (c) Creating an environment of trust, including displaying awareness and sensitivity around comments and language that may be perceived as derogatory.
- (d) Valuing the role of diverse perspectives and debate in decision making.
- (e) Acting in a way that is respectful of the roles and responsibilities of the office of Mayor and Council.
- (f) Valuing the distinct roles and responsibilities of local government Staff and the community in local government considerations and operations, and committing to fostering a positive working relationship between Staff, the public and elected officials.

1.4 Leadership and Collaboration: an ability to lead, listen to, and positively influence others; coming together to create or meet a common goal through collective efforts.

Council and Committee Members are expected to demonstrate **leadership and collaboration** by:

- (a) Demonstrating behaviour that builds and inspires public trust and confidence in local government.
- (b) Calmly facing challenges and providing considered direction of the issues of the day, and enabling colleagues and Staff to do the same.
- (c) Creating space for open expression by others, taking responsibility for one's own actions and reactions and accepting the decisions of the majority.
- (d) Accepting that it is the equal responsibility of the Council individually and collectively to work together to achieve common goals. Committee Members must also work together individually and collectively to achieve common goals.
- (e) Being an active participant in ensuring these Foundational Principles and the Standards of Conduct are followed.

2. General Conduct

- 2.1 Council and Committee Members must adhere to the Foundational Principles and the provisions of this Standards of Conduct policy.
- 2.2 Council and Committee Members have an obligation to consider issues and exercise powers, duties and functions in an impartial manner that avoids arbitrary and unreasonable decisions.

- 2.3 Council and Committee Members must avoid behaviour that could constitute an act of disorder or misbehaviour. Specifically, Council and Committee Members must avoid conduct that:
- Contravenes this policy;
 - Contravenes the law including District bylaws; or
 - Is an abuse of power or otherwise amounts to improper discrimination, intimidation, harassment or verbal abuse of others.

3. Roles and Responsibilities

- 3.1 Council is the governing body of the District. It has the responsibility to govern the District in accordance with the *Community Charter* and other applicable legislation.
- 3.2 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 the *Community Charter*.

4. Collection and Handling of Information

- 4.1 Council and Committee Members must:
- (a) Collect, use and disclose personal information in accordance with the *Freedom of Information and Protection of Privacy Act* and the policies and guidelines as established by the District;
 - (b) Protect and not disclose publicly Confidential Information;
 - (c) Refrain from discussing or disclosing Confidential Information with Staff, or with persons outside the organization except as authorized;
 - (d) Take reasonable care to prevent the examination of Confidential Information by unauthorized individuals;
 - (e) Not use Confidential Information to cause harm to Council, the District, or any other person;
 - (f) Only access information held by the District needed for District business;
 - (g) Not disclose decisions, resolutions or reports forming part of the Council agenda for or from a closed meeting of Council until a corporate decision has been made for the information to become public;
 - (h) Not disclose details on Council's closed meeting deliberations or specific detail on whether individual Councillors voted for or against an issue;
 - (i) Not alter District records unless expressly authorized to do so; and,
 - (j) Adhere to the requirements outlined in this Section when they are no longer a Council or Committee Member.

5. Conflict of Interest

- 5.1 Conflict of Interest is dealt with under sections 100, 101 and 104 of the *Community Charter*. Ultimately, the interpretation of these sections is a matter for the courts. This Standard of Conduct policy is intended to provide additional guidance to Council and Committee Members.
- 5.2 Council and Committee Members 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.
- 5.3 Council and Committee Members must attempt to resolve any conflict or incompatibility between their personal interests and the impartial performance of their duties. Council Members must ensure they are observing the statutory requirements of the *Community Charter*.
- 5.4 Council and Committee Members are expected to be aware of appearances and strive to conduct themselves in a manner that upholds or increases the public trust by taking steps to reduce or eliminate the possible appearance of a conflict of interest.
- 5.5 Council and Committee Members should not seek or accept the Chair of a Committee or sub-committee whose business is related to an interest of the Council or Committee Member or with an Immediate Relative.

6. Interactions with Staff

- 6.1 Council and Committee Members are only to contact Staff (including Municipal Officers), according to the procedures authorized by Council and the District's Chief Administrative Officer regarding the interaction of Council and Committee Members and Staff.
- 6.2 Council and Committee Members are to direct inquiries regarding departmental issues or questions to the District's Chief Administrative Officer or the department head (Director) of the appropriate department and refrain from contacting Staff directly unless the communication is minor and of a day-to-day operational nature.
- 6.3 Advice to Council and Committees from Staff will be vetted and approved by the Chief Administrative Officer.
- 6.4 Council and Committee Members are not to issue instructions to any of the District's contractors, tenderers, consultants or other service providers unless expressly authorized to do so.

- 6.5 Council and Committee Members must not publish or report information or make statements attacking or reflecting negatively on Staff, Council or Committee Members. Any complaint should be brought to the attention of the Chief Administrative Officer for follow up.
- 6.6 Information obtained by any Member of Council, which is likely to be used in a Council or political debate, should be provided to all other Council Members, and to the Chief Administrative Officer as soon as possible.
- 6.7 Council and Committee Members must treat members of the public, Council, Committee Members and Staff with respect and without bullying, abuse or intimidation.

7. Use of Social Media

- 7.1 Council or Committee Members must not purport to speak on behalf of the District or Council unless expressly authorized to do so.
- 7.2 Council and Committee Members will use caution in reporting Council decision-making by way of their social media profiles and websites before the District has released any formal communication.
- 7.3 When speaking for themselves as individual Councillors or Committee Members on social media or to the press, a Councillor or Committee Member will include “in my opinion” or use a similar disclaimer to ensure it is expressly clear they are speaking for themselves and not the District or Council as a whole.
- 7.4 Council and Committee Members will refrain from using or permitting the use of their social media accounts for purposes that include:
 - (a) defamatory remarks, obscenities, profane language or sexual content;
 - (b) negative statements disparaging Staff or calling into question the professional capabilities of Staff;
 - (c) 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;
 - (d) statements that indicate a closed-mind in relation to a matter that is to be the subject of a statutory or other public hearing; or,
 - (e) promotion of illegal activity.
- 7.5 Council and Committee 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 terms of these Standards of Conduct.

8. Interactions with the Public and Media

- 8.1 In an effort to promote respect and integrity for Council decision-making, Council and Committee Members will communicate accurately the decisions of the Council, even if they disagree with the majority decision of the Council or Committee.
- 8.2 When discussing publicly whether a Councillor or Committee Member did not support a decision, or voted against the decision, or that another Council or Committee Member did not support a decision or voted against a decision, a Council or Committee Member will refrain from making disparaging comments about other Council or Committee Members.

9. Gifts and Personal Benefits

- 9.1 For Council, the receipt and reporting of gifts and personal benefits is dealt with under sections 105 and 106 of the *Community Charter*. Ultimately, the interpretation of those sections is a matter for the courts. This Standards of Conduct policy is intended to provide additional guidance to Council and Committee Members.
- 9.2 Council and Committee Members must not accept a gift or personal benefit that could reasonably be expected to result in a real or perceived conflict of interest, and to assist in avoiding that situation, Council and Committee Members will not accept gifts or personal benefits from business or commercial enterprises having a value that exceeds \$50.00 or, where the total value of such gifts and benefits, received directly or indirectly from one source in any twelve (12) month period, would exceed \$250.00.
- 9.3 For clarity, the following are not considered gifts or personal benefits:
 - (a) Compensation authorized under section 105(2)(b) of the *Community Charter*;
 - (b) Reimbursement for out of pocket costs incurred for authorized travel, living and accommodation expenses associated with attendance at an event or in connection with authorized travel;
 - (c) A lawful contribution made to a Council Member who is a candidate for election conducted under the *Local Government Act*; and
 - (d) A random draw prize at an event attended by a Council or Committee Member.
- 9.4 Council and Committee Members must disclose to the Corporate Officer any gifts or personal benefits accepted in compliance with Section 9.2 of this policy.
- 9.5 The content of the disclosure must comply with section 106(2) of the *Community Charter* and the Corporate Officer must be notified "as soon as reasonably practicable".

- 9.6 For the purposes of this Standards of Conduct, the value of each gift or personal benefit shall be determined by its replacement cost, i.e. how much would it cost to replace the item?

10. Breaches, Complaint Handling and Disciplinary Action

- 10.1 Council and Committee Members must abide by the requirements of the Standards of Conduct policy and shall endeavour to resolve disputes in good faith, recognizing that interpersonal rancour does not facilitate good governance.
- 10.2 An alleged breach of this Standard of Conduct policy may be submitted by a Council or Committee Member or Staff. Complaints shall be submitted simultaneously in writing to the Mayor and the Chief Administrative Officer within six (6) months of the last alleged breach. The Mayor and Chief Administrative Officer are authorized to extend this six (6) month deadline if circumstances warrant an extension.
- 10.3 In the event that the Mayor is the subject of, or is implicated in the complaint, the complaint shall be addressed to the current Acting Mayor and Chief Administrative Officer unless that individual is the subject of, or implicated in the complaint.
- 10.4 Upon receipt of a complaint under section 10.2, the Mayor, or Acting Mayor, and the Chief Administrative Officer shall, if they are not able to resolve the matter informally, within thirty (30) days, appoint an independent third party identified and agreed between the Complainant(s) and Respondent(s) who has the necessary professional skills, knowledge and experience to investigate the complaint (the "Third Party Investigator").
- 10.5 If the parties cannot agree on the choice of investigator, a single nominee of the Complainant(s) and the Respondent(s) shall jointly select a suitable Third Party Investigator. If this nominee cannot select the Third Party Inspector, the District's solicitor will select this person.
- 10.6 The Third Party Investigator must conduct a preliminary assessment of the complaint, at the conclusion of which the investigator may determine whether to continue the investigation or make a written recommendation that the complaint be dismissed as unfounded, beyond the jurisdiction of the Standards of Conduct policy or unlikely to succeed.
- 10.7 If the Third Party Investigator determines to continue the investigation, the Third Party Investigator shall:

- (a) Conduct an independent and impartial investigation of the complaint in a manner that is fair, timely, confidential and otherwise accords with the principles of due process and natural justice;
- (b) Provide an investigation update within ninety (90) days of their appointment to the Mayor or Acting Mayor, as applicable, and to the Complainant and the Respondent;
- (c) Provide a written, confidential report (the "Report") of the findings of the investigation, including findings as to whether there has been a breach of this Standards of Conduct, to the Mayor or Acting Mayor, as applicable, and to the Complainant and the Respondent; and,
- (d) Provide recommendations in the Report as to the appropriate resolution of the complaint. Recommendations may include:
 - i. dismissal of the complaint;
 - ii. censure;
 - iii. removal from committee membership;
 - iv. prohibition from representing the District at events and/or attending conferences or seminars;
 - v. reduction in compensation in accordance with the Council Remuneration By-Law;
 - vi. a recommendation that an apology be given;
 - vii. counselling and/or coaching; or,
 - viii. such other recommendations as are deemed appropriate in the judgment of the Third Party Investigator.

10.8 The Mayor or Acting Mayor shall provide the Report or a summary of the Report to Council.

10.9 If a Report or a summary of a Report is presented to Council, Council will decide whether the recommendations in the Report, whether in whole or part, will be imposed.

10.11 The Director of Human Resources will receive and retain all Reports.

10.12 Where a Council or Committee Member alleges a breach of this Standards of Conduct by another Council or Committee Member all Council and Committee Members shall refrain from commenting on such allegations at open meetings of Council, or Committees, pending the conclusion of the Report and any decision of Council on the Report.