

Policy Title: Board Code of Conduct		Policy Number: P78
Policy Category: Administration		
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Approved by: CVRD Board		File Reference: 0340-50

PREAMBLE

1. As local elected representatives the Board recognizes that responsible conduct is essential to providing good governance for the Comox Valley Regional District.
2. Board members are required to conduct themselves to the highest ethical standards by being an active participant in ensuring that the foundational principles, and the standards of conduct set out below, are followed in all dealings with every person, including those with other members, staff, and the public.

PRINCIPLES

3. The Board recognizes that responsible conduct is based on the foundational principles of integrity, accountability, leadership, responsibility, respect, openness and collaboration.
 - Integrity – Board members must carry out their responsibilities to the highest standard of integrity and are expected to:
 - make decisions that benefit the community;
 - act lawfully and within the authorities of the Comox Valley Regional District;
 - 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.
 - Accountability – Board members are obligated to answer for a responsibility that has been entrusted to them. They are responsible for the decisions they make.
 - Leadership – Board members must demonstrate and promote the key principles of the Code of Conduct through their decisions, actions and behaviour. Their behaviour must build and inspire the public's trust and confidence in the Regional District.
 - Responsibility – Board members must act responsibly, within the law and within the authorities of the *Local Government Act*. They must follow the letter and spirit of policies and procedures, and exercise all conferred power strictly for the purpose for which the powers have been conferred.
 - Respect – Board members must conduct public business efficiently, with decorum and with proper attention to the Comox Valley Regional District's diversity. They must treat each other and others with respect at all times. This means not using derogatory

language towards others, respecting the rights of other people, treating people with courtesy and recognizing the different roles others play in local government decision making;

- Openness – Board members have a duty to be as open as possible about their decisions and actions while respecting the need to keep confidential matters confidential; and
- Collaboration – The social fabric of communities and the health and wellbeing of citizens depend on solid and sustainable community partnerships. Board members shall seek to collaborate whenever possible and appropriate and shall utilize this principle to guide their work and conduct.

PURPOSE

4. The purpose of this Policy is to:
 - i. establish standards for the ethical conduct of elected officials relating to their roles and obligations as representatives of the Comox Valley Regional District; and
 - ii. provide clarity to the public as to the behaviour they can expect from CVRD elected officials.

SCOPE

5. All elected and appointed CVRD Directors, Alternate Directors and the Chief Administrative Officer.

DEFINITIONS

Board members: all Directors and Alternate Directors of the Comox Valley Regional District

CAO: Means the Chief Administrative Officer for the Comox Valley Regional District.

Commissioner: Means the person appointed as the Ethics Commissioner by the Board to fulfill the duties and responsibilities assigned to that position as set out in this Policy or an ad hoc Commissioner appointed by the CAO to administer this Policy in respect of an individual complaint.

POLICY

General Conduct

6. All Board members must adhere to the key principles and provisions of the Code of Conduct.
7. Board members must act lawfully and within the authorities of the Local Government Act and Community Charter, and exercise a reasonable degree of care and diligence in carrying

out their functions.

8. Board members have an obligation to consider issues consistently and fairly.
9. Board members must avoid behaviour that could constitute an act of disorder or misbehaviour. Specifically, Board members must avoid conduct that:
 - (1) Contravenes the law, including the BC Human Rights Code, the Local Government Act, the Community Charter, CVRD Bylaws, associated regulations, and CVRD Policies;
 - (2) Is an abuse of power or otherwise amounts to discrimination, intimidation, harassment, verbal abuse, or the adverse treatment of others;
 - (3) Prejudices the provision of a service or services to the community.
10. Board members are obliged to question any request to act or make a decision that they think may be unethical or unlawful.

Conflict of Interest

11. Board 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.
12. Board members must appropriately resolve any conflict or incompatibility between their personal interests and the impartial performance of their duties in accordance with statutory requirements of the Community Charter.

Meetings

13. Members will recognize the importance of the role of the chair of meetings, and treat that person with respect at all times.
14. Board members shall prepare themselves for meetings, listen courteously and attentively to all discussions before the body, and focus on the issues and the facts.
15. The diverse perspectives of each director, as they reflect the interests of their own communities, will be respected.
16. When making decisions, Board members must consider all relevant facts, opinions and analyses of which they should be reasonably aware.
17. Strong disagreements and conflicts will be seen as a natural part of board and committee work. Such disagreements will not be taken personally, nor made personal.

18. Board members can expect courteous behaviour from each other. Directors 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 Board.
19. Board members, when speaking publicly and at board and committee meetings, will avoid inflammatory language. They are expected to speak in an objective manner.

Policy Role of the Board

20. Members shall respect and adhere to the Board-CAO structure of government as practiced at the Comox Valley Regional District. In this structure, the Board determines the policies of the CVRD with the advice, information and analysis provided by the public, committees, and CVRD staff. Members, therefore, shall not interfere with the administrative functions of the CVRD or with the professional duties of staff; nor shall they impair the ability of staff to implement Board policy decisions.

Use of Public Resources

21. Members shall not use public resources, which are not available to the public in general, such as staff time, equipment, supplies or facilities, for private gain or personal purposes.

Communication and Media Relations

22. The Regional District Board Chair is the spokesperson for the Regional District on Board matters.
23. Board members will accurately communicate the decisions of the Board, even if they disagree with the majority decision of the Board. Board members will refrain from making disparaging comments about other Directors, the Board's decision itself or individual staff and by doing so will affirm the respect for and integrity of the decision making process of the Regional District Board.

Gifts and Personal Benefits

24. Board members shall not accept any money, property, position or favour of any kind whether to be received at the present or in the future, from a person having, or seeking to have dealings with the CVRD, save for appropriate refreshments or meals, except where such a gift or favour is authorized by law, or where such gifts or favours are received as an incident of the protocol, social obligation or common business hospitality that accompany the duties and responsibilities of the member.

Informal Complaint Procedure

25. If disputes arise under this Policy, Board members shall endeavour to resolve them promptly and in good faith.
26. Any Board member or member of staff who considers that they have been subjected to or has identified or witnessed behavior or an activity by a Board member that they believe, in good faith, is in contravention of this Policy may address the prohibited conduct by:
 - (1) advising the Board member that the conduct violates this Policy and request that the contravention cease immediately; or
 - (2) requesting the CAO and Board Chair to assist in discussion of the alleged complaint with the Board member in an attempt to resolve the matter.
27. Where appropriate, the informal complaint process described in section 26 is encouraged as the first means of remedying conduct that may be violation this Policy, however, it is not a prerequisite to pursuing a formal complaint.

Formal Complaint Procedure

28. Any Board member or member of staff who considers that they have been subjected to or has identified or witnessed behavior or an activity by a Board member that they believe, in good faith, is in contravention of this Policy may file a formal complaint and seek resolution in accordance with the following procedure:
 - (1) All complaints must be delivered in writing to the CAO, be dated and signed and contain the particulars of the complaint, including the date on which the conduct that is the subject of the complaint occurred and the part or parts of this Policy that the complainant alleges has or have been breached;
 - (2) The CAO must not accept multiple complaints concerning the same matter. In the event that the CAO receives multiple complaints concerning the same matter, the CAO must proceed with the first complaint accepted, but may expand the complaint and/or add complainants for the purpose of seeking resolution of the complaint and where required, the conduct of the preliminary assessment and formal investigation by the Commissioner.
 - (3) Upon receipt of a complaint the CAO shall inform the respondent, share a copy of the complaint and request a written response within 10 days to assist in the initial review of the complaint.
 - (4) The CAO and the Chair shall review the material information provided and meet with the complainant and the respondent to seek resolution of the complaint. Where appropriate, the CAO or the Chair may engage the Commissioner or appoint another third party to assist in resolving the complaint or at their discretion.
 - (5) If the complaint cannot be resolved, the Commissioner shall conduct a preliminary assessment;

- (6) As part of the preliminary assessment of the matter the Commissioner may request further information from the complainant and respondent.
- (7) Based on the preliminary assessment the Commissioner must determine whether the complaint should be pursued further through a formal investigation. The following are some of the potential reasons why a complaint may not be pursued:
 - (a) the allegations are not within jurisdiction of the Policy;
 - (b) the complaint is deemed to be frivolous or vexatious or not made in good faith;
 - (c) the complaint would be more appropriately addressed through another process;
 - (d) there is insufficient evidence or information for concluding that a violation of this Policy has occurred;
 - (e) an extensive delay or unreasonable delay (i.e. more than six months) has occurred;
- (8) If a complaint is not rejected or closed the Commissioner must proceed with a formal investigation.
- (9) The Commissioner must notify the complainant, the respondent and the Chair and CAO in writing of the findings of the preliminary assessment and set out the reasons therefore.
- (10) If a formal investigation is determined appropriate, the Commissioner shall take all such steps as may be considered appropriate, including:
 - (a) speaking to anyone relevant to the complaint;
 - (b) seeking legal advice;
 - (c) requesting disclosure of documents relevant to the complaint; or
 - (d) accessing any record in the possession or control of the CVRD, except a record that is subject to privilege.
- (11) All proceedings of the investigation shall be confidential and comply with the rules of procedural fairness and natural justice required in the circumstances.
- (12) Within 30 days of making a decision to proceed with a formal investigation, the Commissioner shall provide the complainant, respondent and the Board a written report containing the results of the investigation and a determination of whether a contravention occurred. The report may also include considerations respecting the imposition of a sanction if contravention has been found;
- (13) A Board member who is the subject of an investigation shall be afforded an opportunity to respond to the allegations at the time of receipt by the Board of the Commissioner's report and is entitled to be represented by legal counsel;
- (14) The Commissioner's report provided to the Board may be considered in a closed meeting for the purpose of receiving legal advice, or other valid reason, however, when the Board deliberates and votes on the investigation report, it will do so in a public meeting and the investigation report must be made available to the public.
- (15) The Commissioner must ensure that the investigation report as drafted complies with the CVRD's obligations regarding disclosure of personal information

set out in the Freedom of Information and Protection of Privacy Act, or ensure that appropriate redactions are applied prior to release to the public.

29. For clarity, if the CAO or the Commissioner, 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*, the CAO or Commissioner must immediately refer the matter to the appropriate authorities and suspend the complaint process until any resulting police investigation and charge have been finally disposed of.
30. In the event that Board Chair or CAO is a direct party to a complaint under this Policy, they shall remove themselves from any role other than that of complainant or responder. In cases involving the CAO, all references to CAO contained within this Policy shall be deemed to be the Deputy CAO. In the case of a complaint against the Chair, all references to Chair contained within this Policy shall be deemed to be the Vice-Chair.
31. Nothing in this Policy precludes the complainant from taking measures that the complainant is entitled to take under law, including but not limited to filing a human rights complaint, a grievance or other applicable process under a collective agreement, a complaint with WorkSafe BC, or other proceedings, as applicable.

Election Period

32. Any formal complaint against a Board member received after August 1 in a general election year shall be held in abeyance until the new Board has been sworn in following the election. If the respondent is not re-elected in that election, the CAO must notify the complainant and respondent in writing that the complaint is closed on this basis.

Remedies

33. The Board shall decide on which appropriate measures, if any, are warranted by a contravention of this Policy. In determining the appropriate measure, the Board shall consider the following factors:
 - (a) the degree and nature of the conduct;
 - (b) whether the contravention was a single or repeated act;
 - (c) whether the Board member was told that the conduct was unwelcome or offensive, and nonetheless continued the conduct;
 - (d) the nature of the work relationship of the complainant and the respondent, and whether the Board member was in a position of authority over the complainant, such that the degree and nature of the conduct was thereby exacerbated by an abuse of power;
 - (e) the impact of the contravention on the complainant;
 - (f) the Board member's acknowledgment of wrongdoing; and
 - (g) the Board member's history of other contraventions.

34. After considering the prescribed factors and upon the finding that the Board member has breached this Policy, the Board may impose sanctions including the following:
- (a) letter of reprimand addressed to the Member;
 - (b) motion of censure;
 - (c) a request that the Member issue a letter of apology;
 - (d) publication of a letter of reprimand or request for apology and the elected official's response;
 - (e) recommendation to attend training;
 - (f) suspension or removal from some or all internal and external Board committees and bodies to which the Board has the right to appoint members;
 - (g) restricting the Member from attending events as a representative of the Board;
 - (h) imposing further limits on Board-related travel or expenses beyond those set out in CVRD bylaws or policies;
 - (i) requiring the return of regional district property provided for convenience;
 - (j) limiting access to certain regional district facilities;
 - (k) restricting how documents are provided to the member;
 - (l) referral to a prosecutor or police; and
 - (m) any other sanction the Board deems reasonable and appropriate in the circumstances, provided that the sanction does not prevent a Board member from fulfilling the legislated duties of an elected official and the sanction is not contrary to provincial legislation.
35. For clarity, failure or refusal to comply with a Board imposed sanction(s) shall be considered a contravention of this Policy.

Reprisals and Obstruction

36. No Board Member or staff will threaten or undertake any active reprisal against a complainant or against a person who provides information in the context of an investigation under this policy.
37. No Board Member or staff will tamper with or destroy documents or electronic records related to any matter under investigation under this Policy or refuse to respond to the Commissioner when questioned regarding an investigation.
38. Any individual covered by this Policy who is found to have engaged in any reprisal or retaliation in violation of this Policy will be subject to appropriate disciplinary action, which action may include, and is not limited to, the sanctions and remedies described above, or in the case of staff, disciplinary action up to and including the termination of employment for just cause, as applicable.

Reimbursement of Costs

39. For clarity, actions by Board Members as outlined in Bylaw No. 237 being “Comox Valley Regional District Elected Officials, Directors, Officers and Employees Indemnification Bylaw No. 237”, as replaced or amended from time to time, do not apply to this policy.
40. A Board Member may make a request to the Board for reimbursement for the costs of legal advice and representation in responding to the formal complaint process outlined in this Policy. If appropriate after considering all circumstances, the Board may resolve to reimburse legal fees reasonably incurred by a Board Member, provided that all of the following are met:
- (a) the Commissioner ultimately does not determine that the Board member acted with dishonesty, gross negligence, or malicious or willful misconduct;
 - (b) it is the Board member’s first formal complaint process within a given four-year term of office; and
 - (c) such legal costs do not exceed \$10,000.

Vexatious Allegations and Complaints

41. Any individual covered by this Policy who makes an allegation or complaint under this Policy 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 Board Members, sanctions and remedies described in Section 34.
 - (b) in the case of staff, the termination of employment for just cause, as applicable.

ROLES AND RESPONSIBILITIES

Implementation and Review

42. The Board Code of Conduct is intended to be self-enforcing. Members should view the Code as a set of guidelines that express collectively the standards of conduct expected of them. It, therefore, becomes most effective when Members are thoroughly familiar with the Code and embrace its provisions. For this reason, the Code of Conduct shall be reviewed on an annual basis at the inaugural meeting or at another duly convened meeting at the discretion of the Board Chair. The Code of Conduct shall also be reviewed in detail at orientation sessions for new and returning directors following each general local election.

REVISION HISTORY

Approval Date	Approved By	Description of Change
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January 24, 2023	Board	Inclusion of complaints and enforcement process