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| Policy Title: Board Code of Conduct | | Policy Number: P78 |
| Policy Category: Administration | | |
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PREAMBLE

1. As local elected representatives, the Board recognizes that responsible conduct is essential to providing good governance for the Comox Valley Regional District. This Policy sets out the rules that Board members must follow in fulfilling their duties and responsibilities as elected officials.
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 Board members, staff, and the public.

PART I – GENERAL

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; and
 - be free from undue influence and not act, or appear to act, in order to gain financial or other benefits for themselves, family, friends or business interests.

- Accountability – Board members are trusted to act responsibly and must be held accountable 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, in particular, within the authorities of the *Local Government Act* and the *Community Charter*. They must follow the letter and spirit of policies and procedures, and exercise all conferred power only 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 confidences where required.
- 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.

Purpose & Interpretation

4. The purpose of this Policy is not to stifle Board members or to limit their ability to fully perform the governmental and advocacy functions that their position entails, with all the vigour, flair and freedom that is typical of a well-functioning democratic institution, but instead to:

- (a) establish standards for the ethical conduct of Board members relating to their roles and obligations as representatives of the Comox Valley Regional District;
 - (b) guide Board members to undertake those functions in a manner that accords with sound ethical principles;
 - (c) provide clarity to the public as to the behaviour they can expect from Board members; and
 - (d) set out the process and procedures for making, investigating and resolving complaints.
5. The foundational principles set out above in section 3 are to inform the interpretation of the substantive provisions of this Policy and are not stand-alone bases for complaints.
6. The provisions of this Policy are to be interpreted broadly and in a manner that is consistent with the *Community Charter*.
7. Nothing in this Policy is intended to preclude Board members, prior to the filing of a complaint, from speaking to each other in order to resolve matters which may otherwise be captured by this Policy.

Scope

8. This Policy applies to all Board members, inclusive of their actions in their capacity as members of Regional District boards, committees and other discretionary appointments.
9. For clarity, the provisions of this Code apply without limitation to a Board members' use of personal and professional social media accounts.

Definitions

10. In this Policy:

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

CAO means the Chief Administrative Officer for the Comox Valley Regional District;

FIPPA means the *Freedom of Information and Protection of Privacy Act* (British Columbia);

Investigator means the investigator appointed in section 54; and

Staff means an officer or employee of the Regional District, but does not include contractors.

PART II – BOARD CONDUCT

Comply with all Laws

11. Board members shall comply with all applicable federal, provincial and municipal laws in the performance of their public duties, including but not limited to:

(a) the *Local Government Act*;

(b) the *Community Charter*;

(c) FIPPA;

(d) the *Financial Disclosure Act*; and

(e) all bylaws, policies, procedures and rules of order established by the Comox Valley Regional District.

12. Board members shall not:

- (a) engage with others, including residents, staff and other Board members, in a manner that is abusive, bullying, intimidating or derogatory; or
- (b) use their office to attempt to gain personal or financial benefits for themselves, their family members, their friends or business interests.

Conflict of Interest

13. Board members shall not participate in discussion of a matter, or vote on a question in respect of that matter, if the Board member has a conflict of interest.

14. In respect of each matter before the Board or a committee, Board members 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 that may result in a conflict of interest.

15. If a Board member believes that they have a conflict of interest in respect of a matter in a Board or committee meeting, the Board member shall:

- (a) prior to the matter's consideration, notify the Chair of the meeting that they have a conflict of interest, stating in general terms why they consider that to be the case;
- (b) leave any meeting if the matter is discussed and not return until the discussion has ended or voting has been concluded;

- (c) refrain from discussing the matter with any other Board member publicly or privately; and
- (d) refrain from attempting in any way to influence the voting on any question in respect of the matter.

Conduct of Meetings

- 16. Board members will recognize the importance of the role of the Chair of meetings, and treat that person with respect at all times.
- 17. Board members shall conduct themselves with decorum at meetings. This includes:
 - (a) adequately preparing for meetings;
 - (b) listening courteously and attentively to all discussions before the body, and focusing on the business at hand;
 - (c) not interrupting other speakers, except to raise a point of order;
 - (d) not making comments not germane to the business of the body; and
 - (e) not otherwise interfering with the orderly conduct of a meeting.

Interactions with Staff

- 18. Board members shall direct questions and inquiries regarding departmental issues to the CAO and shall refrain from contacting Staff directly, unless the communication is minor and for the purpose of seeking administrative clarity.

19. Board members shall not interfere with, hinder, or obstruct Staff in the exercise or performance of their roles, responsibilities, powers, duties, or functions, nor shall they impair the ability of Staff to implement Board policy decisions in accordance with section 153 of the *Community Charter*.
20. Board members shall not request or require that Staff undertake personal or private work for or on behalf of a Board member.
21. Board members shall not request or require that Staff engage in political activities, or subject them to reprisal of any kind for refusing to engage in such activities.

Use of Public Resources

22. Board members shall not use resources provided to them by the Regional District, including but not limited to:
 - (a) Staff time;
 - (b) equipment;
 - (c) technology;
 - (d) supplies;
 - (e) facilities; or
 - (f) other property,for private gain, personal purposes or election-related purposes.
23. Board members shall not undertake election campaign related activities at the Regional District Office or on other premises owned by the Regional District during regular working hours, unless such activities are organized by the Regional District.

Communication and Media Relations

24. The Regional District Board Chair is the spokesperson for the Regional District on Board matters.
25. Board members will not misrepresent the decisions of the Board, even if they disagree with the majority decision of the Board.
26. Board members will refrain from making disparaging comments about other Directors, the Board's decisions, or Staff.
27. When presenting their individual opinions and positions, Board members shall explicitly state that it is their own personal view and that they do not represent the Board or the Regional District in those views. For a social media account, this may be accomplished through a statement on the Board member's profile.

Gifts and Personal Benefits

28. Board members shall not accept a gift or personal benefit, except in accordance with section 105 of the *Community Charter*.
29. Board members shall disclose a gift or personal benefit, received in accordance with section 105 of the *Community Charter*, as per section 106 of the *Community Charter*.

Handling of Confidential Information

30. Board members shall keep information and records prohibited from release under section 117 of the *Community Charter* in strict confidence.
31. Without limiting the generality of section 30, Board members shall not disclose:

- (a) information or records concerning the property, personnel, legal affairs, or other information of the Regional District distributed for the purposes of, or considered in, a closed Board meeting;
 - (b) resolutions or Staff report contents from a closed meeting of the Board unless and until a Board decision has been made for the information to become public; or
 - (c) details on the Board's closed meeting deliberations or how individual Board members voted on a question in a closed meeting.
32. Board members shall not use confidential information to advance, directly or indirectly, their own personal, financial or other private interests.

PART III – COMPLAINT & RESOLUTION PROCEDURES

Implementation

33. As an expression of the standards of conduct for Board members expected by the Regional District, this Code is intended to be self-enforcing. This Code therefore becomes most effective when Board members are thoroughly familiar with it and embrace its provisions. For this reason, this Code shall be provided as information to all candidates for the Board and reviewed on an annual basis at the inaugural meeting or another suitable meeting as determined by the Board Chair.

Complaint Procedure

34. If a Board member believes that they have observed another Board member engaging in conduct that would breach this Policy, they must, if possible, attempt to resolve the complaint directly with the other Board member, prior to submitting a complaint under section 35.
35. Subject to section 34, a Board member or Staff member may submit a complaint to the Corporate Officer. Alternatively, if the complainant is the Corporate Officer, or the complaint involves the Corporate Officer, then complaints may be submitted to the CAO.

36. A complaint must be in writing, must be submitted within 60 days of the time that the complainant knew or ought to have known of the alleged breach, and must include, with sufficient detail:
- (a) the name of the complainant;
 - (b) the name of the respondent Board member(s);
 - (c) the conduct that the complainant alleges was in breach of the Code;
 - (d) the date of the alleged conduct;
 - (e) the parts of the Code the alleged conduct breached;
 - (f) the basis for the complainant's knowledge of the conduct; and
 - (g) if a complaint is submitted by a Board member, whether the Board member attempted to resolve the complaint informally under section 34.
37. A complaint may be accepted notwithstanding that it does not comply with all of the requirements of section 36, if the Corporate Officer or CAO determines that there has been substantial compliance or if the circumstances otherwise warrant acceptance.
38. A complaint submitted outside the time limits set out in section 36 must be rejected, except that the Corporate Officer or CAO may grant an extension of no more than 30 further days if the circumstances of the complaint are sufficiently serious.
39. In an election year, complaints submitted from the first day of August to the general voting day must be accepted and held in abeyance until after the new Board has taken office. At that time, complaints shall only proceed if they relate to a Board member who was re-elected in that election year. For certainty, if the Board member who is the subject of the complaint is not re-elected, the complaint must be dismissed.

Preliminary Assessment

40. On receipt of a complaint, the Corporate Officer or CAO shall conduct a preliminary assessment of the complaint or forward the complaint to the Regional District's Solicitor to conduct a preliminary assessment. If the Corporate Officer, CAO or Solicitor determines that any of the following circumstances apply, then they must notify the complainant and respondent Board member in writing that the complaint will be closed, stating the reasons for the closure:
- (a) the complaint is not with respect to a breach of this Policy;
 - (b) the complaint is frivolous, vexatious, or not made in good faith;
 - (c) the complaint would be more appropriately addressed through another process;
 - (d) the complaint was not in compliance with sections 35 and 36, and the respondent Board member will be prejudiced by the complainant's failure to comply;
 - (e) the complaint concerns the same subject matter as a previous complaint that has already been accepted under this section, and it is not necessary to expand that original complaint or add the new complainant;
 - (f) the complainant wishes to withdraw the complaint, and it would be appropriate to allow the complaint to be withdrawn;
 - (g) the complaint was submitted by a Board member, and the Board member ought to have first attempted to resolve the complaint informally under section 34; or
 - (h) there are no possible grounds on which to conclude that a violation of this Policy has occurred.

41. Once a complaint is accepted under section 40:
- (a) the Corporate Officer or CAO must refer the complaint to the Solicitor, if not already referred under section 40, for a determination under subsection (b); and
 - (b) the Solicitor must then determine whether the complaint requires a formal investigation or whether the complaint may be resolved informally.
42. If the Solicitor receives multiple complaints concerning the same matter, the Solicitor 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.

Criminal Conduct

43. If, at any stage in the complaint procedure, the CAO, Corporate Officer, Solicitor or Investigator determines that there are reasonable grounds to believe that there has been a contravention of the Criminal Code, or learns that there is an ongoing police investigation into the conduct that gave rise to the complaint, then they must refer the matter to the appropriate authorities and immediately suspend any investigation into the complaint until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to the Board, the complainant, and the respondent Board member.
44. For certainty, a complaint must be suspended while the respondent Board member is on a mandatory leave of absence under section 109.3(1) of the *Community Charter*, and may be re-commenced only once the mandatory leave of absence ends pursuant to section 109.3(1)(b) of the *Community Charter*.

Disqualification Proceedings

45. If, at any stage in the complaint procedure, the CAO, Corporate Officer, Solicitor or Investigator determines that:

- (a) the subject-matter of the complaint is being addressed in a disqualification proceeding commenced under section 111 of the *Community Charter*; or
- (b) the complainant could commence a disqualification proceeding under section 111 of the *Community Charter* in relation to the matter that is the subject of the complaint

the complaint must immediately be suspended until the proceeding under subsection (a) has concluded or the time-period within which the complainant could commence a proceeding under subsection (b) has expired.

46. The CAO, Corporate Officer, Solicitor or Investigator that has suspended a complaint under section 45 may, if

- (a) the Board member who is subject to the complaint has not been disqualified from office by the British Columbia Supreme Court; and
- (b) it would be in the public interest to do so,

re-commence the complaint upon the conclusion of a disqualification proceeding or the time-period within which a disqualification proceeding could be filed has expired.

Informal Resolution

47. Where the Solicitor has determined that the complaint may be resolved informally, the Solicitor may, at their discretion, either attempt to resolve the complaint directly, or refer the complaint to:

- (a) the Chair, if the complaint is made by a Board member, unless the complaint is against the Chair, in which case the complaint will be referred to the Vice Chair; or
 - (b) the CAO, if the complaint is made by a Staff member.
- 48. When determining whether the complaint may be resolved informally, the Solicitor may consider culturally appropriate or transformative or restorative justice approaches, and may engage a third-party mediator or facilitator to assist for this purpose.
- 49. Where the Solicitor has referred the complaint in section 47, the Chair, Vice Chair or CAO, as the case may be, may agree to assist in resolving the complaint directly, or may appoint a third party to assist in resolving the complaint at their discretion.
- 50. The person assisting in the informal resolution of a complaint will assess the suitability for settlement or resolution on an ongoing basis and may decline to assist at any point.
- 51. The complainant or respondent Board member may decline to participate in an informal resolution at any time.
- 52. If the complaint is resolved informally by someone other than the Solicitor, the person assisting in resolving the complaint must notify the Solicitor in writing of the terms of the resolution, upon receipt of which, the Solicitor must close the complaint.
- 53. If the person assisting in the informal resolution of a complaint declines to assist, the complainant or respondent Board member declines to participate, or 30 days has passed since the determination in section 41 was made by the Solicitor to resolve the complaint informally, then the complaint shall be referred in accordance with section 54.

Referral to Third-Party Investigator

54. If the Solicitor determines that the complaint requires a formal investigation under section 41, or in the event that informal resolution is unsuccessful, they shall refer the complaint to a neutral and independent third-party Investigator of their choosing to conduct an investigation and notify the complainant and respondent Board member of the referral.
55. The Investigator shall, at all times during an investigation, have all of the same powers to dismiss a complaint on a preliminary basis as set out in section 40.
56. An Investigator, once retained, may only be dismissed for cause.

Formal Resolution

57. Once retained, the Investigator shall deliver the complaint to the respondent Board member, along with a request that the respondent Board member provide a written response to the complaint, together with any submissions that the respondent Board member chooses to make, within 10 days, subject to the Investigator's discretion to reasonably extend the timeline.
58. The Investigator may, at their discretion, deliver the respondent Board member's written response and submissions to the complainant and request a reply in writing within 10 days, subject to the Investigator's discretion to reasonably extend the timeline.
59. The Investigator may:
 - (a) speak to anyone relevant to the complaint;
 - (b) request disclosure of documents relevant to the complaint; and

- (c) request access to any record in the custody or control of the Regional District, within the meaning of FIPPA, with the exception of records subject to solicitor-client privilege.
60. The Investigator has discretion to conduct the investigation as they see fit, but must ensure that the investigation complies with the rules of procedural fairness and natural justice required in the circumstances of the complaint.

Adjudication and Reporting

61. The Investigator must conclude the investigation and make a determination regarding the alleged breach within 60 days of referral under section 54, unless the Investigator determines that doing so is not practicable, in which case the Investigator must notify the complainant and respondent Board member of the delay and provide a revised decision date. The revised decision date may be extended by periods of up to 30 days at a time on provision of written notice to the complainant and respondent Board member.
62. If, after reviewing all the material information, the Investigator determines that a Board member did not violate this Policy, then the Investigator shall:
- (a) prepare a written investigation report providing reasons for their determination, which shall include a determination of whether the complaint was submitted frivolously, vexatiously or in bad faith; and
 - (b) deliver a copy of the investigation report to the complainant, respondent Board member, and the Board.
63. If, after reviewing all the material information, the Investigator determines that a Board member did violate this Policy, then the Investigator shall:
- (a) prepare a written investigation report providing reasons for their determination, which must include:
 - i. a summary of the factual findings of the Investigator;

- ii. an application of the Policy, and any other applicable law, to the facts;
- iii. a recommendation of the appropriate sanction, subject to subsection (iv); and
- iv. if applicable, a determination of whether the respondent Board member took all reasonable steps to avoid the breach or whether the breach was trivial, inadvertent or due to an error in judgment made in good faith, in which case the Investigator may recommend that no sanction be imposed;

(b) deliver a copy of the investigation report to the respondent Board member; and

(c) 48 hours after the delivery of the investigation report to the respondent Board member, deliver a copy of the investigation report to the Board.

Final Determination by the Board

- 64. The Board must, within 30 days of the Investigator's delivery of the investigation report in section 63, decide on the appropriate measures, if any, that are warranted by a breach of this Policy.
- 65. Prior to making any decision regarding the findings and recommendations set out in the investigation report, the respondent Board member must be provided with an opportunity in person and in writing to comment to the Board on the Investigator's determinations and recommendations.
- 66. While an investigation report may be considered in a closed meeting, if the circumstances warrant, when the Board deliberates and votes on the Investigator's recommendation, it will generally do so in an open meeting.
- 67. Within 30 days of the Board's final decision about an investigation, it must, subject to the Regional District's obligations under FIPPA, release to the public the investigation report, or a summary thereof, along with a summary of the Board's decision.

Remedies

68. Remedies that may be imposed by the Board for a violation of this Policy include the following:

- (a) a letter of reprimand from the Board, addressed to the respondent Board member;
- (b) a request from the Board that the respondent Board member issue a letter of apology;
- (c) the publication of the letters contemplated in subsections (a) and (b), along with the respondent Board member's response, if any;
- (d) directions to the CAO regarding the method of providing documents that contain confidential information to the respondent Board member;
- (e) a recommendation that the respondent Board member:
 - i. attend specific training, counselling or coaching related to the conduct at issue;
 - ii. complete a specified number of volunteer hours; or
 - iii. make a charitable donation of a specified or unspecified amount to a particular charity;
- (f) limitations on access to certain Regional District facilities;
- (g) prohibition from representing the Regional District at events and/or attending conferences;
- (h) public censure of the respondent Board member; or
- (i) any other sanction recommended by the Investigator, so long as that sanction is within the authority of the Board.

69. The Board must consider the following factors when determining whether to impose a sanction on a Board member:
- (a) the degree and nature of the conduct;
 - (b) whether the contravention was a single or repeated act;
 - (c) whether the Board member knowingly contravened the Code;
 - (d) whether the Board member took steps to mitigate or remedy the contravention;
 - (e) the Board member's history of other contraventions; and
 - (f) if applicable, the Investigator's finding that the respondent Board member took all reasonable steps to avoid the breach, or that the breach was trivial or done inadvertently or because of an error in judgment.
70. When the Board imposes a remedy pursuant to section 68, it may include secondary remedies to take effect on a date set by the Board in the event that the Board member fails to comply.

Confidentiality

71. The CAO, Corporate Officer, Solicitor and Investigator must make all reasonable efforts to process and investigate complaints in a confidential manner.
72. The Investigator and every person acting under the Investigator's instructions must preserve confidentiality with respect to all matters that come into the Investigator's knowledge in the course of any investigation or complaint, except as otherwise required by law.
73. Board members must make all reasonable efforts to keep complaints under this Policy, at any stage, confidential, except as otherwise provided in this Policy.

Obstruction

74. No Board member or Staff member will obstruct the Investigator, Solicitor, CAO or Corporate Officer in relation to the administration of this Policy or the investigation of a complaint. Without limitation, the following shall constitute obstruction:
- (a) uttering of threats against any person involved in the complaint;
 - (b) breaching the confidentiality of the investigation;
 - (c) destruction of relevant records or documents; and
 - (d) refusal to cooperate with the Investigator.
75. Any individual who is found to have obstructed the Investigator, contrary to section 74, or who makes a complaint that is subsequently found to have been made in a deliberately frivolous, vexatious or malicious manner, or otherwise made in bad faith, will be subject to appropriate disciplinary action, which may include, but is not limited to:
- (a) in the case of Board members, sanctions and remedies as described in this Policy; or
 - (b) in the case of Staff, disciplinary action or termination of employment for just cause, as applicable.

Reimbursement of Costs

76. A Board member may make a request to the Board for reimbursement of the costs of legal advice and representation in responding to the formal complaint process outlined in this Policy. If appropriate, after considering all of the 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 Board member has not previously been found to have breached this Policy; and

(b) the amount claimed does not exceed \$10,000.

REVISION HISTORY

| Approval Date | Approved By | Description of Change |
|----------------------|--------------------|---|
| January 24, 2023 | Board | Inclusion of complaints and enforcement process |
| January 23, 2024 | Board | Updates of complaints and enforcement process and other provisions. |
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