



CORPORATION OF THE TOWNSHIP OF ESQUIMALT

COUNCIL POLICY

TITLE: Council Code of Conduct			NO. ADMIN – 80	
<p><u>1. POLICY:</u></p> <p>The purpose of this Policy is to identify standards for responsible conduct by Elected Officials, establish the complaint submission and dispute resolution processes, and provide options for sanctions for any breaches of the Code of Conduct for those situations not provided for in other enactments such as, but not limited to, the <i>Community Charter</i> and <i>Local Government Act</i>.</p> <p>To fulfill obligations and discharge the duties of Elected Officials, Council members are required to conduct themselves to the highest ethical standards by being active participants in ensuring that these foundational principles, and the standards of conduct detailed in this policy, are followed in all dealings with every person, including those with other Council members, Staff, and the public.</p> <p><u>2. SCOPE:</u></p> <p>This Code of Conduct applies to all Council members of the Township of Esquimalt and all Members of the Township’s Advisory Bodies. 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 Council members, Staff, and the public.</p> <p>Elected Officials must conduct themselves in accordance with the law. This Code of Conduct is intended to be developed, interpreted and applied by Council members in a manner that is consistent with all applicable federal and provincial laws, as well as the bylaws and policies of the Township of Esquimalt, the common law and any other legal obligations which apply to Council members individually or as a collective Council.</p> <p><u>3. DEFINITIONS:</u></p> <p>In this Policy:</p> <p>Acting Mayor means the acting Mayor, as established under Council Procedure Bylaw, 2022, No. 3081, as amended or replaced from time to time.</p> <p>Advisory Body means a Township committee, commission, board, or other advisory body established by Council.</p> <p>Advisory Body Member means a Council appointed member of an Advisory Body.</p> <p>Chair means the chair of an Advisory Body.</p> <p>Complaint means a formal allegation that a member has breached this Code of Conduct.</p>				
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Complainant means a person who has submitted a complaint under this Policy.

Council means the Municipal Council of the Township of Esquimalt.

Elected Officials means those individuals elected to the office of Mayor or Councillor for the Township.

Investigator means the third-party appointed to investigate and report on the findings through the complaint resolution process established under this Policy.

Member means a member of Council or an Advisory Body.

Personal Information means recorded information about an identifiable individual other than contact information as defined in the *Freedom of Information and Protection of Privacy Act*.

Respondent means a Council or Advisory Body Member whose conduct is the subject of a complaint.

Staff means an employee of the Township of Esquimalt.

Township means the Corporation of the Township of Esquimalt.

4. FOUNDATIONAL PRINCIPLES OF RESPONSIBLE CONDUCT:

- 4.1 There are four foundational principles established under this Code of Conduct:
1. Integrity means conducting oneself honestly and ethically.
 2. Respect means valuing the perspectives, wishes, and rights of others.
 3. Accountability means an obligation and willingness to accept responsibility or to account for one's actions.
 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.

5. STANDARDS OF CONDUCT:

- 5.1 Integrity is demonstrated by Members through:
- Being open and truthful in all local government dealings, while protecting confidentiality where necessary.
 - Behaving in a manner that promotes public confidence, including actively avoiding any perceptions of conflicts of interest, improper use of office, or unethical conduct.
 - Acting in the best interest of the public and the community.
 - Ensuring actions are consistent with the shared principles, values, policies, and bylaws collectively agreed to by Council.
 - Employing the same ethical principles during both meetings that are open and closed to the public.
 - Expressing sincerity when correcting or apologizing for an errors or mistakes made while carrying out official duties.

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5.2 Respect is demonstrated by Members through:

- Treating Elected Officials, Staff, and the public with dignity, understanding, and respect.
- Acknowledging that people's beliefs, values, ideas, and contributions add diverse perspectives.
- Creating an environment of trust, including displaying awareness and sensitivity around comments and language that may be perceived as offensive or derogatory.
- Refraining from any form of discriminatory conduct against another Member(s), Staff, or the public.
- Honouring the offices of local government and fulfilling the obligations of Mayor/Chair and Councillor dutifully.
- Recognizing and valuing the distinct roles and responsibilities of Township Staff.
- Calling for and expecting respect from the community towards Elected Officials and Staff.
- Ensuring that public statements and social media posts that concern other Members, Staff, and the public are respectful.

5.3 Accountability is demonstrated by Members through:

- Being transparent about how Elected Officials carry out their duties, and how Council conducts business.
- Ensuring any information and decision-making processes are accessible to the public while protecting confidentiality and Personal Information where necessary.
- Correcting any mistakes or errors in a timely and transparent manner.
- Accepting and upholding that Council is collectively accountable for Township decisions, and that individual Members are responsible and accountable for their behaviour and individual decisions.
- Listening and considering the opinions and need of the community in all decision-making and allowing for public discourse and feedback.
- Acting in accordance with the law, which includes, but is not limited to, the statutes, bylaws, and policies that govern local government.

5.4 Leadership and Collaboration is demonstrated by Members through:

- Demonstrating behaviour that builds public confidence and trust in local government.
- Providing considered direction on municipal policies and supporting Members and Staff to do the same.
- Educating colleagues and Staff in the harmful impacts of discriminatory conduct, and take action to prevent this type of conduct from reoccurring if necessary.
- Creating space for open expression by others, taking responsibility for one's own actions and reactions, and accepting the decisions of the majority.
- Advocating for shared decision-making and actively working with other Elected Officials, Staff, Advisory Body Members, and other stakeholders to achieve common goals.
- Fostering positive working relationships between Elected Officials, Staff, Advisory Body Members, and the public.
- Committing to building mutually beneficial working relationships with neighbouring First Nations to further advance reconciliation efforts.
- Positively influencing others and adhering to the foundational principles of responsible conduct in all Township dealings.

6. COMPLAINT PROCEDURES:

- 6.1 Complaints in good faith concerning a breach of the Code of Conduct may be submitted by a Council Member, Advisory Body Member, or Staff.
- 6.2 Complaints must be submitted in writing to both the Mayor and the Chief Administrative Officer within 90 days of the last alleged breach. Either the Mayor or the Chief Administrative Officer may authorize an extension to this timeframe if, in their opinion, the circumstances warrant an extension.
- 6.3 If the Mayor is the subject of, or implicated in the complaint, the complaint shall be addressed to the Acting Mayor and the Chief Administrative Officer, unless that individual is also the subject of, or implicated in the complaint.

In the event that the Chief Administrative Officer is the subject of, is in conflict of interest related to the complaint or is implicated in the complaint, the complaint shall be addressed to the Director of Human Resources and Community Relations unless that individual is the subject of or implicated in the complaint.

In the event that each of the Mayor, Acting Mayor, Chief Administrative Officer and Director of Human Resources and Community Relations are the subject of or implicated in the complaint, the Mayor and the Chief Administrative Officer shall appoint a Council Member and a Staff member to serve as designates for the purposes of the complaint.

- 6.4 Upon receipt of a complaint submitted under section 6.1, the Mayor and the Chief Administrative Officer or one or both of their designates if section 6.3 applies shall review the Policy and the complaint and shall attempt to resolve the matter informally. The role of the Mayor and CAO, 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.
- 6.5 Complaints regarding a Council Member seeking re-election will not be received in the period from the first day of the nomination period to the general voting day.
- 6.6 Where a complaint is made against a Member who, during the course of the investigation, ceases to hold office, the Mayor and Chief Administrative Officer, or designates, shall close the complaint and notify the Complainant(s) and the Respondent(s) of this decision.
- 6.7 Where a complaint is made against a Council Member and the complaint procedure overlaps with a municipal election and the Member is not re-elected in that election, the CAO must notify the Complainant(s) and the Respondent(s) in writing that the investigation has stopped on this basis and that the complaint is closed.

- 6.8 Any individual covered by this Code of Conduct 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, in the case of Council members, sanctions described in section 8.1, in the case of Advisory Body Members, termination of the respective appointment(s), and in the case of Staff, the CAO may consider appropriate measures in respect of the complaint.

7.0 RESOLUTION PROCESS

7.1 General

- 7.1.1 Members must abide by the requirements of the Code of Conduct and agree to resolve disputes in good faith.
- 7.1.2 Members and Staff shall not obstruct the investigation process.
- 7.1.3 No Members or Staff will tamper with or destroy documents or electronic records related to any matter under investigation or refuse to respond when questioned regarding an investigation.
- 7.1.4 Throughout the informal or formal investigation, either party can have legal counsel present to assist them. This legal counsel will be required to maintain the confidentiality of all aspects of the investigation process.
- 7.1.5 In the 90 days prior to General Voting Day, Council may, by majority vote, suspend any investigation underway.

7.2 Informal Complaint Resolution Process

- 7.2.1 Members are encouraged to use the Informal Complaint Process specified in 7.2.2 as a first step in resolving a complaint.
- 7.2.2 Any member who has identified or witnessed conduct by another Member that they reasonably believe, in good faith, is in contravention of this Code of Conduct may address the prohibited conduct by requesting the Mayor and CAO to assist in informal discussion of the alleged complaint with the other Member(s) in a mediated attempt to resolve the issue. If the Mayor or CAO is the subject of, or implicated in a complaint, the appropriate designates under section 6.3 will be asked to assist.
- 7.2.3 A Member who is unsatisfied with the outcome of the Informal Complaint Process may escalate the complaint to the Formal Complaint Process.
- 7.2.4 Despite subsection 7.2.1, a Member may refer a complaint directly to the Formal Complaint Process without undertaking the Informal Complaint Process.

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7.3 Formal Complaint Resolution Process

- 7.3.1 Complaints of breaches under the Code of Conduct may be submitted, in writing, to both the Mayor and the CAO within 90 days of the last alleged breach. If the Mayor or CAO is the subject of, or implicated in a complaint, the complaint shall be submitted to the appropriate designates specified in 6.3. The Mayor or the CAO, or their designates, are authorized to extend this 90 day deadline if circumstances are deemed to warrant an extension.
- 7.3.2 Within 30 days of receipt of a complaint, the Mayor and CAO, or their designates, will attempt to resolve the matter informally. If the matter is not resolved after 30 days, an independent Third-Party Investigator shall be agreed to by the parties. The investigator will possess the necessary professional skills, knowledge, and experience to investigate the complaint and be acceptable to all parties.
- 7.3.3 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.
- 7.3.4 If the Complainant(s) or the Respondent(s) refuse to participate in a formal investigation, the investigation may continue without the individuals' participation. The Third-Party Investigator will make their determination based on the information they are provided. Not participating in the process as outlined in sections 7.1, 7.2 and 7.3 may also be considered grounds for a complaint under this Policy.

7.4 Third-Party Investigator

- 7.4.1 The appointed Third-Party Investigator shall conduct an independent and impartial investigation that is fair, timely, and confidential.
- 7.4.2 Within 30 days of appointment, the third-party investigator shall provide a preliminary assessment of the complaint and determine whether to continue investigating or make written recommendation regarding the dismissal of the complaint on the grounds that it is either unfounded, beyond the jurisdiction of the Township, or unlikely to succeed and the Complainant(s), Respondent(s), and Council shall be so advised with reasons provided therefore.
- 7.4.3 Notwithstanding subsection 7.4.2, the Third-Party Investigator may request further information from the Complainant(s) before determining whether or not there are sufficient grounds for determining whether a breach of this Policy occurred.
- 7.4.4 Investigation updates will be provided to all involved parties at least every 30 days.
- 7.4.5 Within 90 days of the appointment the Third-Party Investigator shall conclude the investigation and provide a written, confidential report of the findings of the investigation to the Mayor and CAO, or their designates, including their findings as to whether there has been a breach of this Policy. If the Third-Party Investigator determines that concluding the investigation and providing the report within 90 days is not practicable, in which case the Third-Party Investigator must notify the Complainant(s) and Respondent(s) 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(s) and Respondents(s).

7.4.6 An investigation report must only disclose such matters as in the investigator's opinion are necessary for the purpose of the investigation report.

7.5 Council Deliberation

7.5.1 The CAO, or designate, shall include the report received under subsection 7.4.5 to the next closed meeting of Council and shall not discuss the contents of the report with any Members prior to the closed meeting.

7.5.2 After receiving the confidential report, Council members must not discuss the contents of the report with anyone, except for their legal counsel, prior to the closed Council meeting at which the report is to be discussed.

7.5.3 Members who are subject to the complaint and investigation must be afforded procedural fairness, including an opportunity to respond to the conclusions of the investigation before Council makes the decision on culpability or remedies.

7.5.5 If Council determines that any member(s) has not complied with this Code of Conduct, any of the remedies outlined in section 8.1 may be imposed by a majority vote of Council.

7.5.6 Any recommendations arising from the investigator's report and any actions taken in response will remain confidential, unless it is determined by Council resolution to be a public matter.

8.0 ACCOUNTABILITY MEASURES

8.1 If any Member(s) are found to be in contravention of this Code of Conduct, Council may choose by 2/3 majority to impose any of the following sanctions, providing they do not prevent the Member(s) from fulfilling their legislated duties of elected office:

- a) Written declaration from the Member(s) in contravention of the Code of Conduct promising immediate and ongoing compliance with the Code of Conduct;
- b) A letter of reprimand to the Member(s) in contravention of the Code of Conduct;
- c) Request that a letter of apology be issued from the Member(s) found to be in contravention to the affected individual;
- d) Publication of a letter of reprimand or request for apology, and the Member's response;
- e) Recommend that the Member(s) in contravention of the Code of Conduct attend counselling or training;
- f) Suspension or removal of the appointment of the Member(s) as Acting Mayor, including the loss of related remuneration if applicable;
- g) Suspension or removal from some or all internal and external Committees and Bodies to which Council or the Mayor has the right to appoint Members, including the loss of related remuneration if applicable;
- h) Restricting the Council member(s) from attending events as a representative of Council;
- i) Imposing further limits on Township-funded travel and expenses beyond those set out in Township policies;
- j) Limiting access to certain municipal facilities or portions thereof;
- k) Restricting how and when documents are provided to the Member(s); and
- l) Any other sanctions deemed reasonable and appropriate by Council.

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9.0 REPRISALS AND OBSTRUCTION

- 9.1 Members or Staff must not threaten or undertake any active reprisal against any Complainant(s) or against a person who provides information in the context of an investigation.
- 9.2 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 the appropriate disciplinary action, which may include, and is not limited to, the sanctions outlined in section 8.4 of this Policy, or in the case of Staff, the CAO may consider appropriate measures in respect of the complaint.

10. REIMBURSEMENT

- 10.1 Council members, Staff, or Advisory Body Members who retain legal counsel to represent them in proceedings under this Policy may request in writing that the Township indemnify them for their reasonable costs of representation, in accordance with section 740 of the *Local Government Act* and the Officers, Employees and Members of Council Indemnification Authorization Bylaw, 1988, No. 1878.

11. REVIEW

- 11.1 This Code of Conduct shall be brought forward for review at the beginning of each year and at any other time at the direction of Council to ensure that it remains current and continues to accurately reflect the standards of responsible conduct expected of Members.

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