

THE CORPORATION OF THE
CITY OF WHITE ROCK
15322 BUENA VISTA AVENUE, WHITE ROCK, B.C. V4B 1Y6



POLICY TITLE: COUNCIL CODE OF RESPONSIBLE CONDUCT

POLICY NUMBER: COUNCIL - 174

<i>Date of Council Adoption:</i>	<i>Date of Last Amendment:</i>
<i>Council Resolution Number:</i>	
<i>Originating Department: Administration</i>	<i>Date last reviewed by the Governance and Legislation Committee:</i>

Definitions

1. In this bylaw,

“Administration” means the Corporate Services Department, which is responsible for ensuring that the policies, programs, and other directions of Council are implemented.

“Bullying and Harassment” has the meaning defined in the City’s Respectful Workplace Policy.

“City” means the City of White Rock.

“Council” means the duly elected officials of the City, those being the Mayor and Councillors.

“Council Policy” means Policy statements that provide strategic direction on programs and services delivered by the City which impact or affect citizens or customers, and/or Policy statements that require Council’s approval because of legislative or regulatory requirements.

“Discrimination” has the meaning defined in the City’s Respectful Workplace Policy

“Member(s)” means the Mayor or a Councillor.

“Policy” means general statements or guidelines that are high-level in nature, as opposed to being operationally oriented, which direct a plan, course of action or decision, according to a standard or performance outcome.

“Respectful Workplace Policy” means the City’s bullying and harassment and respectful workplace policy, as amended or replaced from time to time;

“Sexual Harassment” has the meaning defined in the City’s Respectful Workplace Policy.

“Staff” means an employee or contract employee of the City of White Rock.

Interpretation

2. This bylaw will be interpreted based on the following principal:
 - a) Responsible conduct refers to how Members conduct themselves, individually and collectively, through their interactions with other Members, Staff, citizens, other local government stakeholders, the media, and through social media in the exercise of their authority.
 - b) Responsible conduct is founded on four (4) key foundational principles described below to provide Members with a shared understanding of what responsible conduct is.
 - i) **Integrity** – means being honest and demonstrating strong ethical principles. Conduct under this principle upholds the public interest, is truthful and honourable and is demonstrated by the following conduct:
 - A. be truthful, honest, and open in all matters and in all dealings with their elected colleagues, Staff, citizens, other local government stakeholders, the media, and through social media in their role as a representative of the City;
 - B. ensure that their actions are consistent with the shared principles and values collectively agreed to by the City;
 - C. follow through on their commitments in a timely manner;
 - D. correct errors in a timely, transparent and reasonable manner;
 - E. engage in respectful communication, dialogue and debate in all matters and in all dealings at all times;
 - F. make informed and well-reasoned decisions by directing their minds to the merits of the matter before them for consideration, ensuring that they act on the basis of relevant information, legal implications, and in consideration of the consequences of their decisions;
 - G. conduct and comport themselves in a manner that promotes and inspires public confidence and trust in local government and in all of their dealings as a local government official or representative;
 - H. conduct and comport themselves in a manner which avoids any perception of conflict of interest, improper use of office, or other unethical or illegal conduct and is in compliance with obligations under division 6 of the *Community Charter*;
 - I. conduct and comport themselves in a manner which upholds the public interest by diligently serving citizens and communities within their sphere of influence in a manner which best serves the communities' interest and not their own, or the interests of a select few; and
 - J. conduct and comport themselves in a manner that is consistent, fair, non-prejudicial, non-discriminatory and unbiased in all their dealings as a local government official or representative.

- ii) **Respect** – means having due regard for others’ perspectives, wishes and rights; it also means displaying deference to the offices of local government, and the role of local government in community decision making. Respect is demonstrated through the following conduct:
- A. treat every person with dignity, understanding, courtesy, politeness, civility and respect irrespective of differences of opinion, perspectives, beliefs, traditions or values;
 - B. respect the role of the Mayor or other presiding member and will conduct and comport themselves accordingly during meetings, and will furthermore abide by the rules of procedure adopted by the City;
 - C. respect the distinct roles and responsibilities of Staff and are committed to fostering a positive working relationship between the Council, Staff citizens, and other local government stakeholders;
 - D. treat citizens, other Members and Staff appropriately, and without, abuse or intimidation in order to preserve a workplace free of Bullying and Harassment, and Discrimination;
 - E. call for, and expect that respect be shown to elected officials, Staff, and members of the public by other citizens, community members and other local government stakeholders;
 - F. value the role of diverse perspectives and will show due consideration for every person’s contribution by listening actively and respectfully to another person’s perspective or point of view during discussion, debate, collaboration and decision making;
 - G. will demonstrate awareness of their own conduct and behavior, and manage and adjust their conduct and behavior accordingly and as circumstances warrant;
 - H. create an environment of trust and will consider and be sensitive to how their words, language, conduct and behavior can be perceived by others as offensive, rude, derogatory, disrespectful, discriminatory, aggressive, combative, insulting, inflammatory or otherwise hurtful or inappropriate; and
 - I. not engage in conduct or behaviors that are deemed to be indecent, obscene, insulting, abusive or otherwise unbecoming to a local government elected official or representative. This conduct or behavior includes, but is not limited to, unwanted physical or sexual contact or comments, and/or any form of aggressive or threatening conduct or behavior that may cause harm to any person, or which makes a person feel threatened or intimidated.
- iii) **Accountability** – means an obligation and willingness to accept responsibility or to account for one’s actions. Conduct under this principle is demonstrated when Members:
- A. are responsible for, and will accept responsibility for decisions they make as an elected official for the City;
 - B. are accountable for their individual actions, and for the actions of the collective governing body;

- C. actively listen to and consider the opinions, viewpoints and needs of the community in all decision-making, and will allow for meaningful and appropriate opportunities for citizen and community input, engagement, discourse and feedback;
 - D. carry out their business, duties and responsibilities in an open and transparent manner ensuring that the public understands the process and rationale used to reach informed decisions and the reasons and justifications for taking certain actions; and
 - E. ensure that information is accessible to the extent possible under law, while also protecting privacy and confidentiality where appropriate, necessary or in accordance with the *Freedom of Information and Protection of Privacy Act* of British Columbia, and the confidentiality provisions of the *Local Government Act* and *Community Charter* of British Columbia.
- iv) **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. Conduct under this principle is demonstrated when Members:
- A. proactively and routinely monitor and measure their performance in order to ensure that the foundational principles with respect to responsible conduct are being followed by all Members and the collective governing body;
 - B. behave in a manner that instills and builds public trust and confidence in local government;
 - C. recognize that vigorous discourse and debate on a matter is integral to the democratic process and will encourage healthy, respectful and constructive debate prior to taking a decision with respect to a matter;
 - D. consider the issues before them and will make decisions as a collective governing body;
 - E. actively participate in debate about the merits of the matter before them, and will accept, respect and uphold the decision of the majority as part of the democratic process;
 - F. as leaders of their communities, face challenges, obstacles, controversy and adversity calmly, respectfully, diplomatically, and with due consideration while endeavoring to find effective and appropriate solutions and provide direction to Staff, and will furthermore empower each other, and Staff to face challenges, obstacles, controversy and adversity in the same manner;
 - G. recognize and value the distinct roles and responsibilities that others play in providing good governance and will commit to fostering a positive working relationship between other Members, Staff, citizens, the media and other local government stakeholders;
 - H. refrain from making public statements attacking or disparaging Staff;
 - I. show respect for the professional capacities of Staff;
 - J. refrain from involving Staff in matters for political purposes; and

- K. recognize and respect the importance of the role of the chair at a meeting and will treat that person with respect and deference at all times.

Duty

3. Members have a duty to act in accordance with the law, including but not limited to the common law, the *Local Government Act*, *Community Charter*, *Workers' Compensation Act*, *Freedom of Information and Protection of Privacy Act*, and *Human Rights Code of British Columbia*, and applicable provincial and federal legislation.

Commitment to Responsible Conduct:

4. Members recognize that responsible conduct is essential to providing good governance.
5. Members acknowledge that responsible conduct is based upon the four (4) foundational principles outlined in section 2: **Integrity, Respect, Accountability, and Leadership and Collaboration** to which the Council individually and collectively subscribes. Furthermore, it is expressly acknowledged that these foundational principles will set out expectations as to how Members both individually and collectively, will conduct themselves as representatives of the City.
6. Members expressly acknowledge that they are individually and collectively committed to conducting themselves in a responsible and ethical manner and are furthermore committed to upholding the law.
7. As set out in this *Code of Responsible Conduct*, Members expressly commit to holding themselves up to the highest ethical standards, individually and as a collective governing body, as they exercise their authority, fulfill their obligations, discharge their duties, and in all of their dealings, with every person, including their elected colleagues, Staff, citizens, the media and other local government stakeholders.

Application and Interpretation:

8. This *Code of Responsible Conduct* applies to every Member.
9. It is the express responsibility and obligation of each Member to uphold both the letter and spirit of this *Code of Responsible Conduct* in their dealings with each other, Staff, citizens, the media and other local government stakeholders.
10. This *Code of Responsible Conduct* is intended to be interpreted and applied in a manner that is consistent with the common law, all applicable Federal and Provincial Laws, as well as the bylaws and policies of the City of White Rock, along with any other legal obligations which apply to Members individually and as a collective governing body.
11. Members expressly acknowledge that they will not engage in conduct set out in Schedule 1 .

12. Should a Member or a Staff person wish to make a complaint under this *Code*, they shall use the Complaint Process set out in Schedule 2.

Acknowledgement and Education:

13. Members will be required to demonstrate their commitment to responsible and ethical conduct by:

- a) signing an Oath of Office at the inaugural Council meeting, set out as Schedule 3, which incorporates the City’s *Code of Responsible Conduct*, and
- b) reviewing this *Code of Responsible Conduct* annually, except for the year in which a Member has already signed an Oath of Office, and signing the following affirmation:

Code of Responsible Conduct Annual Review

14. I affirm that I have read and understand and agree to abide by the City of White Rock’s *Code of Responsible Conduct*.

Signature: _____

Name: _____

Date: _____

Schedule 1 Unacceptable Conduct

Meeting Conduct, Rules of Order and Procedural Matters

- Failing to abide by the *City's Council Procedures Bylaw*
- Failing to respect the role of the Mayor or other presiding member at meetings
- Failing to respect due process and procedural fairness
- Unfair or disrespectful treatment of persons or delegations appearing before the Council
- Disrespectful or disruptive behavior during a meeting which results in being called out of order by the Chair
- Expulsion from a meeting
- Behavior which undermines the free exchange of ideas and which stifles or inhibits healthy debate
- Disrespecting the viewpoints of others during discussion on a matter
- Failing to keep an open mind during debate on a matter

Communication, Interpersonal Relations, Council and Staff Relations

- Use of disrespectful, derogatory, demeaning, defamatory, discriminatory, intolerant or offensive language or body language at any time, and on any communication platform, including social media, as a representative of the City
- Failing to treat any person with respect, courtesy, tolerance, acceptance, and/or dignity
- Disrespecting the role of the Chief Administrative Officer, Staff, and/or City Consultants
- Failing to respect the various roles that others play which are inherent to informed local government decision making
- Publicly criticizing or chastising a fellow Member, City Staff member, and/or City Consultant
- Interfering with the administrative, corporate or operational functions of the City
- Failing to observe established protocols with respect to tasking or otherwise directing Staff

- Failure to acknowledge the source of information provided to the public

Interference with Designated Decision Makers and/or Processes

- Interfering with, and/or failing to respect the role and authority of statutory and/or other designated decision makers:
 - Officer Responsible for Corporate Administration
 - Officer responsible for Financial Administration
 - Head, Freedom of Information and Protection of Privacy
 - Chief Election Officer
 - Building Officials
 - Bylaw Enforcement Officers
 - Provincial Approving Officer
 - Others in statutory and/or designated decision-making roles
- Failing to abide by the City's *Purchasing and Procurement Policy*

Partisan Politics and Campaigning

- Engaging in partisan politics while undertaking City business
- Use of City resources for campaign purposes
- Campaigning outside of the official Campaign Period defined under the *Local Government Act*

Unauthorized Conduct – General Prohibitions

- Providing instruction to City Staff, contractors, consultants, or other service providers
- Speaking on behalf of the Council when not authorized to do so
- Failing to uphold a decision, bylaw or policy approved by the majority of the Council
- Unauthorized use of City Staff and/or other City resources and assets
- Unauthorized expenditure of City funds
- Abuse of authority or trust

- Failing to act in the public interest
- Showing favoritism, bias or nepotism towards any person, vendor, contractor, business, family member or to others doing business with the City
- Dishonesty
- Lying
- Obstructing an investigation into a matter
 - Obstructing Staff from undertaking their duties

Damaging the City's Reputation

- Damaging the reputation and/or credibility of the City by words, actions and/or irresponsible, unprofessional, or unethical conduct
- Acting in an official capacity while impaired resulting in irresponsible conduct

Confidentiality and Data Security

- Intentionally accessing unauthorized information, records or data on City devices or servers
- Unauthorized disclosure of confidential, privileged, or personal information to a third party
- Intentionally breaching the City's network and data security systems
- Intentionally leaking confidential or privileged information to the media or other local government stakeholders

Serious Allegations of Misconduct

- Harassment
- Sexual Harassment
- Discrimination
- Bullying
- Intimidation
- Coercion
- Extortion

- Uttering Threats
- Assault
- Accepting a bribe
- Fraud
- Theft of City resources and/or assets
- *Criminal Code* of Canada conviction while in office

Retaliation

- Retaliation or retribution towards any person who in good faith has reported a suspected contravention of the City's *Code of Responsible Conduct*
- Retaliation or retribution towards any person who in good faith has reported a suspected contravention of the City's *Respectful Workplace Policy*
- Retaliation or retribution towards any person who in good faith has reported a suspected contravention of the *Criminal Code* of Canada or other federal, provincial or local government statute, regulation, or enactment.

Conflict of Interest

- Failure to abide by Conflict of Interest Rules in the *Community Charter and Local Government Act*, including but not limited to:
 - failure to disclose an actual or perceived conflict of interest
 - participation in meetings where in conflict of interest
 - use of office to influence a decision, recommendation or other action where an elected official has a direct or indirect pecuniary interest
 - accepting unauthorized gifts
 - failure to disclose authorized gifts
- failure to disclose and report contracts entered into by the elected official or former elected official with the City where the elected official or former elected official has a direct or indirect pecuniary interest

Schedule 2 Complaint Process

1. This section, Complaint Process, is for internal use only. Council and Staff within the City can use this section to make a complaint against a Member in relation to their own interactions with that Member.
2. Members are to abide by the requirements of the *Community Charter* and the *Code of Responsible Conduct* (the “Code”), and shall endeavor to resolve interpersonal disputes in good faith, recognizing that interpersonal rancor does not facilitate good governance.

Informal Complaint Process

3. If a Member or Staff considers that they have been subjected to or witnessed a contravention of this *Code* by a Member and if they are comfortable discussing the matter directly with the Member, they are encouraged to inform the Member of the alleged contravention and request an apology and, if applicable, that the contravention cease immediately.
4. If the complainant is unable to discuss the matter directly with the Member, or if after discussion the contravention continues, the complainant may submit a written complaint addressed to the Mayor and the CAO within six (6) months of the last alleged breach (the “Complaint”). The Complaint should include the name of the complainant and the respondent, details of the conduct the complainant says occurred, and the parts of this *Code* that the complainant says have been violated and the basis for the complainant’s knowledge about the conduct.
5. If the Mayor is the subject of, is in a conflict of interest related to the Complaint, or is implicated in the Complaint, the Complaint shall be addressed to the current Acting Mayor unless that individual is the subject of, or implicated in the Complaint.
6. If the CAO is the subject of the Complaint, is in a conflict of interest related to the Complaint, or is implicated in the Complaint, the Complaint shall be addressed to the Director of Corporate Administration unless that individual is the subject of or implicated in the Complaint.
7. Upon receipt of a Complaint under s. 4 of the Complaint Process, the Mayor or designated Member, and the CAO or designate (Director of Corporate Administration) shall review the *Code* and the details of the alleged breach.
8. 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 complainant and the respondent. Information from both parties should be obtained, reviewed and options for resolution canvassed. There is no ability for the Mayor and CAO (or designates) to give advice about the processing or quality of resolution of the complaint.
9. Discussions regarding the Complaint are confidential, advisory and informal in nature.

10. If the Complaint is resolved through the Informal Complaint Process a written record of the Complaint and the resolution will be given to the complainant, the respondent and the Mayor and CAO (or their designates). The resolution must be kept in confidence by the Mayor, CAO (or their designates) and the parties, unless the parties agree in writing to disclose the information.

Formal Complaint Process

11. If the Complaint is not resolved through the informal process within thirty (30) days, the Mayor and the CAO (or their designates) will appoint an independent third party to investigate the Complaint (the “Investigator”) (the “Formal Complaint Process”).
12. If the complainant(s) or respondent(s) refuse to participate in a Formal Complaint Process, the investigation may continue without that individual’s participation. The Investigator will make their determination based on the information they are provided. Not participating in the Formal Complaint Process may also be considered grounds for a complaint under this *Code*.
13. The Investigator may conduct a preliminary assessment of the Complaint, at the conclusion of which the Investigator may determine to continue the investigation or make a written recommendation that the Complaint be dismissed as unfounded, beyond jurisdiction or unlikely to succeed.
14. If the Investigator determines to continue the investigation, they 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 and the CAO (or their designates), as applicable, and to the complainant and the respondent;
 - c. Upon conclusion of the investigation, provide a written, confidential report (the “Report”) of the findings of the investigation, including findings as to whether there has been a breach of this *Code*, to the Mayor and the CAO or designates, as applicable.
 - d. Provide recommendations in the Report as are deemed appropriate in the professional judgment of the Investigator.
15. The Mayor and the CAO (or their designates) shall consider whether the Report or an executive summary of the Report should be presented to Council.

Council Determination of Measures

16. Council shall decide on the appropriate measures, if any, warranted by a contravention of this *Code* and shall take such action as Council considers appropriate in the circumstances, after:

- a. Reviewing the Report or executive summary of the Report of the Investigator;
- b. Considering the factors described in s. 17 and the measures enumerated in s. 18 of the Complaint Process; and
- c. Conducting a closed meeting in accordance with the process described in ss. 20 and 21 of the Complaint Process.

17. In determining the appropriate measures, Council 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 Member knew or ought to have known that the conduct was unwelcome or offensive;
- d. The nature of the work relationship of the complainant and the respondent, and whether the 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 Member's acknowledgment of wrongdoing; and
- g. The Member's history of other contraventions.

18. Council may impose the following measures after considering the factors described in s. 17 of the Complaint Process, including, but not limited to:

- a. Motion of public censure of a Member;
- b. Formal warning letter;
- c. Letter of reprimand;

- d. A request that the Member issue a letter of apology;
- e. Requirement to attend training;
- f. Suspension or removal of the appointment of the Member as Acting Mayor;
- g. Suspension or removal from some or all internal and external committees and bodies to which the Council or the Mayor has the right to appoint Members;
- h. Imposing limits on travel and expenses;
- i. Requiring the return of municipal property provided for convenience;
- j. Limiting access to certain municipal facilities or portions thereof;
- k. Restricting how and when documents are provided to the Member;
- l. Referral to a prosecutor or the police;
- m. Any other lawful measure Council deems reasonable and appropriate.

19. The Council decision under s. 16 of the Complaint Process will be in writing and provided to the Member within ten working days of the closed meeting conducted in accordance with ss. 20 and 21 of the Complaint Process. Any communications by Council will be compliant with the City's obligations pursuant to the *FOIPPA*.

Fairness Procedures Applicable to Council Determination of Measures

20. The Mayor, or the Corporate Officer if the Mayor is alleged to have contravened the *Code*, will notify the affected Member in writing that Council will be considering their conduct at a closed meeting. The notice, including a copy of the resolution being considered where a breach is believed to have been proved, must be delivered at least seven business days in advance of the closed meeting at which Council will consider the measure, if any, that it will impose in accordance with s. 16 of the Complaint Process. The Corporate Officer will ensure that the matter is placed on the agenda of the closed meeting. At the closed meeting, the affected Member may be represented by legal counsel, which may be reimbursed in accordance with s. 25 of the Complaint Process.

21. The process at the closed meeting may vary depending on the situation, but the following elements will be incorporated:

- a. Council will read the Investigator's determination of whether a contravention of this *Code* occurred;

- b. The affected Member will be provided with reasonable notice in accordance with s. 20 of the Complaint Process and given the opportunity to make oral or written submission to White Rock to Council, with legal counsel if the Member desires, which subWhite Rocks, without limitation, may include explanations for the impugned behaviour or suggestions on the measures that Council might impose as a result of the conduct;
- c. After the affected Member has made the submission to White Rock to Council, the Member will leave the meeting room and those Members without a conflict of interest will consider the measures, if any, to impose in accordance with s. 18 of the Complaint Process; and
- d. Written notice of the decision will be given in accordance with s. 19 of the Complaint Process.

Staff Responsibilities in the Complaint Process

- 22. If the Investigator concludes that a contravention of this *Code* has occurred, the CAO (or designate) shall consider reasonable action to protect the complainant from any subsequent action or reprisal. The CAO shall also consider reasonable action to protect the rights of the subject Member and to see that no reprisal takes place beyond the measures determined by Council.
- 23. If the Investigator finds that the original complaint was initiated in bad faith, with willful misconduct or intent to harm, where the complainant is a Member, Council may consider appropriate measures in respect of the complainant and where the complainant is Staff, the CAO may consider appropriate measure in respect of the complainant.

General

- 24. Throughout the Complaint Process, either party can have legal counsel present to assist them. This legal counsel will be required to follow any rules of Closed Council or procedural bylaw process that are applicable.
- 25. Members who retain legal counsel to represent them in proceedings under this section may request in writing that the City indemnify them for their reasonable costs of representation, in accordance with section 740 of the *Local Government Act*.
- 26. Staff who retain legal counsel to represent themselves in the proceedings under this section may request, in writing, reimbursement of reasonable costs from the City.
- 27. No Member or Staff will be reimbursed for their reasonable costs from the City unless so decided by Council or the CAO, as applicable.
- 28. The Corporate Officer will cause
 - a. This *Code* to be visible and accessible on the City's website, and
 - b. Electronic copies of this *Code* to be made available to all Staff and Members in easily accessible locations, including the City's intranet.

- 29.** If any portion of this *Code* is inconsistent with a binding collective agreement with the City, or federal or provincial legislation, that portion and only that portion of this *Code* will have no application to the extent of that inconsistency and all other portions of this *Code* will continue in full force and effect.

DRAFT APPENDIX B

Schedule 3

OATH OF OFFICE

I, _____ do [solemnly swear] [affirm] that:

1. I am qualified to hold the office of (Mayor)/(Councillor) for the City of White Rock to which I have been elected or appointed;
2. That I have not, by myself or any other person, knowingly contravened the *Local Government Act* or the *Community Charter* of British Columbia and have complied with those Acts in relation to my election to this office;
3. I will faithfully perform the duties of my office with integrity, respect for others and in accordance with the *City of White Rock Code of Responsible Conduct* and the law;
4. I will demonstrate leadership and collaboration and will be accountable for the decisions that I make and the actions that I take in the course of my duties;
5. I will not allow any private interest to influence my conduct in public matters;
6. As required by the *Local Government Act* and the *Community Charter* of British Columbia, I will abide by all rules related to conflict of interest and will disclose any direct or indirect pecuniary interest I have in a matter and will not, when in conflict or perceived conflict, participate in the discussion of the matter and will not vote in respect of the matter; and
7. I will abide by the statutes, bylaws and policies that govern the City of White Rock and will promote openness, accountability, and responsible leadership.