

# VILLAGE OF PEMBERTON

Code of Conduct Bylaw No. 958, 2024

Contents

CITATION ..... 3

INTERPRETATION AND APPLICATION..... 3

**Definitions** ..... 3

    Interpretation..... 3

    Purpose..... 4

    Application..... 4

    Severability ..... 4

FOUNDATIONAL PRINCIPLES ..... 5

    Principles to Guide Conduct..... 5

RULES OF CONDUCT ..... 6

    Roles and Responsibilities..... 6

    Conduct of Council and Committee Members ..... 7

        General Conduct ..... 7

        Interactions with Staff and Volunteers..... 7

        Interactions with Public and Media ..... 8

        Meetings ..... 8

        Collection and Handling of Information..... 9

        Use of Social Media ..... 9

        Conflict of Interest ..... 9

        Use of Influence ..... 10

        Gifts and Personal Benefits..... 10

        Campaign Activities..... 10

        Business Relations ..... 10

COMPLAINT AND RESOLUTION PROCEDURES..... 10

    Council Members ..... 10

        Confidential Requests ..... 10

        Complaint Procedure..... 11

        Dismissal or Suspension of Complaint..... 12

        Preliminary Assessment ..... 12

        Informal Resolution..... 13

        Formal Resolution..... 13

        Adjudication and Reporting ..... 14

        Final Determination by Council ..... 15

        Remedies ..... 15

|   |    |
|---|----|
| Report to be Public.....                          | 16 |
| Remuneration.....                                 | 16 |
| Confidentiality of the Investigation.....         | 17 |
| Council Members Acting as Committee Members ..... | 17 |
| Committee Members .....                           | 17 |
| Reprisals and Obstruction.....                    | 17 |
| Reimbursement of Costs.....                       | 18 |
| Vexatious Allegations and Complaints .....        | 18 |
| APPOINTMENT OF INVESTIGATOR.....                  | 18 |

**VILLAGE OF PEMBERTON**  
**BYLAW No. 958, 2024**

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**A bylaw to establish a code of conduct for the Council of the Village of Pemberton**

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The Council of the Village of Pemberton, in open meeting assembled, **ENACTS AS FOLLOWS:**

**CITATION**

1. This bylaw may be cited for all purposes as the “Village of Pemberton Code of Conduct Bylaw No. 958, 2024”.

**INTERPRETATION AND APPLICATION**

**Definitions**

- 2 (1) In this bylaw,

*CAO* means the chief administrative officer of the *Village*;

*complaint* means a formal allegation, made in accordance with the *complaint* procedure set out in section 21 of this bylaw, that a *member* has breached this bylaw;

*investigator* means the person appointed to fulfill the duties and responsibilities set out in section 37.

*member* means a member of the elected council of the *Village* or an appointed member of a council committee;

*staff* means an employee or contractor of the *Village*;

*Village* means the Village of Pemberton; and

*volunteer* means a person serving the *Village* who is not a *member* or *staff*.

**Interpretation**

- 3 (1) The [\*Interpretation Act\*](#) applies to this bylaw.
- (2) This bylaw is to be interpreted broadly and in a manner consistent with the *Community Charter*.
- (3) The foundational principles in section 7 must inform the interpretation of the provisions of sections 9 through 19 but do not form stand-alone bases for *complaints*.

- (4) In this bylaw, a reference to an *Act* refers to a statute of British Columbia and a reference to any statute, regulation or other enactment refers to that enactment as amended or replaced from time to time.
- (5) A reference to a person who holds an office includes a person appointed to act for that person from time to time.
- (6) In the event of a conflict between this bylaw and another *Village* bylaw or policy, this bylaw prevails.

## **Purpose**

- 4 (1) The purposes of this bylaw are to:
  - a) set out the standards and expectations of conduct of council and committee members in fulfilling their duties and responsibilities as elected and appointed officials;
  - b) establish the authority of the *investigator* in the investigation of a complaint; and
  - c) set out the processes for investigation of a *complaint* and the possible remedies for a breach of this bylaw.
- (2) Nothing in this bylaw is intended to preclude *members*, prior to or instead of filing a *complaint*, from speaking to each other to resolve matters which may otherwise be captured by this bylaw.

## **Application**

- 5 (1) This bylaw applies to all council members, inclusive of their actions in their capacity as members of various boards, committees, and other discretionary appointments, and to appointed members of council committees.
- (2) This bylaw does not apply to *staff*.
- (3) The provisions of this bylaw apply to a council member's use of personal and professional social media accounts.
- (4) Unless otherwise provided, this bylaw does not apply to a *member's* conduct in their personal life, except to the extent that such conduct reasonably undermines public confidence in *Village* governance.

## **Severability**

- 6 (1) If any definition, section, subsection, paragraph, subparagraph, clause or phrase in this bylaw is held invalid by a court of competent jurisdiction, the invalid definition, section, subsection, paragraph, subparagraph, clause or phrase must be severed and the remainder of this bylaw is deemed to have been adopted without the severed definition, section, subsection, paragraph, subparagraph, clause or phrase.

## **FOUNDATIONAL PRINCIPLES**

### **Principles to Guide Conduct**

- 7 (1) A *member* will be guided by the foundational principles of *integrity, accountability, respect, and leadership and collaboration* in fulfilling their responsibilities and duties as elected officials.
- (2) In this bylaw, the foundational principles are defined as follows:
- a) *accountability* means accepting responsibility for one's actions;
  - b) *integrity* means being honest and demonstrating ethical principles;
  - c) *leadership and collaboration* means the ability to lead, listen to, and positively influence others; coming together to create or meet a common goal through collective efforts; and
  - d) *respect* means having due regard for others' perspectives, wishes, and rights and displaying deference to the offices of local government and the role of local government in community decision-making.
- (3) A *member* is expected to behave with *integrity* by:
- a) acting in a manner that promotes public confidence in the *Village*, including declaring conflicts of interest, avoiding improper use of office, and avoiding unethical conduct;
  - b) being truthful, open and honest in all dealings;
  - c) upholding the public interest and making decisions in the best interest of the community;
  - d) following through on commitments;
  - e) engaging in positive communication with the community and correcting errors in a timely and transparent manner; and
  - f) acting lawfully and within the authority of the *Community Charter, Local Government Act, Workers Compensation Act of BC*, and the *BC Human Rights Code*.
- (4) A *member* is expected to demonstrate *accountability* by:
- a) being transparent in how they individually and collectively conduct business and carry out their duties;
  - b) ensuring information is accessible and that citizens can view the process and rationale behind each decision and action, while protecting confidentiality as required;
  - c) accepting that they are collectively accountable for local government decision-making and that individual *members* are responsible for the decisions they make in fulfilling their roles; and
  - d) listening to and considering the opinions and needs of the community in all decision-making and allowing for respectful discourse and feedback.
- (5) A *member* is expected to act with *respect* by:
- a) treating every person, including other *members, staff*, and the public with dignity;

- b) demonstrating consideration for colleagues and *staff*;
- c) creating an environment of trust, including displaying awareness and sensitivity around comments and language that may be perceived as derogatory;
- d) valuing the role of diverse perspectives and debate in decision-making;
- e) acting in a way that demonstrates respect for the roles and responsibilities of the offices of mayor and council;
- f) valuing the distinct roles and responsibilities of *staff* and the community in local government considerations and operations;
- g) committing to fostering a positive working relationship with *staff*, the public, and other *members*.

(6) A member is expected to demonstrate *leadership and collaboration* by:

- a) demonstrating behaviour that builds and inspires public trust and confidence in local government;
- b) calmly facing challenges and providing considered direction regarding the issues of the day and enabling colleagues to do the same;
- c) creating space for open expression by others; taking responsibility for one's own actions and accepting the decision of the majority;
- d) accepting that it is the equal responsibility of council and committee members individually and collectively to work together to achieve common goals; and
- e) being an active participant in ensuring these foundational principles and the standards of conduct are followed.

(7) The key statements of principles that underlie this code of conduct are as follows:

- a) *Members* shall serve and be seen to serve their constituents in a conscientious and diligent manner.
- b) *Members* shall be committed to performing their duties and functions with integrity, avoiding improper use of influence of their office, and avoiding conflicts of interest.
- c) *Members* shall perform their duties in office and arrange their private affairs in manner that promotes public confidence in local government and will bear close public scrutiny.
- d) *Members* shall seek to serve the public interest by upholding both the letter and spirit of the laws of Parliament, the BC legislature, and the laws and policies of the Village.

## **RULES OF CONDUCT**

### **Roles and Responsibilities**

- 8 (1) Council is the governing body of the *Village*.
- (2) Council has the responsibility to govern the *Village* in accordance with Part 5 of the *Community Charter* and other applicable legislation.
- (3) The mayor is the head and chief executive officer of the *Village* and has a statutory responsibility to provide leadership to the council and to provide general direction to

municipal officers respecting *Village* policies, programs and other directions of the council as set out in Part 5 of the *Community Charter*.

- (4) Staff provide professional advice to the council and carry out decisions in an effective, efficient and non-partisan manner.
- (5) The CAO is council's one employee.

## **Conduct of Council and Committee Members**

### General Conduct

- 9 (1) *A member* shall not:
  - a) breach their oath sworn upon taking office as a council member;
  - b) abuse their office;
  - c) contravene this bylaw;
  - d) contravene any other *Village* bylaw or policy;
  - e) contravene a law of British Columbia or Canada;
  - f) bully or harass a *member, staff, or volunteer*; or
  - g) defame a *member, staff, or volunteer*.
- (2) *A member* shall treat other *members, staff, and volunteers* with respect and dignity.

### Interactions with Staff and Volunteers

- 10 (1) *A member* must direct inquiries regarding departmental issues to the CAO or *manager* of the appropriate department unless the communication is for the purpose of seeking administrative clarity.
- (2) *A member* must not interfere with, hinder, or obstruct *staff* or a *volunteer* in the performance of their roles, responsibilities, powers, duties, or functions.
- (3) *A member* shall not impair the ability of municipal officers or *staff* to implement council policy decisions.
- (4) *A member* must not request or require *staff* or a *volunteer* to undertake personal or private work on behalf of a *member*.
- (5) *A member* must not compel *staff* or a *volunteer* to engage in partisan political activities or subject them to reprisal of any kind for refusing to engage in such activities.
- (6) *A member* must not publish, on social media or otherwise, statements attacking a *member, staff, or a volunteer*.
- (7) *A member* must not directly or indirectly request, induce, encourage, aid, or permit *staff* to do something which, if done by the *member*, would be a breach of this code of conduct.



- (8) Information obtained by a *member* which is likely to be used in a council or political debate must be provided to all other *members* and to the *CAO*.
- (9) If a *member* has information about *staff* or a *volunteer* that the *member* wishes to bring to the attention of the *Village* for the purposes of a review or investigation into the conduct or an omission of the individual, the *member* may only do so by delivering the information in writing to the *CAO*.
- (10) On receipt of information referred to in subsection (9), the *CAO* shall conduct a review or investigation and address the matter in accordance with the *Village's* employment agreements, bylaws, and policies and with applicable employment law or professional responsibility enactments.

#### Interactions with Public and Media

- 11 (1) A *member* must not communicate on behalf of the *Village* unless authorized to do so:
  - a) pursuant to the *Village's* Communication and Media Policy;
  - b) by council resolution; or
  - c) by virtue of a position or role the *member* has been authorized to undertake by council.
- (2) Without limiting the ability of the *member* to hold a position on an issue and respectfully express an opinion, a *member* must:
  - d) ensure that their communications relating to council or committee business are accurate;
  - e) not issue any communication that the *member* knows, or ought to have known, to be false; and
  - f) ensure that all communications by and on behalf of a *member*, including communications made via social media, are respectful and do not discriminate against, harass, or defame any *member*, *staff*, or *volunteer*.
- (3) A *member* shall not issue instructions to any of the *Village's* contractors, tenderers, consultants, or other service providers unless expressly authorized to do so.
- (4) Outside of a council or committee meeting, a *member* shall not communicate with a tenderer or proponent regarding the subject matter of the procurement.

#### Meetings

12. A *member* must act with decorum at council and committee meetings and in accordance with Village of Pemberton Council Procedure Bylaw No. 788, 2015.

## Collection and Handling of Information

13. A *member* must:

- a) comply with the provisions of the *Freedom of Information and Protection of Privacy Act* and the policies and guidelines established by the *Village*;
- b) comply with section 117 of the *Community Charter*, including by protecting, and not disclosing publicly, confidential information;
- c) only access information held by the *Village* for *Village* business and not for personal purposes; and
- d) not alter *Village* records unless expressly authorized to do so.

## Use of Social Media

- 14 (1) The provisions of this bylaw apply, without limitation, to the use of a *member's* personal and official social media accounts.
- (2) A *member* must regularly monitor their social media accounts and immediately take measures to deal with the publication of messages or postings by others that violate the provisions of this bylaw.
- (3) For clarity, this section applies only to social media accounts in respect of which a *member* has primary moderation control.

## Conflict of Interest

- 15 (1) A *member* shall not participate in a discussion of a matter or vote on a question in respect of that matter, in respect of which the member has a *conflict of interest*.
- (2) In respect of each matter before council, a *member* shall:
- a) assess whether they have a conflict of interest; and
  - b) determine whether it is necessary to seek independent legal advice pursuant to the *Village's* Legal Advice for Council Members on Conflict of Interest Policy (COU-008) with respect to any situation which may result in a conflict of interest.
- (3) If a *member* believes they have a conflict of interest in respect of a matter considered in a council or committee meeting, the *member* shall:
- a) notify the mayor or the chair of the meeting that the *member* has a conflict of interest prior to the matter being considered;
  - b) restate the conflict of interest each time the matter arises before council;
  - c) refrain from discussing the matter with any other *member* publicly or privately; and
  - d) leave any meeting if the matter is discussed and not return until the discussion has ended or voting on the matter has been concluded.

### Use of Influence

- 16 (1) *A member* must not attempt to influence a decision of the council, a committee, a municipal officer, or *staff* if the member has a pecuniary conflict of interest in relation to that decision.
- (2) *A member* must not use their office to provide preferential treatment to any person or organization except as warranted by the ordinary and lawful discharge of their duties.
- (3) *A member* must not intimidate, improperly influence, threaten, or coerce *staff* or a *volunteer*.

### Gifts and Personal Benefits

- 17 (1) *A member* must not accept a gift or personal benefit except in accordance with section 105 of the *Community Charter*.
- (2) *A member* must disclose a gift or personal benefit received in accordance with section 105 of the *Community Charter* as per section 106 of the *Community Charter*.

### Campaign Activities

- 18 (1) *A member* shall not use *Village* facilities, equipment, supplies, services, or other resources of the *Village* for any election-related activities.
- (2) *A member* must not use the services of *staff* for election-related purposes during the hours in which those *staff* members are in the paid employment of the *Village*.
- (3) *A member* shall comply with all applicable election legislation including, but without limitation, the *Local Government Act* and *Local Elections Campaign Financing Act*.

### Business Relations

- 19 (1) *A member* who engages in another profession, business, or occupation concurrently while holding elected office shall not allow such activity to materially affect the *member's integrity*, independence, or competence.

## **COMPLAINT AND RESOLUTION PROCEDURES**

### **Council Members**

#### Confidential Requests

- 20 (1) If a *member*, *staff*, or *volunteer* believes that they have been subject to conduct by a council member that breaches this bylaw, that person may approach the *CAO* on a confidential basis, without the need to file a *complaint*, to request that the *CAO* inform the council member of the alleged breach.
- (2) Upon receipt of a confidential request, the *CAO* may attempt to address the conduct with the council member.

- (3) The CAO must protect the confidentiality of a person making a request under subsection (1) unless the person making the request consents in writing to disclosure.

### Complaint Procedure

- 21 (1) A *member, staff or volunteer* may submit a *complaint* to the CAO or, if the complainant is the CAO or the *complaint* involves or is about the CAO, to the corporate officer.
- (2) Upon receipt of a *complaint*, the CAO, or, if applicable, the corporate officer, shall retain an *investigator*.
- (3) A *complaint* must be in writing and describe with sufficient detail:
  - a) the name of the complainant;
  - b) the name of the respondent;
  - c) the conduct that the complainant alleges to have been breached;
  - d) the date of the alleged conduct;
  - e) the parts of this bylaw that the complainant alleges have been breached;  
and
  - f) the basis for the complainant's knowledge about the conduct.
- (4) A complainant may specify in the *complaint* if they are willing to participate in an informal resolution of the *complaint*.
- (5) The CAO or, if applicable, the corporate officer, may accept a *complaint* notwithstanding that the form of the *complaint* does not comply with all requirements set out in subsection (3) if the circumstances warrant.
- (6) If an *investigator* receives multiple *complaints* concerning the same matter, the *investigator* must proceed with the first *complaint* received but may expand the *complaint* or add complainants to conduct the investigation and prepare the investigation report.
- (7) An *investigator* must reject a *complaint* submitted more than 90 days after the complainant knew, or reasonably ought to have known, of the alleged breach of this bylaw.
- (8) An *investigator* is authorized to extend the 90-day *complaint* deadline stated in subsection (7) by 90 days if circumstances warrant an extension.
- (9) An *investigator* must reject a *complaint* received regarding a *member* seeking re-election in the period from the first day of the nomination period to the general voting day.
- (10) In the 90 days prior to general voting day, an *investigator* may suspend any investigation that is underway.

## Dismissal or Suspension of Complaint

- 22 (1) If a *complaint* is submitted that, on its face, is not made with respect to a breach of this bylaw, or if a *complaint* would be more appropriately addressed through another process, including if the *complaint* is:
- a) with respect to non-compliance with a more specific council policy or bylaw with a separate *complaint* procedure; or
  - b) with respect to a matter that is subject to another outstanding process, such as a court proceeding or human rights *complaint*,
- the *investigator* may reject the *complaint* or part of the *complaint*.
- (2) If an *investigator* rejects a *complaint* or part of a *complaint* under subsection (1), the *investigator* shall notify the complainant in writing that the *complaint* is not within the jurisdiction of this bylaw, or that the *complaint* would be more appropriately addressed through another process and set out any additional reasons and referrals the *investigator* thinks appropriate.
- (3) If an *investigator*, 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 *investigator* must immediately refer the matter to the appropriate authorities, suspend the investigation until any resulting police investigation and charge have been finally disposed of, and report the suspension to council.
- (4) If a *complaint* is made against a *member* who, during the *complaint* procedure, ceases to hold office, the *investigator* may close the *complaint* and notify the complainant and respondent of this decision.

## Preliminary Assessment

- 23 (1) On receipt of a *complaint*, the *investigator* must conduct a preliminary assessment and if at that time, or any time thereafter, the *investigator* is of the opinion that:
- a) the *complaint* is not with respect to a breach of this bylaw;
  - b) the *complaint* is frivolous, vexatious, or not made in good faith;
  - c) the investigation is or might be hampered, or the *member* might be prejudiced, by the complainant's failure to comply with section 21 (3) or otherwise cooperate with the investigation;
  - d) the complainant wishes to withdraw the *complaint*, and it would be appropriate in the circumstances to allow the withdrawal; or
  - e) there are no grounds or insufficient grounds to conclude that a violation of this bylaw has occurred,

the *investigator* must notify the complainant and the respondent in writing that the *investigator* is closing the *complaint*, set out the reasons therefore, and close the *complaint*.

- (2) Notwithstanding subsection (1), the *investigator* may request further information from the complainant before determining whether there are sufficient grounds for believing that a breach of this bylaw may have occurred.

## Informal Resolution

- 24
- (1) When the *investigator* has decided to proceed with a *complaint*, the *investigator* must determine whether the *complaint* requires a formal investigation, or whether the *complaint* may be resolved informally.
  - (2) If the *investigator* determines that the *complaint* may be resolved informally, the *investigator* may either attempt to resolve the *complaint* directly or refer the *complaint* to the CAO.
  - (3) In deciding under subsection (1), the *investigator* shall give a strong preference to the informal resolution process wherever possible.
  - (4) When determining whether the *complaint* may be resolved informally, the *investigator* may consider culturally appropriate, transformative, or restorative justice approaches, and may engage a third party to assist the *investigator* for this purpose.
  - (5) If the *investigator* refers the *complaint* in accordance with subsection (2), the CAO may agree to assist in resolving the *complaint* directly, or may appoint at their discretion a third party to assist in resolving the *complaint*.
  - (6) A third party assisting in the informal resolution of a *complaint* will assess the suitability of the *complaint* for settlement or resolution on an on-going basis and may decline to assist at any point.
  - (7) The complainant or the respondent can decline to participate in an informal resolution at any time.
  - (8) If a *complaint* is resolved informally, a third party assisting in resolving the *complaint* must notify the *investigator* in writing of the terms of the resolution, upon receipt of which, the *investigator* must close the *complaint*.
  - (9) If a *complaint* cannot be resolved informally, a third party assisting in resolving the *complaint* must refer the *complaint* back to the *investigator* for a formal investigation.

## Formal Resolution

- 25
- (1) If a *complaint* is not rejected, closed, or resolved informally, the *investigator* must proceed with a formal investigation.
  - (2) The *investigator* must deliver the *complaint* to the respondent with a request that the respondent provide a written response to the *complaint* together with any submissions the respondent chooses to make within 10 days, subject to the *investigator*'s discretion to extend the timeline.
  - (3) The *investigator* may deliver the complainant with the respondent's written response together with any submissions, on a strictly confidential basis, and request a reply in writing within 10 days, subject to the *investigator*'s discretion to extend the timeline.
  - (4) The *investigator* may:

- a) speak to anyone relevant to the *complaint*;
  - b) request disclosure of documents relevant to the *complaint*; or
  - c) access any record in the possession or control of the *Village*, except a record that is subject to solicitor-client privilege.
- (5) The *investigator* must ensure that the formal investigation complies with the rules of procedural fairness and natural justice required in the circumstances.
- (6) Notwithstanding subsection (1), nothing prohibits the *investigator* from summarily dismissing a *complaint* if it becomes apparent, after some investigation, that the *complaint* has no chance of success.
- (7) If the *investigator* summarily dismisses a *complaint* in the formal resolution stage, the *investigator* shall report to the complainant and respondent in the manner set out in section 23 (1).

### Adjudication and Reporting

- 26 (1) The *investigator* must decide within 90 days of making the determination to proceed with a formal investigation, unless the *investigator* determines that doing so is not practicable, in which case the *investigator* must notify the complainant and respondent of the delay and provide a revised decision date.
- (2) The revised decision date may be extended by periods of up to 30 days on provision of written notice to the complainant and the respondent.
- (3) A notification issued pursuant to subsection (1) or sections 22 (2), 22 (4), or 23 (1) is confidential and must not be disclosed except to council at a closed meeting for the purpose of considering a resolution for reimbursement of legal fees pursuant to section 35.
- (4) Despite subsection (3), the respondent may disclose the fact that the *complaint* has been closed or that a finding has been made that the respondent did not breach this bylaw.
- (5) If after reviewing all material information, the *investigator* determines that the respondent did not violate this bylaw, then:
- a) the *investigator* must prepare a written investigation report providing reasons for their determination that the council member did not breach the bylaw;
  - b) the *investigator* must deliver a copy of the investigation report to the complainant, respondent, and council; and
  - c) the *investigator* must make the investigation report or a summary publicly available on the next available council meeting agenda after delivery of the investigation report to the complainant, respondent, and council.
- (6) If after reviewing all the material information, the *investigator* determines that a council member did violate this bylaw:

- a) the *investigator* must prepare a written investigation report providing reasons for their determination that the council member breached this bylaw;
  - b) the investigation report must make recommendations as to the appropriate sanction for the breach;
  - c) if the *investigator* determines the council member took all reasonable steps to prevent the breach, or that the breach was trivial or done inadvertently or because of an error in judgment made in good faith, the *investigator* will state this in the investigation report and may recommend that no sanction be imposed;
  - d) the *investigator* must deliver, on a strictly confidential basis, a copy of the investigation report to the respondent; and
  - e) the *investigator* must deliver a copy of the investigation report to the complainant and council 48 hours after delivery of the investigation report to the respondent.
- (7) In all circumstances, the *investigator* may choose to distribute the investigation report to council through the CO.

#### Final Determination by Council

- 27 (1) Council must, within 30 days of delivery of the investigation report pursuant to section 26 (5) and 26 (6), or a longer period if approved by a 2/3 vote of council, decide on the appropriate measures, if any, that are warranted by the breach of this bylaw, and will take such actions as council considers appropriate in the circumstances.
- (2) Prior to council making any decision regarding the findings and recommendations set out in the investigation report, the respondent must be provided with an opportunity, either in person or in writing, to comment on the decision and any recommended censure, sanctions or corrective actions.
- (3) While an investigation report provided to council may be considered in a closed meeting for the purpose of receiving legal advice, or for another valid reason, when council deliberates and votes on the investigation report, it will do so in a public meeting and the investigation report, or a summary, must be made available to the public in a form that complies with section 4.1.10(b).
- (4) Notwithstanding subsection (3), council may deliberate on and vote on a report in a closed meeting where there is a valid reason to close the meeting under section 90 of the *Community Charter*. For certainty, this means the investigative report or summary may not be publicly released.

#### Remedies

- 28 (1) Sanctions that may be imposed for a violation of this bylaw include the following:
- a) a letter of reprimand from council addressed to the *member*;
  - b) a request from council that the *member* issue a letter of apology;
  - c) the publication of the letters contemplated in (a) and (b), along with the council member's written response, if any;



- d) directions to the *CAO* regarding the provision of documents, including documents containing confidential information, to the council member;
  - e) a recommendation that the council member attend specific training or counselling;
  - f) limitations on access to certain *Village* facilities;
  - g) suspension or removal of the council member from some or all council committees and bodies to which the council member was appointed;
  - h) prohibition from representing the *Village* at events or attending conferences and seminars;
  - i) suspension or removal of the appointment of a council member as the acting mayor;
  - j) public censure of a council member;
  - k) any other sanction recommended by the *investigator*, so long as that sanction is within the authority of council.
- (2) The *investigator* may recommend that council consider commencing an application for disqualification under section 111 of the *Community Charter* or for damages under section 117 of the *Community Charter*.

#### Report to be Public

- 29 (1) Unless deliberations have, pursuant to section 27 (4), taken place in a closed council meeting, the *Village* must, after delivering a copy of the investigation report to the complainant and council, make the investigation report, or a summary of the report, available to the public.
- (2) In all circumstances, the *Village* will:
- a) ensure that the investigation report or a summary complies with the *Village's* obligations regarding disclosure of personal information set out in the *Freedom of Information and Protection of Privacy Act* and
  - b) ensure that appropriate redactions are applied prior to any release to the public.

#### Remuneration

- 30 (1) Where the *investigator* finds that a council member:
- a) breached this bylaw; or
  - b) submitted a *complaint* that was frivolous, vexatious, or made in bad faith,
- the remuneration to which that council member would otherwise be entitled shall be reduced in accordance with Council Remuneration Bylaw No. 704, 2012.
- (2) Remuneration foregone by a council member pursuant to subsection (1) shall be used to offset the cost of investigations conducted under this bylaw.
- (3) Notwithstanding subsection (1), the remuneration of a council member shall not be reduced if the *investigator* finds that:

- a) the council member took all reasonable steps to prevent the breach;
- b) the breach was trivial or inadvertent; or
- c) the breach was because of an error in judgment made in good faith.

### Confidentiality of the Investigation

- 31 (1) The *investigator* must make all reasonable efforts to investigate *complaints* in confidence.
- (2) The *investigator* and every person acting under the *investigators'* instructions must preserve confidentiality with respect to all matters that come into the *investigator's* knowledge during any investigation or *complaint* except as required by law.
- (3) An investigation report must only disclose such matters as, in the *investigator's* opinion, are necessary for the purpose of the investigation report.

### Council Members Acting as Committee Members

32. For clarity, the procedures in sections 20 to 31 are to apply to all allegations against council members including when they are acting in their capacity as committee members.

### **Committee Members**

- 33 (1) A *complaint* of an alleged breach of this bylaw by a committee member shall be submitted simultaneously in writing addressed to both the mayor and CAO and within 90 days of the last alleged breach.
- (2) A *complaint* must comply with the standards set out at section 10.6.
- (3) The mayor shall consider the *complaint* and direct that any enquiries considered appropriate or desirable be undertaken, including referral to the CAO or an *investigator*.
- (4) For certainty, if the *complaint* is referred to the CAO or the *investigator*, then the processes and procedures in sections 20 to 31 of this bylaw may be utilized to the extent deemed necessary and appropriate.
- (5) Nothing in this code is intended to abrogate the power of the mayor or council, as applicable, to remove, at their pleasure and at any time, any committee member from any committee to which they have been appointed.

### **Reprisals and Obstruction**

- 34 (1) No *member* or *staff* will threaten, interfere with, or otherwise obstruct the *investigator* in relation to the *investigator* carrying out the duties and responsibilities under this bylaw.
- (2) No *member* or *staff* will threaten or undertake any reprisal against a complainant or against a person who provides information to the *investigator* in the context of an investigation.

- (3) No *member* or *staff* will tamper with or destroy documents or electronic records related to any matter under investigation under this bylaw or refuse to respond to the *investigator* when questioned regarding an investigation.
- (4) Any individual covered by this bylaw who is found to have engaged in any reprisal or retaliation in violation of this bylaw will be subject to appropriate disciplinary action, which action may include, and is not limited to, the sanctions and remedies described above or the termination of employment for just cause, as applicable.

### **Reimbursement of Costs**

- 35
- (1) A council member may make a request to council for reimbursement for the costs of legal advice and representation in responding to the formal *complaint* process outlined in this bylaw.
  - (2) If appropriate after considering all circumstances, council may resolve to reimburse legal fees reasonably incurred by a council member, if all the following are met:
    - a) it is the council member's first formal *complaint* process; and
    - b) the amount does not exceed \$10,000.

### **Vexatious Allegations and Complaints**

- 36
- (1) Any individual covered by this bylaw who makes an allegation or *complaint* under this bylaw 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 council members, sanctions and remedies described in section 28 (1);
    - b) in the case of committee members, termination of the committee member's appointment;
    - c) in the case of *staff*, disciplinary action, or the termination of employment for just cause, as applicable.

### **APPOINTMENT OF INVESTIGATOR**

- 37
- (1) The CAO shall, upon receipt of a *complaint*, appoint an *investigator* to fulfill the duties and responsibilities described in (2).
  - (2) The duties and responsibilities of an *investigator* are as follows:
    - a) to assist with informal resolution of a confidential request or *complaint*;
    - b) to receive and assess a *complaint* to determine if the *complaint* must be rejected, closed, resolved or investigated;
    - c) to investigate and conduct inquiries as to alleged violations of this bylaw;
    - d) to report to council as to whether a *member* has breached this bylaw;  
and
    - e) to make recommendations on an appropriate remedy, if the *investigator*

determines that a *member* has breached this bylaw.

- (3) An *investigator* must perform the duties and responsibilities under this bylaw in an independent and impartial manner.
- (4) An *investigator* may only be dismissed for cause.

**READ A FIRST TIME** this 30<sup>th</sup> day of April, 2024.

**READ A SECOND TIME** this 30<sup>th</sup> day of April, 2024.

**READ A THIRD TIME** this 30<sup>th</sup> day of April, 2024.

**ADOPTED** this 7<sup>th</sup> day of May, 2024.

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Mike Richman  
Mayor

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Gwendolyn Kennedy  
Corporate Officer