

CITY OF BURNABY

BYLAW NO. 14557

A BYLAW respecting code of conduct
for Council members

The Council of the City of Burnaby ENACTS as follows:

PART 1: CITATION

1.1 This Bylaw may be cited as **BURNABY CODE OF CONDUCT BYLAW 2023**.

PART 2: INTERPRETATION AND APPLICATION

2.1 Definitions

2.1.1 In this Bylaw,

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|------------------------------|---|
| “ bylaw ” | means this bylaw, including all schedules attached to this bylaw |
| “ CAO ” | means the individual assigned the position of Chief Administrative Officer for the City pursuant to section 147 of the <i>Community Charter</i> |
| “ City ” | means the City of Burnaby |
| “ committee ” | means a committee, sub-committee, task force, commission, board or other body established by Council under the <i>Community Charter, Local Government Act</i> or other enactment |
| “ committee member ” | means an individual appointed to a committee , whether or not the individual is a Council member |
| “ complaint ” | means an allegation, in accordance with the complaint procedure set out in Part 5 of this bylaw , that a Council member has breached this bylaw |
| “ complainant ” | means an individual who has submitted a complaint |
| “ Council ” | means the council of the City |
| “ Council member ” | means the Mayor and Councillors for the City |
| “ Corporate Officer ” | means the individual assigned the responsibility of corporate |

administration for the **City** pursuant to section 148 of the *Community Charter*

- “**Director**” means the **City** employee responsible for a division within a **City** department
- “**General Manager**” means the **City** employee responsible for a **City** department
- “**investigator**” means an individual appointed pursuant to section 5.3.1 of this **bylaw**
- “**respondent**” means a **Council member** whose conduct is the subject of a **complaint**
- “**staff**” means an employee, consultant or contractor of the **City**
- “**volunteer**” means an individual, who is not a **Council member**, serving the **City** without monetary remuneration

2.1.2 All references to the statutes, regulations, bylaws, orders, policies or guidelines of a federal, provincial, municipal or other governmental authority is a reference to such statute, regulation, bylaw, order, policy or guideline as amended or replaced from time to time.

2.2 Application

- 2.2.1 This **bylaw** applies to all **Council members** and for clarity, applies to a **Council member** acting in their capacity as a member of a **committee** and other functions in their capacity as an elected official.
- 2.2.2 Unless otherwise provided, this **bylaw** does not apply to a **Council member’s** conduct in their personal life, except to the extent that such conduct unreasonably undermines public confidence in **City** governance.
- 2.2.3 In this **bylaw**, a reference to a person who holds an office or position includes a reference to the persons appointed to act for that person from time to time.
- 2.2.4 This **bylaw** does not apply to the conduct of **City staff** or **volunteers** or members of a **committee** who is not a **Council member**.
- 2.2.5 In the event of conflict between this **bylaw** and another **City** bylaw or policy governing the conduct of **Council members**, this **bylaw** prevails.

PART 3: PRINCIPLES AND STANDARDS OF CONDUCT

3.1 Foundational Principles for Code of Conduct

3.1.1 The foundational principles for the code of conduct under this **bylaw** are:

- (a) Integrity: Integrity is conduct and behaviour that respects and upholds the public interest and promotes public confidence in local government. Integrity is based on honesty and the active demonstration of the highest ethical standards and professionalism in all dealings.
- (b) Accountability: Accountability is conduct and behaviour that exhibits the willingness to account for and accept responsibility for one's conduct, behaviours, words, actions and decisions.
- (c) Respect: Respect is to behave and conduct oneself with politeness, honour, and care shown towards someone or something by demonstrating due regard, deference and consideration for the perspectives, wishes, beliefs, traditions, values and rights of others.
- (d) Leadership and Collaboration: Leadership and collaboration are conduct and behaviour that demonstrates the ability to lead, guide, actively listen, mobilize and positively influence others, while encouraging people to come together to meet and work around a common goal or objective, or to resolve conflict through collective means and efforts.

3.2 Standards of Conduct

3.2.1 The foundational principles under section 3.1.1 of this **bylaw** are demonstrated by the following standards of conduct:

- (a) Integrity is demonstrated by the following conduct:
 - (i) **Council members** will be open and truthful in all **City** dealings, while protecting confidentiality where necessary or required.
 - (ii) **Council members** will behave in a manner that promotes public confidence, including actively avoiding any perceptions of conflicts of interest, improper use of office or appointment, or unethical conduct.
 - (iii) **Council members** will act in the best interest of the public and community.
 - (iv) **Council members** will ensure actions are consistent with the shared principles, values, policies and bylaws of the **City**.
 - (v) **Council members** will demonstrate the same ethical principles during both

meetings that are open and closed to the public.

- (vi) **Council members** will express sincerity when correcting or apologizing for any errors or mistakes made while carrying out official duties.
- (b) Accountability is demonstrated by the following conduct:
- (i) **Council members** will be transparent about how they carry out their duties and how **Council** and **committees** conduct business.
 - (ii) **Council members** will ensure any information and decision-making processes are accessible to the public while protecting confidentiality where necessary or required.
 - (iii) **Council members** will correct any mistakes or errors in a timely and transparent manner.
 - (iv) **Council members** will accept and uphold that **Council** and **committees** are collectively accountable for **City** decisions, and that individual **Council members** are responsible and accountable for their behaviour and individual decisions.
 - (v) **Council members** will listen to and consider the opinions and needs of the community in all decision-making and allow for public discourse and feedback.
 - (vi) **Council members** will act in accordance with the law, which includes, but is not limited to, the statutes, bylaws, and policies that govern the **City**.
- (c) Respect is demonstrated by the following conduct:
- (i) **Council members** will treat other **Council members**, **committee members**, **City staff** and **volunteers**, and the public with dignity, understanding, and respect.
 - (ii) **Council members** will acknowledge that people's beliefs, values, ideas, and contributions add diverse perspectives.
 - (iii) **Council members** will create an environment of trust, including displaying awareness and sensitivity around comments and language that may be perceived as offensive or derogatory.
 - (iv) **Council members** will refrain from any form of discriminatory or defamatory conduct against another **Council member**, **committee member**, **City staff** and **volunteers**, or the public.

- (v) **Council members** will honour the offices of local government and fulfill their obligations of their office and appointment dutifully.
 - (vi) **Council members** will recognize and value the distinct roles and responsibilities of **committee members, City staff** and **volunteers**.
 - (vii) **Council members** will call for and expect respect from the community towards **Council members, committee members** and **City staff** and **volunteers**.
 - (viii) **Council members** will ensure that public statements and social media posts that concern other **Council members, committee members, City staff** and **volunteers**, and the public are respectful.
- (d) Leadership and collaboration are demonstrated by the following conduct:
- (i) **Council members** will demonstrate behaviour that builds public confidence and trust in the **City**.
 - (ii) **Council members** will provide considered direction on **City** policies and support other **Council members, committee members** and **City staff** to do the same.
 - (iii) **Council members** will educate colleagues and staff on the harmful impacts of discriminatory conduct, and take action to prevent this type of conduct from reoccurring if necessary.
 - (iv) **Council members** will create space for open expression by others, take responsibility for one's own actions and reactions, and accept the decisions of the majority.
 - (v) **Council members** will advocate for shared decision-making and actively work with other **Council members, committee members, City staff** and **volunteers**, the public, and other stakeholders to achieve common goals.
 - (vi) **Council members** will foster positive working relationships amongst **Council members, committee members, City staff** and **volunteers**, and the public.
 - (vii) **Council members** will commit to building mutually beneficial working relationships with neighbouring First Nations to further advance reconciliation efforts.
 - (viii) **Council members** will positively influence others to adhere to the foundational principles and standards for this code of conduct in all **City** dealings.

3.3 Interpretation

3.3.1 The principles and standards set out in sections 3.1.1 and 3.2.2 are to inform the interpretation of the provisions of this **bylaw** and are not stand-alone reasons for a **complaint**.

4.1 PART 4: CODE OF CONDUCT General Conduct

4.1.1 A **Council member** shall not:

- (a) contravene this **bylaw**;
- (b) contravene any **City** bylaw or policy; or
- (c) contravene a Provincial or federal enactment.

4.1.2 A **Council member** shall treat other **Council members**, **committee members**, and **City staff** and **volunteers** with respect and dignity.

4.1.3 A **Council member** shall not:

- (a) breach their oath sworn upon taking office as a **Council member**; or
- (b) abuse their office.

4.1.4 A **Council member** shall act with decorum at **Council** and **committee** meetings and in accordance with City bylaws and policies relating to conduct at meetings, including but not limited to the Burnaby Procedure Bylaw.

4.2 Interactions with City Staff, Volunteers and Other Members

4.2.1 A **Council member** shall not interfere with, hinder or obstruct another **Council member**, **committee member** or **City staff** or **volunteer** in the exercise of performance of their roles, responsibilities, powers, duties or functions. A **Council member** shall respect that it is the role of City **staff** and **volunteers** to provide neutral and objective information without undue influence and interference.

4.2.2 A **Council member** shall not:

- (a) request or require a **City staff** or **volunteer** to undertake personal or private work on behalf of a **Council member**;
- (b) request or require a **City staff** or **volunteer** to engage in partisan political activities or subject them to reprisal of any kind for refusing to engage in such activities;
- (c) directly or indirectly request, induce, encourage, aid, or permit a **City staff** or

volunteer to do something which, if done by the **Council member**, would be a breach of this **bylaw**.

4.3 Interactions with Public and Media

4.3.1 A **Council member** may communicate directly with the public and media when representing themselves as an individual **Council member**. A **Council member** shall not communicate, or imply that the **Council member** is communicating, on behalf of **Council** as a whole or the **City** unless expressly authorized to do so, such as in their capacity as Acting Mayor.

4.3.2 Without limiting the ability of a **Council member** to hold a position on an issue and respectfully express an opinion, a **Council member** shall ensure that:

(a) their communications relating to **Council** or **committee** matters are accurate and not **communicate** anything that the **Council member** knows, or ought to have known, to be false; and

(b) all communications by, and on behalf of a **Council member** are respectful and do not discriminate against, harass, disparage, demean or defame another **Council member**, **committee member** or any **City staff** or **volunteer**.

4.3.3 Outside of a **Council** or **committee** meeting, a **Council member** shall not communicate with a tenderer or proponent regarding the subject matter of a procurement by or on behalf of the **City**. A **Council member** shall not issue instructions to any of the **City's** contractors, tenderers, consultants or other service providers.

4.4 Use of Social Media

4.4.1 The provisions of this **bylaw** apply to the use of a **Council member's** official social media accounts, and to a **Council member's** personal social media account to the extent that any **communication** or conduct on the personal social media account undermines public confidence in **City** governance.

4.4.2 **Council members** shall 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**.

4.5 Collection and Handling of City Information

4.5.1 A **Council member** shall:

(a) comply with the *Freedom of Information and Protection of Privacy Act* and related regulations, policies and guidelines;

(b) comply with section 117 of the *Community Charter* in respect to confidentiality;

(c) only access information held by the **City** for **City** purposes as it relates to their work as a **Council member** and not for any personal purpose of the **Council member** or any other person;

(d) not delete or alter any **City** records, except in accordance with **City** policies.

4.5.2 A **Council member** shall promptly notify the **Corporate Officer** of any breach or suspected breach of section 4.5.1 of this **bylaw**, and in particular with respect to a breach or suspected breach of privacy, and comply and cooperate with all procedures and requirements for addressing the breach or suspected breach.

4.6 Conflict of Interest, Use of Influence, Gifts and Personal Benefits, Contracts, Insider Information and Criminal Charges

4.6.1 **Council members** shall comply with sections 100 to 109.3 of the *Community Charter*.

4.6.2 In addition to procedures and remedies under the *Community Charter*, the procedures in Part 5 of this **bylaw** shall apply to an allegation about a breach of a matter under sections 100 to 109.3 of the *Community Charter*.

4.7 Use of City Property, Assets and Resources

4.7.1 A **Council member** shall protect at all times **City** property, assets and resources in their care or possession.

4.7.2 A **Council member** shall use **City** property, equipment and resources only for the performance of their duties as a **Council member** and not for any personal purposes, subject to the following limited exceptions:

(a) **City** property, equipment and resources that are available to the general public may be used by a **Council member** for personal use upon the same terms and conditions as the general public, including booking and payment of any applicable fees or charges; and

(b) Electronic devices, including but not limited to desktop computers, laptops, tablets, and smartphones, which are supplied by the **City** to a **Council member**, may be used by the **Council member** for limited personal use, provided that the use is strictly personal and not offensive, inappropriate or for personal gain and complies with all **City** bylaws, policies, procedures and direction applicable to such electronic devices.

PART 5: COMPLAINT AND RESOLUTION PROCEDURES

5.1 Confidential Requests

5.1.1 If a **Council member**, **committee member**, **City staff** or **volunteer** believes that they

have been subject to conduct by a **Council member** in breach of this **bylaw**, that individual 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.

5.1.2 Upon receipt of the confidential request pursuant to section 5.1.1, the **CAO** may attempt to address the conduct with the **Council member**, seek the assistance from an **investigator** or third party with an informal resolution, or request the individual to file a **complaint** in accordance with section 5.2 of this **bylaw**.

5.1.3 The **CAO** shall protect the confidentiality of the individual making a request under section 5.1.1 unless the individual making the request consents in writing to disclosure.

5.2 Complaints

5.2.1 A **Council member**, **committee member**, **City staff** or **volunteer** may submit a **complaint** to the **CAO**, or if the **complainant** is the **CAO**, then to the **Corporate Officer**.

5.2.2 A **complaint** shall be in writing and set out the following with sufficient detail:

- (a) name of the **complainant**;
- (b) name of the **respondent**;
- (c) provisions of this **bylaw** alleged to have been breached;
- (d) conduct alleged to constitute the breach;
- (e) date or dates of the alleged breach;
- (f) basis for the **complainant's** knowledge about the conduct;
- (g) whether the **complainant** is willing to participate in an informal resolution of the **complaint**.

5.2.3 The **CAO** (or **Corporate Officer** if the **CAO** is the **complainant**) may accept a **complaint** that does not comply with section 5.2.2 of this **bylaw** if the circumstances warrant.

5.3 Investigator

5.3.1 Upon receiving a **complaint**, the **CAO** (or **Corporate Officer** if the **CAO** is the **complainant**) shall appoint an **investigator** to fulfil the duties and responsibilities under section 5.3.2 of this **bylaw**.

5.3.2 The duties and responsibilities of the **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** shall be rejected, closed, resolved or investigated;

- (c) to investigate and conduct inquiries as to alleged breaches of this **bylaw**;
- (d) to report to **Council** as to whether a **Council member** has breached this **bylaw**;
- (e) to make recommendations on appropriate remedies, if the **investigator** determines that a **Council member** has breached this **bylaw**.

5.3.3 The **investigator** shall perform the duties and responsibilities under this **bylaw** in an independent manner.

5.3.4 An **investigator** may be dismissed by the **CAO** (or **Corporate Officer** if the **CAO** is the **complainant**) for cause.

5.4 Complaints Review, Investigation, Resolution and Determination Procedures

5.4.1 The procedures in Schedule “A” of this **bylaw** shall apply to the review, investigation, resolution and determination of **complaints**.

5.5 Report to Public

5.5.1 Subject to section 5.5.2 of this **bylaw** and unless an investigation report is considered in a closed **Council** meeting in accordance with section 7.4 of Schedule “A” of this **bylaw**, the **investigator’s** final investigation report or summary of the report shall be made available to the public after the **investigator** delivers the report to **Council** and the **complainant** and if required, **Council** has made a final determination in respect to the findings and recommendations of the report in accordance with section 7.1 of Schedule “A” of this **bylaw**. For certainty, where **Council** deliberated on an investigation report in a closed meeting in accordance with section 7.4 of Schedule A of this **bylaw**, the investigation report or summary of the investigation report shall not be publicly released.

5.5.2 In all circumstances, the **City** shall ensure that the investigation report or summary of the report complies with the **City’s** obligations regarding disclosure of personal information set out in the *Freedom of Information and Protection of Privacy Act* and related regulations, and that all appropriate redactions are applied prior to any release of the investigation report or summary of the report to the public.

5.6 Reprisals and Obstruction

5.6.1 No person shall threaten, interfere with, or otherwise obstruct the **investigator** in relation to the **investigator** carrying out the duties and responsibilities under this **bylaw**.

5.6.2 No person shall threaten or undertake any reprisal against a **complainant** or against a person who provides information to the **investigator** in the context of an investigation.

5.6.3 No person shall 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.

- 5.6.4 Any **Council member** who is found to have engaged in any reprisal or retaliation in violation of this **bylaw** shall be subject to appropriate disciplinary action, which action may include and is not limited to the sanctions and remedies set out in section 8.1 of Schedule “A” of this **bylaw**.

5.7 Vexatious Allegations and Complaints

- 5.7.1 Any **Council member** who makes an allegation or **complaint** under this **bylaw** that is subsequently found to have been made in a vexatious or malicious manner, or otherwise to have been made in bad faith, shall be subject to appropriate disciplinary action, which action may include but is not limited to the sanctions and remedies set out in section 8.1 of Schedule “A” of this **bylaw**.

5.8 Reimbursement of Costs

- 5.8.1 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 set out in Schedule “A” of this **bylaw**. If appropriate after considering all circumstances, **Council** may resolve to reimburse legal fees reasonably incurred by a **Council member**, subject to the following:

- (a) reimbursement is available only for a **Council member** participating their first formal **complaint** process; and
- (b) the amount of reimbursement shall not exceed \$25,000.

- 5.8.2 For clarity, the Burnaby Indemnification Bylaw does not apply to requests for indemnification under this **bylaw**.

PART 6: SEVERABILITY

If a portion of this **bylaw** is held invalid by a Court of competent jurisdiction, the invalid portion shall be severed and the remainder of this **bylaw** is deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause or phrase.

Read a first time this 27th day of March, 2023

Read a second time this 27th day of March, 2023

Read a third time this 27th day of March, 2023

Reconsidered and adopted this 03rd day of April, 2023


MAYOR


CORPORATE OFFICER

SCHEDULE "A"

COMPLAINTS REVIEW, INVESTIGATION, RESOLUTION AND DETERMINATION PROCEDURES

1.0 General Matters

- 1.1 The **investigator** shall not accept multiple **complaints** concerning the same matter. In the event that the **investigator** receives multiple **complaints** concerning the same matter, the **investigator** shall proceed with the first **complaint** accepted, and if appropriate, expand the **complaint** and/or add **complainants** for the purpose of conducting the investigation and preparing the investigation report.
- 1.2 The **investigator** shall reject a **complaint** received more than 90 days after the **complainant** knew, or reasonably ought to have known, of the alleged breach of this **bylaw**. The **investigator** is authorized to extend this deadline up to an additional 90 days if the circumstances warrant an extension.
- 1.3 The **investigator** shall reject a **complaint** received regarding a **Council member** seeking election or re-election in a local election, including a by-election, in the period from the first day of the nomination period to the general voting day.
- 1.4 In the 90 days prior to general voting day for a local election, including a by-election, the **investigator** may suspend any investigation that is underway.

2.0 Dismissal or Suspension of Complaint

- 2.1 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 the *Freedom of Information and Protection of Privacy Act*;
 - (b) with respect to non-compliance with a more specific **Council** policy or bylaw with a separate complaint procedure;
 - (c) with respect to a matter that is subject to another process, such as a Court proceeding or human rights complaint,

the **investigator** may reject the **complaint**, or part of the **complaint**, and shall notify the **complainant** and the **CAO** (or the **Corporate Officer** if the complainant is the **CAO**) 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, as the case may be, and set out any additional reasons and referrals the **investigator** thinks appropriate.

- 2.2 If the **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* then the **investigator** shall immediately refer the matter to the appropriate authorities and suspend the investigation until any resulting investigation and charge have been finally disposed of, and shall report the suspension to the **CAO** and **Council**.
- 2.3 Where a **complaint** is made against a **Council member** who, during the course of the **complaint** procedure, ceases to hold office, the **investigator** may close the **complaint** and notify the **complainant**, the **respondent** and the **CAO** (or the **Corporate Officer** if the complainant is the **CAO**) of this decision.

3.0 Preliminary Assessment

- 3.1 On receipt of a **complaint**, the **investigator** shall 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 **Council member** might be prejudiced, by the **complainant's** failure to comply with section 5.2.2 of this **bylaw**, 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;
 - (e) there are no grounds or insufficient grounds to conclude that a breach of this **bylaw** has occurred,

the **investigator** shall notify the **complainant**, the **respondent** and the **CAO** (or the **Corporate Officer** if the complainant is the **CAO**) in writing that the **investigator** is closing the **complaint**, set out the reasons for closing the **complaint**, and then close the **complaint**.

- 3.2 Notwithstanding section 3.1 above, the **investigator** may request further information from the **complainant** before deciding whether or not there are sufficient grounds for determining that a breach of this **bylaw** may have occurred.

4.0 Informal Resolution

- 4.1 When the **investigator** has decided to proceed with a **complaint**, the **investigator** shall determine whether the **complaint** requires a formal investigation, or whether the **complaint** may be resolved informally. In the latter case, the **investigator** may either attempt to resolve the **complaint** directly or refer the **complaint** to the **CAO**.

- 4.2 In making a determination under section 4.1 above, the **investigator** shall give a strong preference to the informal resolution process wherever possible.
- 4.3 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.
- 4.4 Where the **investigator** refers the **complaint** to the **CAO** for informal resolution, 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**.
- 4.5 The third party assisting in the informal resolution of a **complaint** shall assess the suitability of the **complaint** for settlement or resolution on an on-going basis and may decline to assist at any point.
- 4.6 The **complainant** or the **respondent** may decline to participate in an informal resolution at any time.
- 4.7 If a **complaint** is resolved informally, the third party assisting in resolving the **complaint** shall notify the **investigator** in writing of the terms of the resolution, upon receipt of which, the **investigator** shall close the **complaint** and notify the **CAO** (or the **Corporate Officer** if the complainant is the **CAO**) of the informal resolution of the **complaint**.
- 4.8 If a **complaint** cannot be resolved informally, the third party assisting in resolving the **complaint** shall refer the **complaint** back to the **investigator** for a formal investigation.

5.0 Formal Resolution

- 5.1 If a **complaint** is not rejected, closed, or resolved informally, the **investigator** shall proceed with a formal investigation.
- 5.2 The **investigator** shall 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.
- 5.3 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.
- 5.4 The **investigator** may:
- (a) speak to any person relevant to the **complaint**;
 - (b) request disclosure of documents relevant to the **complaint**;

(c) access any record in the possession or control of the **City**, except a record that is subject to solicitor-client privilege.

5.5 The **investigator** shall ensure that the formal investigation complies with the rules of procedural fairness and natural justice required in the circumstances.

Notwithstanding section 5.1 above, nothing prohibits the **investigator** from summarily dismissing a **complaint** where it becomes apparent, after some investigation, that the **complaint** has no chance of success. If the **investigator** summarily dismisses a **complaint**, the **investigator** shall notify the **complainant**, the **respondent** and the **CAO** (or the **Corporate Officer** if the complainant is the **CAO**) in writing that the **investigator** is summarily dismissing the **complaint**, set out the reasons for the dismissal, and then close the **complaint**.

6.0 Adjudication and Reporting

6.1 The **investigator** shall make a decision 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** shall notify the **complainant** and **respondent** of the delay and provide a revised decision date. The revised decision date may be extended by periods of up to 30 days upon providing written notice to the **complainant** and the **respondent**.

6.2 A notification issued by the **investigator** pursuant to sections 2.1, 2.2, 3.1 or 6.1 of this Schedule is confidential and shall not be disclosed except in the following circumstances:

(a) to **Council** for the purpose of considering a request for reimbursement of legal fees pursuant to section 5.8 of this **bylaw**;

(b) 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.

6.3 If after reviewing all material information relating to a **complaint**, the **investigator** determines that the **respondent** did not breach this **bylaw**, the **investigator** shall:

(a) prepare a written investigation report providing reasons for their determination that the **Council member** did not breach the **bylaw**; and

(b) deliver a copy of the investigation report to the **complainant**, **respondent**, the **CAO** (or the **Corporate Officer** if the complainant is the **CAO**) and **Council**.

6.4 If after reviewing all material information relating to a **complaint**, the **investigator** determines that a **Council member** did breach this **bylaw**, then the **investigator** shall:

(a) prepare a written investigation report providing reasons for their determination that

- the **Council member** breached this **bylaw**;
- (b) in the investigation report, include 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, state so in the investigation report and if appropriate, recommend that no sanction be imposed or alternatives to sanctions be imposed;
 - (d) deliver, on a strictly confidential basis, a copy of the investigation report to the **respondent**; and
 - (e) deliver a copy of the investigation report to the **complainant**, the **CAO** (or the **Corporate Officer** if the **complainant** is the **CAO**) and **Council** within forty-eight (48) hours after delivery of the investigation report to the **respondent**.
- 6.5 In all circumstances, the **investigator** may distribute the investigation report to **Council** through the **Corporate Officer**.
- 7.0 Final Determination by Council**
- 7.1 **Council** shall, within 30 days of delivery of the investigation report pursuant to section 6.4(e) of this Schedule, or a longer period if approved by a 2/3 vote of all **Council members** (excluding the **respondent**), decide on the appropriate sanctions or measures, if any, that are warranted by the **respondent's** breach of this **bylaw**, and will take such actions as **Council** considers appropriate in the circumstances.
- 7.2 Prior to **Council** making any decision regarding the findings and recommendations set out in the investigation report delivered pursuant to section 6.4(e) of this Schedule, the **respondent** shall be provided with an opportunity, either in person or in writing, to comment on the **investigator's** decision and any recommended sanctions or measures.
- 7.3 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 pursuant to section 90 of the *Community Charter*, **Council** shall, subject to section 7.4 below, deliberate and vote on the investigation report and recommendations in an open meeting.
- 7.4 Notwithstanding section 7.3 above, **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*.
- 8.0 Remedies and Sanctions**
- 8.1 Sanctions that may be imposed for a breach of this **bylaw** include but are not limited to

the following:

- (a) a letter of reprimand from **Council** addressed to the **Council member**;
- (b) a request from **Council** that the **Council member** issue a letter of apology;
- (c) the publication of the letters contemplated in subsections (a) and (b) above, together with the **Council member's** written response, if any;
- (d) a recommendation that the **Council member** attend specific training or counselling;
- (e) limitations on access to certain **City** facilities or services as determined by **Council**;
- (f) suspension or removal, or recommend suspension or removal, of the **Council member** from some or all **committees** to which the **Council member** was appointed;
- (g) prohibition from representing the **City** at events and/or attending conferences and seminars;
- (h) suspension or removal of the appointment of the **Council member** as the Acting Mayor;
- (i) public censure of the **Council member**;
- (j) any other sanction recommended by the **investigator**, provided such sanction is within the authority of **Council**.

8.2 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*, as applicable.

8.3 Any sanction or measure imposed by **Council** under this **bylaw** is in addition to any remedy or consequence under the *Community Charter* where a breach of this **bylaw** also constitutes a violation of a provision of the *Community Charter*.

8.4 Nothing in this **bylaw** is intended to abrogate the power of the Mayor or **Council**, as applicable, to remove, at their pleasure and at any time, any **Council member** from any **committee** to which they have been appointed.

9.0 Confidentiality of Investigation

9.1 The **investigator** shall make all reasonable efforts to investigate **complaints** in confidence.

9.2 The **investigator** and every person involved with or who have knowledge of a **complaint** shall preserve confidentiality with respect to all matters that come into the person's

knowledge in the course of any investigation or **complaint**, except where disclosure is required by law or Court order or the information has been released to the public without breach of confidentiality.

- 9.3 An investigation report shall only disclose such matters as, in the **investigator's** opinion, are necessary for the purpose of the investigation report.