



2023 February 1

COMMITTEE REPORT

TO: CHAIR AND MEMBERS
EXECUTIVE COMMITTEE

DATE: 2023 January 23

FROM: GENERAL MANAGER
CORPORATE SERVICES

FILE: 02400

SUBJECT: CODE OF CONDUCT FOR COUNCIL AND COMMITTEE MEMBERS

PURPOSE: To propose Code of Conduct for Council and Committee members and seek authority to bring forward Burnaby Code of Conduct Bylaw.

RECOMMENDATION:

1. THAT Committee recommend Council authorize the City Solicitor to bring forward the Burnaby Code of Conduct Bylaw, substantially in the form set out in Attachment #1 of the report.

REPORT

1.0 BACKGROUND

In 2016, a joint Working Group on Responsible Conduct (WGRC) between the Union of B.C. Municipalities (UBCM), the Ministry of Municipal Affairs and the Local Government Management Association (LGMA) was formed to better understand issues related to responsible conduct of elected officials and to explore how B.C.'s responsible conduct framework could be further strengthened.

In September 2017, UBCM members endorsed the Policy Report of the WGRC that included several recommendations to strengthen B.C.'s responsible conduct framework.

On Nov 25, 2021 the *Municipal Affairs Statutes Amendments Act (No. 2), 2021* was adopted by the B.C. legislature, which added sections 113.1 and 113.2 to the *Community Charter* to require all local governments to publicly consider whether to establish a new code of conduct or revise an existing one within six months of a general local election. The last B.C. general local election was held on October 15, 2022.

2.0 DISCUSSION

The proposed Burnaby Code of Conduct Bylaw (**Attachment #1**) is the first of its kind for Burnaby City Council and Committee members and is based on the provincial guidance documents and research findings from other local governments in B.C. which have already considered and adopted their codes of conduct.

The purpose of the proposed Code of Conduct is to promote a high standard of ethical conduct from those in elected and appointed offices by proactively fostering respectful relationships between decision-making and advisory bodies of Council and City staff, contractors and volunteers, and with the public they serve and represent. Like other municipalities in B.C., the proposed Code of Conduct Bylaw requires Council, as well as appointed Committee members, to adhere to the same standards of behavior as set out in the bylaw. By requiring both Council and Committee members to act in accordance with the proposed Code of Conduct, it protects the public as well as the staff members, contractors and volunteers who provide services to the City.

The proposed Burnaby Code of Conduct Bylaw is based on four foundational principles, which are prescribed in the provincial Principles for Codes of Conduct Regulation. These principles are as follows:

- 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.

The proposed Burnaby Code of Conduct Bylaw expands on these foundational principles to establish standards that demonstrate these principles.

Flowing from the foundational principles and standards, the proposed Burnaby Code of Conduct Bylaw sets out specific conduct that Council and Committee members must abide by in the following areas:

- general conduct
- interactions with City staff, volunteers and other members
- interactions with the public and media
- use of social media
- collection and handling of City information
- use of City property, assets and premises

In order to ensure consistency between Council members and committee members, the proposed Burnaby Code of Conduct Bylaw also incorporates the provisions of the *Community Charter* relating to the following and makes the *Community Charter* requirements applicable to Council members as well as committee members who are not on Council:

- restrictions and disclosure of conflict of interest
- restrictions on use of inside and outside influence and insider information
- disclosure and restrictions on accepting gifts and personal benefits
- disclosure of contracts with the City
- mandatory leave of absence when charged with a criminal offence

Since some of remedies under the *Community Charter* relating to the above cannot be applied to members who are not Council members (**Attachment #2**), it is proposed that the complaint process and remedies under the Burnaby Code of Conduct Bylaw apply in addition to any remedies under the *Community Charter*.

The complaint process set out in the proposed Burnaby Code of Conduct Bylaw (see Schedule "A") includes informal and formal complaint and resolution procedures. In relation to the complaint process, where a Council or Committee member is found to be in breach of the Code of Conduct after a formal investigation, Council is authorized to make a final determination about the appropriate sanctions or remedial measures, which may include but are not limited to the following:

- a letter of reprimand from Council;
- a request from Council to issue a letter of apology;
- the publication of the letters of reprimand and apology to the public;
- a recommendation to attend specific training or counselling;
- limitations on access to certain City facilities;
- suspension or removal from some or all Council committees and bodies to which the Council or Committee member was appointed;
- prohibition from representing the City at events and/or attending conferences and seminars;
- suspension or removal of the appointment as Acting Mayor, if applicable;

- public censure; and/or
- any other sanction recommended by the investigator, so long as that sanction is within the authority of Council.

Reprisals, obstructions of an investigation, and vexatious allegations and complaints are prohibited under the proposed Burnaby Code of Conduct Bylaw, and a member violating these prohibitions would be subject to appropriate disciplinary action, including the sanctions and measures listed above.

Since the City's Indemnification Bylaw does not apply to any costs incurred by members that are the subject of a complaint, the proposed Burnaby Code of Conduct Bylaw also includes a mechanism and restrictions on making a request to Council for reimbursement in appropriate circumstances of legal costs for responding to a complaint. The amount of reimbursement cannot exceed \$25,000.

3.0 POLICY SECTION

The proposed bylaw aligns with the goals of the Burnaby Strategic Plan (2022).

4.0 RECOMMENDATION

To meet the new requirements under the *Community Charter* for a code of conduct, it is recommended that Committee recommend Council authorize the City Solicitor to bring forward the Burnaby Code of Conduct Bylaw, substantially in the form set out in Attachment #1 of this report. Following adoption of the proposed bylaw, staff will provide Council and Committee members training and resources on the Code of Conduct.

Once the Burnaby Code of Conduct Bylaw is adopted, Council will be required within six (6) months after every general local election to determine whether it should be reviewed. At any time, Council can request staff to bring forward amendments to the bylaw.



Juli Halliwell, General Manager
CORPORATE SERVICES

Attachments (2)

Copy:	Deputy Chief Administrative Officer / CFO	Fire Chief
	GM Community Safety	OIC, RCMP
	GM Corporate Services	Chief Human Resources Officer
	GM Engineering	Chief Librarian
	GM Lands & Facilities	Chief Information Officer
	GM Parks, Recreation & Culture	Director Legislative Services
	GM Planning & Development	City Solicitor