

AGENDA

FINANCE AND GOVERNANCE STANDING COMMITTEE Monday, January 20, 2020 10:00 to 11:30 am COMMITTEE ROOM #2

1. MINUTES FOR ADOPTION (attachments)

- October 21, 2019
- November 4, 2019
- December 4, 2019

2. PERMISSIVE TAX EXEMPTION POLICY REVIEW

- Report of the Director of Finance dated January 10, 2020 (attached).

3. COUNCIL CODE OF CONDUCT POLICY UPDATE

- Report of the Director of Corporate Services dated January 9, 2020 (attached).

4. TENANT ASSISTANCE POLICY

Notice of Motion from the December 9, 2019 Council meeting from Councillor Brownoff recommending:

WHEREAS Council adopted a motion on November 25, 2019 that staff review increasing heights of apartment zones within the Zoning Bylaw;

AND FURTHER WHEREAS the Provincial Residency Tenancy Act has had recent changes:

THEREFORE BE IT RESOLVED that staff be asked to develop a Tenant Assistance Policy for renovations, redevelopment and/or rezoning applications where tenants will be required to find a new place to live as a result of any of these applications;

AND FURTHER BE IT RESOLVED that this work be forwarded to the Strategic Plan check-in session in April, 2020.

MOVED by Councillor Brownoff and Seconded by Councillor Chambers: "That:

- 1. Council direct staff to develop a Tenant Assistance Policy for renovations, redevelopment and/or rezoning applications where tenants will be required to find a new place to live as a result of these applications; and**
- 2. This work be forwarded to the Mayor's Standing Committee on Finance and Governance and the Mayor's Standing Committee on Housing Affordability and Supply; and**
- 3. This work be referred to the Strategic Plan check-in session in April 2020."**

... ADJOURNMENT ...



The Corporation of the District of Saanich

Report

To: Finance and Governance Committee
From: Valla Tinney, Director of Finance
Date: January 10, 2020
Subject: Permissive Tax Exemptions Policy review

RECOMMENDATION

1. That the Property Tax Exemption Policy statement for inclusion in Financial Plan Bylaws be amended to express Council's guiding principles, as follows:

"The District of Saanich will continue to support local organizations through permissive tax exemptions. The objective is to consider exemptions individually on their merits, in context with the Saanich Strategic Plan, consistent with other Saanich policies and the principles of accountability, reasonableness, equality/fairness, inclusiveness, and accessibility."
2. That staff be directed to develop for Committee review a Council Policy for Permissive Tax Exemption that provides clarity for applicants and Council, and review the current administrative procedures relating to property tax exemption applications with the purpose of implementing the amended policy statement and increasing the availability of information on permissive exemptions while minimizing the need for additional staff resources.
3. That staff be directed to provide a report to the Finance and Governance Committee on the financial impact of exempting current affordable housing properties and potential future affordable housing projects.

PURPOSE

The purpose of this report is to provide information relating to the District of Saanich's Property Tax Exemption Policy and its administration as directed in the motion adopted by Council dated May 13, 2019, specifically:

"That it be recommended that Council provide direction to staff on desired changes to the permissive exemption policy and processes and request a report back on the implications to staff resources and Council processes with respect to a public benefits test for non-profit organizations and/or a public benefits test for church exemptions considering the conditions as outlined in number two in the report of the Director of Finance dated April 26, 2019 *** as follows:

- Requiring that services and activities be equally available to all residents of the District;
- Registration of a covenant restricting use of the property;
- An agreement committing the organization to continue a specific service/program;
- An agreement committing the organization to have field/facilities open for public use for specific times or a total amount of time;
- An agreement committing the organization to offer the use of the field/facility to certain groups free of charge or at reduced rates;
- Exemptions based on the principal use of the property, not on the charitable service of the organization as a whole;
- Exemptions can be granted in whole or in part of the taxable assessed value of the land, improvements or both. Exemption categories (sport, cultural, community service, agricultural, etc.) can be established with a corresponding maximum exemption amount (50%, 75%, 100% etc.) applied to each category."

*** "Considering the conditions as outlined in number two in the report of the Director of Finance dated April 26, 2019", specifically "2. Public Benefits Test – If Council wishes to adopt a formal public benefits test for non-profit exemptions, the first step is to create a new permissive tax exemption policy. The policy would set out the criteria upon which applications would be evaluated. . . Conditions can be set in the policy such as: (outlined in the above noted Motion)."

BACKGROUND

On May 13, 2019 Committee of the Whole considered a comprehensive report prepared by the Director of Finance dated April 26, 2019 relating to the current Permissive Tax Exemption Policy (see Attachment A). The report included the legislative parameters of statutory and permissive property tax exemptions per the Community Charter.

Current Property Tax Exemption Policy and Procedures

As required under the Community Charter, the District of Saanich's current Financial Plan states: "The Municipality will continue to support local organizations through permissive tax exemptions. The objective is to consider exemptions individually on their merits, in context with the Saanich Strategic Plan."

Property tax exemptions are reviewed on a four year cycle which provides financial stability for the exemption recipients and the District of Saanich, and reduces administrative burden and advertising costs. New property tax exemption applicants are required to complete a one-page application form and provide copies of various documents that confirm their eligibility under the legislative framework. The application is reviewed by staff for completeness and compliance with legislation and Saanich policy and submitted to Council for approval. The Property Tax Exemption Bylaw(s) must be approved no later than October 31 of the current year for the exemption to be applicable in the following year.

The total amount of permissive property tax exemptions granted represents 1.3% of the 2019 property tax levy. Over the term of the last four year bylaw the exemption value has remained very consistent at 1.3% to 1.4% of the total municipal tax levy.

Permissive Property Tax Exemptions - Percentage of Municipal Property Tax

Year	Percentage
2016	1.3%
2017	1.4%
2018	1.4%
2019	1.3%

2019 Permissive Property Tax Exemptions by Category

Category	Number of organizations exempted	Total amount of exemptions	Municipal portion of exemptions
Places of Public Worship	50	\$879,766	623,034
Private Schools	1	12,207	8,653
Sport	7	258,998	173,962
Community Activity Centre	6	195,418	128,841
Cultural Organizations	5	74,634	52,342
Agricultural Organizations	3	170,183	117,361
Community Service Organizations	15	602,257	397,548
Community Housing Organizations	8	382,543	234,617
Natural Area Preservation	1	177	108
Total	96	\$2,576,183	\$1,736,466

DISCUSSION

The following discussion addresses the specific points referred to in the motion adopted by Municipal Council, specifically:

1. Staff resources

Staff resources are required to administer the property tax exemption policy, e.g. distributing, receiving and reviewing exemption applications for completeness and verifying that the organization complies with legislation and policy; follow up with applicants, preparing reports and bylaw(s) to Council, submitting the bylaw(s) to BC Assessment and confirming exemptions are appropriately reflected in the assessment roll. Currently, this requires a moderate amount of staff time (estimated to be approximately 40 hours annually and upwards of 100 hours when the full review is conducted every four years). The more extensive the complexity and formality of the

policy and procedures, the more staff resources are required to administer the policy. Depending on the additional criteria of the policy and the need for confirming compliance with the additional criteria, the additional staff resources may be considerable. This would significantly impact Finance Department staff resources and potentially increase the cost to administer a more complex policy. Due to the nature of the work and the potential impact to applicant organizations and Saanich's tax revenue, this work is primarily conducted by the Manager of Revenue Services with some clerical staff support.

2. Public benefits test

In order to qualify for property tax exemption under the Community Charter, an organization must meet some basic criteria; the primary criteria for purposes of this report are charitable status, non-profit classification, or defined as a place of public worship. Charitable status is conferred at the federal level by Canada Revenue Agency and non-profit status at the provincial level under the B.C. Societies Act. Status as a place of public worship is determined under the BC Assessment Act, Regulations and Policy (Attachment B). These base requirements for a permissive exemption provides objective criteria for determining the status of the organization. Council is not within its authority to consider a permissive exemption if the organization does not meet these base criteria.

In addition, in order to obtain charitable status, the activities of the organization must also result in a benefit to the public, or a sufficient section of it. In other words, the organization may be offering services or programs aimed at the public at large, or directed at or serving specific groups or classes of people, such as persons dealing with mental health issues, sporting organizations, or organizations addressing people affected with a particular medical issue. In determining "sufficiency" the number of those benefiting is not a major consideration and each case needs to be determined on its merits. Conversely, a purpose is not charitable if it confers private benefits or confers individual benefits to a limited group of persons on the basis of criteria that are not related to the charitable purpose of the organization.

A public benefit is presumed to exist where an organization's purposes are for relief of poverty, advancement of education, or advancement of religion. This presumption can be challenged when the contrary is demonstrated or the charitable nature of the organization is called into question. In addition, the purposes of some organizations are beneficial to the community in a way that is regarded as charitable such as the provision of health care or relief for the aged.

To complement the public benefits test, additional factors considered are:

- Are the services and activities equally available to all residents, without discrimination? This factor must be applied in a reasonable and fair manner. An example might be a cultural centre that serves a specific cultural segment of the community however the services and programs are available to everyone in the community.
- Are the facilities accessible and the services/programs inclusive to the public? These factors may be determined by the Invitation Test i.e. that anyone is invited to attend/participate, not just a group within the organization or specific persons

attending at the property. This factor must be applied in a reasonable manner for example a community service organization may offer services inclusive to everyone in the community, whereas only a limited number of persons would qualify to benefit from the services.

- o Are the services and activities consistent with the Canadian Charter of Rights and Freedoms?

Organizations seeking permissive exemption that have charitable status or are considered places of public worship by BC Assessment have already been subject to significant scrutiny with respect to the principles listed in the recommended policy statement. Where the applicant is a non-profit society, Council would apply its Strategic Plan lens to ensure an exemption is in alignment with stated goals.

3. Requiring that services and activities be equally available to all residents of the District

The Permissive Tax Exemption Policy should be consistent with other Saanich policies i.e. Parks and Recreation Fees and Charges Policy and Saanich Community Grants Program Policy. Current policies include the wording "diversity, respect and inclusion is vital", "open and inclusive", "benefits to the community can be social, economic, or environmental", "available to the public". The wording of the current Permissive Tax Exemption Policy should be amended accordingly.

4. Registration of a covenant restricting use of the property

Registering a covenant on a property via the Land Title and Survey Authority ensures that the agreement as to the use of the property is legally binding. Such a covenant requires legal services to prepare and monitor. An alternative that is as effective is to include such an agreement in the Property Tax Exemption Application as a condition for exemption approval which is also a legal document and serves the same purpose.

5. An agreement committing the organization to continue a specific service/program

Such an agreement must be considered in the context of reasonableness and fairness. An organization which currently provides an acceptable service/program may not be able to continue to provide it due to circumstances beyond their control or by choice. However, a condition that could be included in the exemption application is that should the approved service/program be discontinued then the exemption would be discontinued. Regular reporting ensures continued exempt status.

6. An agreement committing the organization to have field/facilities open for public use for specific times or a total amount of time

In addition to item #5 above, such an agreement could be included in the exemption application. However, the negotiation process to establish agreements with the organization could be quite onerous. A significant amount of staff time may be required with a limited benefit outcome. Also, the organization's ability to meet this criteria may not be viable. To include this factor as a criteria may require community consultation. Staff recommend that this option not be implemented due to the impact on resources.

7. An agreement committing the organization to offer the use of the field/facility to certain groups free of charge or at reduced rates

In addition to item #5 and #6 above, such as agreement should be consistent with other District of Saanich policies as noted above.

8. Exemptions based on the principal use of the property, not on the charitable service of the organization as a whole.

This condition could be included in the exemption application. For example the City of Victoria Permissive Tax Exemption Policy includes "Exemptions are based on the principle use of the property, not on the charitable service of the organization as a whole." It is likely that implementation of this requirement would result in certain current exemption recipients no longer being eligible. Further detailed research would be required to determine the impact. This work could be conducted during the 2021 exemption review process for future consideration; it is not feasible to complete prior to establishing the policy statement for the 2020 Financial Plan Bylaw. Exemptions can also be granted in whole or in part of the taxable assessed value of the land, improvements or both. Exemption categories (sport, cultural, community service, agricultural, etc.) can be established with a corresponding maximum exemption amount (50%, 75%, 100% etc.) applied to each category.

Based on current research, some municipalities impose percentage allocations on the basis of geographic organizational structure (i.e. national, provincial, regional, municipal). However at the municipal or local level, organizations are not allocated a percentage of exemption. Balancing the principles of equity and fairness with accountability to preserve the property tax revenue base, allocating exemptions based on categories is at Council discretion on the basis that one type of organization should receive a lesser exemption than other types of organizations. The effect would be to reduce the amount of exemption certain types of organizations would receive and reduce the overall amount of the property tax exemption. Additional research would be necessary to provide comparative data and a financial impact assessment.

9. Additional considerations:

Administration

The potential benefits of increasing the complexity of the Property Tax Exemption Policy should be balanced with the available staff resources required to efficiently administer the policy and Council process to review and approve/deny. The more complex and extensive the policy, the more staff resources are required to administer the policy and the more complex decision making is for Council. For example, as referred to in item #6 and #8 above, the least amount of administration would entail the applicant to report to the municipality any changes regarding the status of the organization or use of the property versus the municipality actively monitoring the exemption status. Establishing additional complex criteria implies a robust review process to ensure compliance. The requirement for staff to perform annual audits to confirm continued compliance with more complex policy criteria would also require extensive staff time and resources.

Administrative processes could be advanced to provide a higher level of reporting to the Finance and Governance Committee to increase the information available to the

Committee and public to strengthen accountability and transparency of the exemption process. It is recommended that this be undertaken prior to any direction to place further restrictions on eligibility.

Consistency with other governmental agencies

Besides conforming to the other Saanich policies, the Property Tax Exemption Policy should not conflict with other superior government comparative policies such as BC Assessment and Canada Revenue Agency.

Affordable Housing

The exemption bylaw enacted by Council for 2020 exemptions included an exemption for the affordable housing project at 1780 Townley. As the first exemption for this category of property, Council can reasonably anticipate an influx of requests for 2021 and subsequent years. In order to align with Council's strategic plan goal of "financial decisions are based in stability, prudence and long term sustainability", a comprehensive review of the financial impact of approving exemptions for various types of affordable housing is recommended.

FINANCIAL IMPLICATIONS

There are no direct financial implications associated with the recommendations in this report. Financial implications may arise from subsequent decisions related to affordable housing or if alternate directions are provided to staff.

STRATEGIC PLAN IMPLICATIONS

The recommendations in this report support the following Strategic Plan Goals:

- Financial decisions are based in stability, prudence and long term sustainability
- Strong internal processes support service excellence

ALTERNATIVES


1. Endorse the staff recommendations
2. Provide alternate direction to staff

SUMMARY

The issue of property tax exemption, while having legislative constraints, is very complex with many, sometimes conflicting, factors to consider. A review of this policy ensures that the intent of the legislation continues to be met and demonstrates a responsible approach that takes into consideration current societal issues and concerns. The key principles to consider in developing and administering a Property Tax Exemption Policy is accountability, reasonableness, equality/fairness, inclusiveness, and accessibility. In the past, Saanich has efficiently administered a moderately formal Property Tax Exemption Policy which required

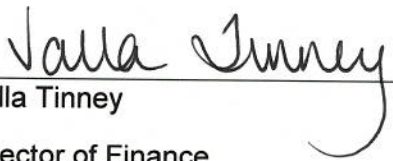
minimal staff resources, maintained relative simplicity for applicants and provided Council with a straightforward review model. The benefits of implementing a more complex policy should be weighed with the requirement for additional staff resources and Council process. A conservative approach to amending the current policy is recommended by staff.

Prepared by


for Douglas Stein

Property Taxation Consultant

Approved by


Valla Tinney

Director of Finance

ADMINISTRATOR'S COMMENTS:

I endorse the recommendation of the Director of Finance.


Paul Thorkelsson, Administrator

1110-30 Permissive Tax
Exemption

Attachment A

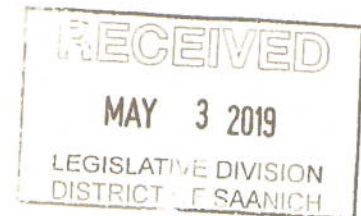


The Corporation of the District of Saanich

C/w 13 May 19

Report

To: Mayor and Council
From: Valla Tinney, Director of Finance
Date: April 26, 2019
Subject: Permissive Tax Exemption Process Review



RECOMMENDATION

That the committee receive the report for information.

PURPOSE

The purpose of this report is to provide background on the permissive tax exemption process and information on the timelines and activities for 2019 in response to the September 17th, 2018 Council discussion and subsequent motion:

"That the process for Tax Exemptions be referred to the Finance Standing Committee for review."

As the Finance Standing Committee no longer exists, this request is being brought to Committee of the Whole.

BACKGROUND

The following is provided as a history on the permissive tax exemption process at the District:

Pre 2012: Permissive tax exemptions were granted on an annual basis for all recipients except for those that do not have a time limit (churches and schools).

2012: Bylaw term was set to 3 years to align with Council term and to provide greater financial certainty to recipients, to increase efficiency, and to decrease the cost of advertising. Bylaws were passed to approve exemptions for the period 2013 – 2015.

2014 – 2015: New applications for permissive tax exemptions were considered and if approved, inserted into the 3 year cycle.

2015: Bylaw term was set to 4 years to align with the new term of Council. Bylaws were passed to approve exemptions for the period 2016 – 2019.

2016 – 2018: New applications for permissive tax exemptions were considered and if approved, inserted into the 4 year cycle.

2019: Letters to be sent to all previous recipients of term-limited permissive tax exemptions advising them of the need to apply for an exemption for the next four-year cycle of 2020 – 2023.

Sections 224, 225, and 226 of the *Community Charter* provide that on or before October 31st in the preceding year a Municipal Council may by bylaw grant a property tax exemption to certain qualifying properties. The District is on a four-year cycle for permissive exemptions, aligning with the term of Council. Staff will review exemption applications submitted by applicants in the summer of 2019, and all exemptions that still meet the exemption criteria will be incorporated into the next four-year bylaw (2020 to 2023) for consideration by Council.

Permissive exemptions may be offered for a single year, or for multiple years as specified in an exemption bylaw but the maximum term allowed in the *Community Charter* is 10 years. In order to have an exemption in place for the upcoming fiscal year, a permissive tax exemption bylaw must be adopted by October 31st of the preceding year. A copy of the exemption bylaw is required to be provided to BC Assessment so that they may code the exemptions into the annual assessment roll.

Council's Permissive Tax Exemption Policy is as follows:

"The Municipality will continue to support local organizations through permissive tax exemptions. The objective is to consider exemptions individually on their merits, in context with the Saanich Strategic Plan."

Therefore, the stated purpose of the requesting organizations are considered through the Strategic Plan lens, and if in alignment in that context, an exemption would be within Council's stated policy.

Church exemptions

Section 220 of the *Community Charter* establishes the types of property that are exempt from taxation. Land and/or improvements that are captured in this section have their assessments designated as statutorily exempt by BC Assessment on the annual assessment roll. Properties that have a general statutory exemption are not provided to Council for review because the exemption is automatically applied and Council does not have any authority with respect to these exemptions.

Section 220 (h) of the *Community Charter* provides a general statutory exemption for churches:

"(h) a building set apart for public worship, and the land on which the building stands, if title to the land is registered in the name of

- (i) the religious organization using the building,
- (ii) trustees for the use of that organization, or
- (iii) a religious organization granting a lease of the building and land to be used solely for public worship"

Since the building (improvements) and the land under the building are statutorily exempt, it is only the land surrounding the building that Council may grant a permissive exemption on. Section 224(2)(f) of the *Community Charter* provides that the Municipal Council may, by bylaw, exempt from taxation any area of land surrounding a building set apart for public worship. Once granted, the exemption is perpetual (e.g. has no expiry) until the property changes ownership or it is no longer used for its original purpose.

The total number churches in which Council has previously granted a permissive tax exemption for the land surrounding the building is 46. The amount of municipal tax forgone in dollar value

of permissive tax exemptions provided to churches in 2018 totals \$561,186. Appendix A details the churches and the amount of permissive exemption granted in 2018.

Non-profit exemptions (excluding churches)

The permissive tax exemption process is established through the *Community Charter*. As an overview, Section 224 provides council with the ability to exempt land and improvements from taxation under various conditions. These conditions are quite broad, for instance an exemption may be provided for land and improvements that are "owned or held by a charitable, philanthropic or other not for profit corporation, and the council considers are used for a purpose that is directly related to the purposes of the corporation". This can clearly cover a very broad range of organizations; councils generally seek to create a narrower scope for the type of exemptions that are ultimately granted.

The organizations that have historically been supported by Saanich Council include non-profits that are sports organizations, community activity centres, and cultural, agricultural, community or service organizations and community housing that supports residents with physical, mental or developmental disabilities. The District also has some heritage and riparian exemptions. Appendix B details the recipients and the amount of the permissive tax exemption for 2018.

Under Section 226 a council may provide tax exemptions for the purpose of encouraging revitalization. There are currently no revitalization tax exemptions in place in Saanich. These exemptions require a more complex process than other permissive exemptions as the financial plan bylaw must first establish policy, a revitalization program bylaw is required and agreements with the recipients are advisable.

Current process

When a new request is received, staff review the application (see Appendix C) to ensure that the exemption meets the criteria under the *Community Charter* and then advise Council if the applicant aligns with existing exemption recipients and is within the context of the Saanich Strategic Plan. Ultimately, if the exemption is legal, Council has the authority to approve it regardless of past practice; however, consistency, fairness and awareness of the potential tax impact of a new direction are factors to be carefully considered. A summary of the organization and benefits provided are included in the staff report supporting the bylaw for the year(s).

The current application form (Appendix C) is a concise document. In addition to other eligibility criteria, it asks for:

- Description of the programs/services/benefits delivered from the subject lands and/or improvements including participant numbers, volunteer hours, benefiting group/individuals/special needs populations, fees charged for participation
- Description of any third party use of the subject land and/or improvements including user group names, fees charged, conditions of use

The application forms submitted by applicants are reviewed by staff and relevant information is provided in summary form in the staff report. Copies of the completed applications are not provided to Council under the current process.

DISCUSSION

Should Council wish to receive more in-depth information upon which to determine approval of an exemption, there are two options to consider; an enhanced application form provided to Council or a full public benefits test process.

1. Enhanced Application Form

The current application form could be expanded to solicit additional information such as scale drawings of the property, financial budget, caretaker agreements (if applicable), or any other parameter that Council would like to include and to have separate applications tailored to non-profit organizations, heritage exemption applicants, and new church applicants. The enhanced application forms would be provided to Council to review as part of the agenda package for future permissive tax exemption bylaws. This option would not require a change to Council's Permissive Tax Exemption Policy. The resources required to implement an enhanced form would be manageable for implementation with the upcoming 2020-2024 bylaw.

2. Public Benefits Test

If Council wishes to adopt a formal public benefits test for non-profit exemptions, the first step is to create a new permissive tax exemption policy. The policy would set the criteria upon which applications would be evaluated. There are many factors to consider when developing a public benefits based policy. Conditions can be set in the policy such as:

- Requiring that services and activities be equally available to all residents of the District
- Registration of a covenant restricting use of the property
- An agreement committing the organization to continue a specific service/program
- An agreement committing the organization to have field/facilities open for public use for specific times or a total amount of time
- An agreement committing the organization to offer the use of the field/facility to certain groups free of charge or at reduced rates
- Exemptions based on the principal use of the property, not on the charitable service of the organization as a whole
- Exemptions can be granted in whole or in part of the taxable assessed value of land, improvements, or both. Exemption categories (sport, cultural, community service, agricultural, etc...) can be established with a corresponding maximum exemption amount (50%, 75%, 100%, etc...) applied to each category.

These are a sample of the types of decisions that need to be examined in the development of a new policy. Some organizations set a cap on the dollar value of permissive tax exemptions granted annually (i.e. not to exceed 2% of the current year's total budgeted property tax requisition). A review of permissive tax exemption policies from other municipalities would be performed as part of the development of a new policy. Changes to the evaluation criteria may have an impact on staff resources and the timing of the process would need to be reviewed. If this option is pursued, it would be necessary to issue a one-year permissive exemption under the existing criteria to allow time for the creation and consideration of a new policy to be implemented for exemptions in year 2021 and forward.


A public benefits test for places of worship would be more challenging to implement as all such exemptions are currently established on a perpetual basis. Any implementation would be on a go forward basis or Council would need to consider rescinding previously approved exemptions.

OPTIONS:

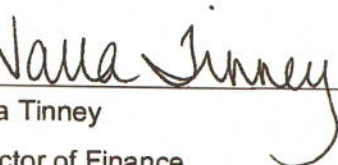
1. That Council receive the report for information. This option confirms that Council is content with the current policy and process, the information provided by applicants in support of their request, and Council's ability to consider exemptions individually based on alignment with the Strategic Plan on a four year cycle.
2. That Council direct staff to utilize enhanced application forms for permissive tax exemptions that will be provided to Council for review when considering the permissive tax exemptions for 2020 - 2023. This option places a greater role with Council to review and assess the applicants on a wider range of criteria.
3. That Council provide direction to staff on desired changes to the permissive exemption policy and processes and request a report back on implications to staff resources and Council processes with respect to:
 - a. a public benefits test for non-profit organizations and/or
 - b. a public benefits test for church exemptions.

SUMMARY

The current permissive tax exemption policy and processes at Saanich allow Council to review permissive exemption requests individually on their merits and in context with the Saanich Strategic Plan on a four year cycle. The current process provides financial stability for the exemption recipients and the District and reduces administrative burden and advertising costs. Council has an option to add further scrutiny to the approval process with the addition of a formal public benefits review.

Prepared by 

Anne Tetley
Manager of Revenue Services

Approved by 


Valla Tinney
Director of Finance

Attachments

1. Community Charter excerpt – Section 224-227
2. Appendix A – Church Exemptions
3. Appendix B – Non-profit and other exemptions
4. Appendix C – current permissive tax exemption application form

ADMINISTRATOR'S COMMENTS:

I endorse the recommendation of the Director of Finance.

For 

Paul Thorkelsson, Administrator

Attachment #1 - Supplementary Information

Community Charter

General authority for permissive exemptions

- 224 (1) A council may, by bylaw in accordance with this section, exempt land or improvements, or both, referred to in subsection (2) from taxation under section 197 (1) (a) [*municipal property taxes*], to the extent, for the period and subject to the conditions provided in the bylaw.
- (2) Tax exemptions may be provided under this section for the following:
- (a) land or improvements that
 - (i) are owned or held by a charitable, philanthropic or other not for profit corporation, and
 - (ii) the council considers are used for a purpose that is directly related to the purposes of the corporation;
 - (b) land or improvements that
 - (i) are owned or held by a municipality, regional district or other local authority, and
 - (ii) the council considers are used for a purpose of the local authority;
 - (c) land or improvements that the council considers would otherwise qualify for exemption under section 220 [*general statutory exemptions*] were it not for a secondary use;
 - (d) the interest of a public authority, local authority or any other corporation or organization in land or improvements that are used or occupied by the corporation or organization if
 - (i) the land or improvements are owned by a public authority or local authority, and
 - (ii) the land or improvements are used by the corporation or organization for a purpose in relation to which an exemption under this Division or Division 6 of this Part would apply or could be provided if the land or improvements were owned by that corporation or organization;
 - (e) the interest of a public authority, local authority or any other corporation or organization in land or improvements that are used or occupied by the corporation or organization if
 - (i) the land or improvements are owned by a person who is providing a municipal service under a partnering agreement,
 - (ii) an exemption under section 225 [*partnering and other special tax exemption authority*] would be available for the land or improvements in relation to the partnering agreement if they were used in relation to the service,
 - (iii) the partnering agreement expressly contemplates that the council may provide an exemption under this provision, and
 - (iv) the land or improvements are used by the corporation or organization for a purpose in relation to which an exemption under this Division or Division 6 of this Part would apply or could be provided if the land or improvements were owned by that corporation or organization;
 - (f) in relation to property that is exempt under section 220 (1) (h) [*buildings for public worship*],
 - (i) an area of land surrounding the exempt building,
 - (ii) a hall that the council considers is necessary to the exempt building and the land on which the hall stands, and
 - (iii) an area of land surrounding a hall that is exempt under subparagraph (ii);
 - (g) land or improvements used or occupied by a religious organization, as tenant or licensee, for the purpose of public worship or for the purposes of a hall that the council considers is necessary to land or improvements so used or occupied;
 - (h) in relation to property that is exempt under section 220 (1) (i) [*seniors' homes*], (j) [*hospitals*] or (l) [*private schools*], any area of land surrounding the exempt building;
 - (i) land or improvements owned or held by an athletic or service club or association and used as a public park or recreation ground or for public athletic or recreational purposes;
 - (j) land or improvements owned or held by a person or organization and operated as a private hospital licensed under the *Hospital Act* or as a licensed community care facility, or registered assisted living residence, under the *Community Care and Assisted Living Act*;
 - (k) land or improvements for which a grant has been made, after March 31, 1974, under the *Housing Construction (Elderly Citizens) Act* before its repeal.
- (3) The authority under subsection (2) (e) and (g) to (j) is not subject to section 25 (1) [*prohibition against assistance to business*].
- (4) Subject to subsection (5), a bylaw under this section
 - (a) must establish the term of the exemption, which may not be longer than 10 years,
 - (b) may only be adopted after notice of the proposed bylaw has been given in accordance with section 227 [*notice of permissive tax exemptions*], and
 - (c) does not apply to taxation in a calendar year unless it comes into force on or before October 31 in the preceding year.
- (5) Subsection (4) (a) and (b) does not apply in relation to exemptions under subsection (2) (f) and (h).
- (6) If only a portion of a parcel of land is exempt under this section, the bylaw under this section must include a description of the land that is satisfactory to the British Columbia Assessment Authority.
- (7) A bylaw under this section ceases to apply to property, the use or ownership of which no longer conforms to the conditions necessary to qualify for exemption and, after this, the property is liable to taxation.

Partnering, heritage, riparian and other special exemption authority

225 (1) In this section:

"eligible property" means property that is eligible under subsection (2);

"exemption agreement" means an agreement under subsection (5).

(2) The following property is eligible for a tax exemption under this section:

- (a) eligible partnering property, being property that
 - (i) is owned by a person or public authority providing a municipal service under a partnering agreement, and
 - (ii) the council considers will be used in relation to the service being provided under the partnering agreement;
 - (b) eligible heritage property, being property that is
 - (i) protected heritage property,
 - (ii) subject to a heritage revitalization agreement under section 966 of the *Local Government Act*,
 - (iii) subject to a covenant under section 219 of the *Land Title Act* that relates to the conservation of heritage property, or
 - (iv) if property referred to in subparagraphs (i) to (iii) is a building or other improvement so affixed to the land as to constitute real property, an area of land surrounding that improvement;
 - (c) eligible riparian property, being property that
 - (i) is riparian land,
 - (ii) is subject to a covenant under section 219 of the *Land Title Act* that
 - (A) relates to the protection of the property as riparian property, and
 - (B) has the municipality granting the exemption under this section as a covenantee in whose favour the covenant is made, and
 - (iii) meets any other requirements prescribed by regulation;
 - (d) eligible cemetery property, being land held for cemetery, mausoleum or columbarium purposes;
 - (e) eligible golf course property, being land maintained as a golf course.
- (3) A council may, by bylaw, exempt eligible property from taxation under section 197 (1) (a) [*municipal property taxes*] to the extent provided in the bylaw and subject to the conditions established by exemption agreement.
- (4) The authority under subsection (3) is not subject to section 25 (1) [*prohibition against assistance to business*].
- (5) For the purposes of this section, the council may enter into an agreement with the owner of property that is exempt or is to be exempt under this section, respecting the extent of the exemption and the conditions on which it is made.
- (6) Without limiting subsection (5), an exemption agreement may do one or more of the following:
- (a) require the eligible property to be subject to a covenant under section 219 of the *Land Title Act* in favour of the municipality;
 - (b) provide that the exemption is subject to specified conditions;
 - (c) provide that, if
 - (i) a condition is not met,
 - (ii) a required covenant under section 219 of the *Land Title Act* is discharged, or
 - (iii) any other circumstances specified in the agreement occur,
 the property owner must pay to the municipality an amount determined in accordance with the agreement.
- (7) A bylaw under this section
- (a) must establish the term of the exemption,
 - (b) may only be adopted after notice of the proposed bylaw has been given in accordance with section 227 [*notice of permissive tax exemptions*],
 - (c) may only be adopted by an affirmative vote of at least 2/3 of all council members, and
 - (d) does not apply to taxation in a calendar year unless it comes into force on or before October 31 in the preceding year.
- (8) An exemption under this section ceases to apply to property, the use or ownership of which no longer conforms to the conditions necessary to qualify for exemption and, after this, the property is liable to taxation.

Revitalization tax exemptions

- 226 (1) In this section:
- "**exemption agreement**" means an agreement under subsection (7);
 - "**exemption certificate**" means a revitalization tax exemption certificate issued under subsection (8);
 - "**revitalization program bylaw**" means a bylaw under subsection (4).
- (2) A council may, for the purpose of encouraging revitalization in the municipality, provide tax exemptions for land or improvements, or both, in accordance with this section.
- (3) For a revitalization tax exemption under this section to apply to a particular property,
- (a) the exemption must be in accordance with a revitalization program bylaw under subsection (4),
 - (b) an exemption agreement under subsection (7) must apply to the property, and
 - (c) an exemption certificate for the property must have been issued under subsection (8).
- (4) A revitalization tax exemption program must be established by a bylaw that includes the following:
- (a) a description of the reasons for and the objectives of the program;
 - (b) a description of how the program is intended to accomplish the objectives;
 - (c) a description of the kinds of property, or related activities or circumstances, that will be eligible for tax exemptions under the program;
 - (d) the extent of the tax exemptions available;
 - (e) the amounts of tax exemptions that may be provided under the bylaw, by specifying amounts or by establishing formulas by which the amounts are to be determined, or both;
 - (f) the maximum term of a tax exemption that may be provided under the bylaw, which may not be longer than 10 years.
- (5) A revitalization program bylaw

- (a) may include other provisions the council considers advisable respecting the program including, without limiting this,
 - (i) the requirements that must be met before an exemption certificate may be issued,
 - (ii) conditions that must be included in an exemption certificate, and
 - (iii) provision for a recapture amount that must be paid by the owner of the property to the municipality if the conditions specified in the exemption certificate are not met, and
- (b) may be different for
 - (i) different areas of the municipality,
 - (ii) different property classes under the *Assessment Act*,
 - (iii) different classes of land or improvements, or both, as established by the bylaw,
 - (iv) different activities and circumstances related to a property or its uses, as established by the bylaw, and
 - (v) different uses as established by zoning bylaw.
- (6) A revitalization program bylaw may be adopted only after
 - (a) notice of the proposed bylaw has been given in accordance with section 227 [*notice of permissive tax exemptions*], and
 - (b) the council has considered the bylaw in conjunction with the objectives and policies set out under section 165 (3.1) (c) [*use of permissive tax exemptions*] in its financial plan.
- (7) The council may enter into an agreement with the owner of a property respecting
 - (a) the provision of a revitalization tax exemption under this section,
 - (b) any requirements that must be met before an exemption certificate is issued, and
 - (c) any conditions on which the tax exemption is to be provided.
- (8) Once
 - (a) all requirements established in the revitalization program bylaw, and
 - (b) any additional requirements established in the exemption agreementhave been met, a revitalization tax exemption certificate must be issued for the property in accordance with the exemption agreement.
- (9) An exemption certificate must specify the following in accordance with the revitalization program bylaw and the exemption agreement:
 - (a) the extent of the tax exemption;
 - (b) the amount of the tax exemption or the formula for determining the exemption;
 - (c) the term of the tax exemption;
 - (d) if applicable, the conditions on which the tax exemption is provided;
 - (e) if applicable, that a recapture amount is payable if the exemption certificate is cancelled, and how that amount is to be determined.
- (10) So long as an exemption certificate has not been cancelled, the land or improvements, or both, subject to the exemption certificate are exempt from taxation under section 197 (1) (a) [*municipal property taxes*] as provided in the exemption certificate.
- (11) An exemption certificate may be cancelled by the council
 - (a) on the request of the property owner, or
 - (b) if any of the conditions specified in the exemption certificate are not met.
- (12) An exemption certificate or cancellation does not apply to taxation in a calendar year unless the exemption certificate is issued or cancelled, as applicable, on or before October 31 in the preceding year.
- (13) The designated municipal officer must
 - (a) provide a copy of an exemption certificate to the relevant assessor as soon as practicable after it is issued, and
 - (b) if applicable, notify that assessor as soon as practicable after an exemption certificate is cancelled.
- (14) The authority to provide a tax exemption under this section is not subject to section 25 (1) [*prohibition against assistance to business*].

Notice of permissive tax exemptions

- 227 (1) A council must give notice of a proposed bylaw under this Division in accordance with section 94 [*public notice*].
- (2) Subject to subsection (3), the notice under subsection (1) must
 - (a) identify the property that would be subject to the bylaw,
 - (b) describe the proposed exemption,
 - (c) state the number of years that the exemption may be provided, and
 - (d) provide an estimate of the amount of taxes that would be imposed on the property if it were not exempt, for the year in which the proposed bylaw is to take effect and the following 2 years.
 - (3) In the case of a bylaw under section 226 (4) [*revitalization program bylaw*], the notice under subsection (1) of this section must include a general description of each of the following:
 - (a) the reasons for and the objectives of the program;
 - (b) how the proposed program is intended to accomplish the objectives;
 - (c) the kinds of property, or related activities or circumstances, that will be eligible for a tax exemption under the program;
 - (d) the extent, amounts and maximum terms of the tax exemptions that may be provided under the program.

APPENDIX A

CHURCH PERMISSIVE TAX EXEMPTIONS	TOTAL 2018 TAXES	MUNICIPAL PORTION
ELK LAKE BAPTIST CHURCH	14,400.98	10,055.94
CORDOVA BAY UNITED CHURCH	22,662.05	15,824.49
LION OF JUDAH MINISTRIES	22,647.79	15,814.53
UNITARIAN CHURCH OF VICTORIA	31,345.22	21,887.78
ST DAVID BY THE SEA ANGLICAN CHURCH	7,871.09	5,496.23
GATEWAY BAPTIST CHURCH	24,158.99	16,869.77
VICTORIA FIRST CHURCH OF THE NAZARENE	20,860.75	14,566.67
SEVENTH DAY ADVENTIST CHURCH	27,322.87	19,079.05
SAANICH COMMUNITY CHURCH MENNONITE BRETHERN	14,315.38	9,996.16
ST MICHAEL'S ANGLICAN CHURCH	12,932.60	9,030.59
UNITED CHURCH OF CANADA	191.42	133.67
OUR LADY OF FATIMA CATHOLIC CHURCH	13,198.92	9,216.56
VICTORIA AND VANCOUVER ISLAND GREEK COMMUNITY CHURCH	29,617.63	20,681.43
IGLESIA NI CRISTO CHURCH OF CHRIST	10,105.18	7,056.26
CHRIST COMMUNITY CHRISTIAN REFORMED CHURCH	15,587.60	10,884.53
CORNERSTONE PENTECOSTAL CHURCH	6,931.24	4,832.16
WESTVIEW GOSPEL CHAPEL	6,229.09	4,349.66
SACRED HEART CATHOLIC CHURCH	30,556.24	21,108.12
CHRISTIAN REFORMED CHURCH	22,959.30	16,032.05
SALVATION ARMY VICTORIA CITADEL	116,377.85	81,264.48
NEW LIFE COMMUNITY FELLOWSHIP	10,940.97	7,550.11
THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS	24,799.85	17,317.27
SAANICH BAPTIST CHURCH	26,312.22	18,373.34
CHRISTADELPHIAN ECCLESIA	10,891.09	7,605.05
CROATIAN CATHOLIC CHURCH ST LEOPOLD MANDIC	11,759.06	8,211.13
HOLY CROSS CATHOLIC CHURCH	24,243.40	16,928.72
HOLLYDENE COMMUNITY CHURCH	14,849.23	10,368.94
LAMBRICK PARK CHURCH	15,587.60	10,884.53
ST DUNSTAN'S ANGLICAN CHURCH	22,067.57	15,409.37
ST AIDAN'S UNITED CHURCH	13,398.67	9,356.04
ST PETER'S ANGLICAN CHURCH	13,701.86	9,567.75
ST LUKE'S ANGLICAN CHURCH	23,030.65	16,081.87
ST JOHN THE EVANGELIST CHURCH	4,154.31	2,900.88
NORTH DOUGLAS PENTECOSTAL CHURCH	22,607.36	15,786.30
NEW APOSTOLIC CHURCH	1,116.45	779.60
KINGDOM HALL OF JEHOVAH'S WITNESSES	6,571.52	4,588.77
TRINITY PRESBYTERIAN CHURCH	2,877.35	2,009.20
CITY LIGHT CHURCH OF VICTORIA	10,760.31	7,513.73
HOPE LUTHERAN CHURCH	8,640.37	6,033.40
VICTORIA PACIFIC RIM ALLIANCE CHURCH	6,268.34	4,377.06

KNOX PRESBYTERIAN CHURCH	8,560.69	5,977.77
SHELBOURNE STREET CHURCH OF CHRIST	11,094.42	7,747.03
LUTHERAN CHURCH OF THE CROSS	21,722.76	15,168.59
ST GEORGE'S ANGLICAN CHURCH	19,780.19	13,604.27
CADBORO BAY UNITED CHURCH	18,423.32	12,864.66
TOTAL	804,431.75	561,185.51

APPENDIX B

PERMISSIVE TAX EXEMPTIONS - NON-PROFIT & RIPARIAN	TOTAL 2018 TAXES	MUNICIPAL PORTION
SCHOOLS		
ST JOSEPH'S SCHOOL	11,949.29	8,343.97
SPORT		
VICTORIA ROWING SOCIETY	24,427.15	15,907.90
GORGE SOCCER ASSOCIATION (field houses)	122,155.07	79,552.05
BRAEFoot COMMUNITY ASSOCIATION	22,958.20	15,788.03
SAANICH HEALTH & PHYSICAL ENDEAVORS SOCIETY	16,101.84	10,755.74
VICTORIA CANOE & KAYAK CLUB	6,072.05	3,954.35
SOUTHERN ISLAND SAILING SOCIETY	23,556.24	16,101.42
POWER TO BE	41,250.01	28,535.43
COMMUNITY ACTIVITY CENTRES		
CORDOVA BAY COMMUNITY CLUB	16,439.22	11,474.94
ROYAL OAK WOMEN'S INSTITUTE	7,217.13	5,039.59
GARTH HOMER FOUNDATION	74,304.09	48,389.66
SHEKINAH HOMES SOCIETY	8,393.78	5,090.82
GREATER VICTORIA PUBLIC LIBRARY BOARD	42,622.11	27,757.15
GOWARD HOUSE SOCIETY	42,892.23	27,933.07
CULTURAL ORGANIZATIONS		
SAANICH HERITAGE FOUNDATION	24,152.72	16,498.95
CROWN PROVINCIAL (Hallmark Heritage Society)	2,728.28	1,776.76
VANCOUVER ISLAND NETHERLANDS ASSN	13,807.69	9,641.65
UKRAINIAN CANADIAN CULTURAL SOCIETY	15,387.85	10,745.04
JEWISH COMMUNITY CENTRE OF VICTORIA	12,222.77	8,534.93
AGRICULTURAL ORGANIZATIONS		
HALIBURTON COMMUNITY ORGANIC FARM SOCIETY	6,417.03	3,897.84
HORTICULTURE CENTRE OF THE PACIFIC	128,937.84	89,107.59
CAPITAL CITY ALLOTMENT ASSOCIATION	27,630.08	17,993.77
COMMUNITY SERVICE ORGANIZATIONS		
CANADIAN CENTRE OF LEARNING FOR MAITREYA MISSIONARY	3,573.69	2,167.44
ISLAND COMMUNITY MENTAL HEALTH ASSOCIATION	14,824.16	9,654.06
GIRL GUIDES OF CANADA	22,285.13	15,561.30
PROSPECT LAKE DISTRICT COMMUNITY ASSOCIATION	9,797.24	6,841.23
SOCIETY OF ST. VINCENT DE PAUL OF VANCOUVER ISLAND	48,043.93	31,288.05
CRIDGE CENTRE	9,387.04	5,693.21
GORDON HEAD MUTUAL IMPROVEMENT SOCIETY	7,891.29	5,510.34
CHILDREN'S HEALTH FOUNDATION OF VANCOUVER ISLAND	191,210.96	124,523.91

SCOUT PROPERTIES	18,381.69	12,835.60
THE FIRST CEDAR HILL HALL SOCIETY (BOY SCOUTS)	7,443.05	5,197.34
BOY SCOUTS	4,052.07	2,829.48
VICTORIA NATIVE FRIENDSHIP CENTRE	124,933.51	81,361.48
HABITAT FOR HUMANITY (RESTORE)	37,377.80	24,341.85
THE CATHOLIC DIOCESE OF VICTORIA, CORPORATE SOLE	12,903.14	8,334.19
THE DISTRICT OF SAANICH (SAANICH POLICE)	74,304.09	48,389.66
COMMUNITY HOUSING ORGANIZATIONS		
BAPTIST HOUSING MOUNT VIEW HEIGHTS CARE SOCIETY	157,782.87	95,694.95
BAPTIST HOUSING SOCIETY OF BC	8,374.32	5,079.01
DAWSON HEIGHTS HOUSING LTD	21,661.24	13,137.50
BROADMEAD CARE SOCIETY	9,352.94	5,672.54
INDEPENDENT LIVING HOUSING SOCIETY	17,921.56	10,869.37
ISLAND COMMUNITY MENTAL HEALTH ASSOCIATION	8,359.71	5,070.15
VICTORIA ASSOCIATION FOR COMMUNITY LIVING	73,695.60	47,113.79
LUTHER COURT SOCIETY	52,027.91	31,554.80
NATURAL AREA PRESERVATION		
HUNTER, FRANCES	167.24	101.58
TOTAL	1,627,374.85	1,061,643.48

APPENDIX C

**District of Saanich
Permissive Tax Exemption Application**

Deadline: MON DD, YYYY

Date: _____

Name of Organization: _____

Address: _____

Contact Person(s):	Name	Position/Title	Phone #
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ATTACHMENTS REQUIRED:

- Copy of the financial statements for the previous year
- Copy of the state of title certificate or lease agreement (including legal description), as applicable
- Copy of the constitution and establishing bylaws for the non-profit
- Description of the programs/services/benefits delivered from the subject lands and/or improvements including participant numbers, volunteer hours, benefiting group/individuals/special needs populations, fees charged for participation
- Description of any third party use of the subject land and/or improvements including user group names, fees charged, conditions of use

ELIGIBILITY CRITERIA: FOR EACH CATEGORY, PLEASE CHECK APPLICABLE ITEMS

A: SUBJECT PROPERTY MUST BE ONE OF:

- Land or improvements, or both, owned or held by an entity described in B. below
- Land or improvements, or both, ancillary to a statutory exemption under s. 220 of the *Community Charter*

B. NATURE OF THE ORGANIZATION MUST BE:

- | | |
|---|---|
| <ul style="list-style-type: none"> <input type="checkbox"/> Not for profit corporation <input type="checkbox"/> Athletic or service club/association <input type="checkbox"/> Partner of the municipality by agreement under s.225 of the <i>Community Charter</i> | <ul style="list-style-type: none"> <input type="checkbox"/> Municipality, regional district, public/local authority <input type="checkbox"/> Licenced community care facility, private hospital or registered assisted living residence <input type="checkbox"/> Organization eligible to s.220 statutory exemption (e.g. place of public worship, cemetery, library, Indian land, senior home, hospital etc.) |
|---|---|

POLICY STATEMENTS

1. Where properties/portions of properties that are used (or set aside for use) principally as places of public worship meet the requirements for exemption set out in *the Vancouver Charter, Community Charter, or Taxation (Rural Area) Acts*, a mandatory exemption must be applied using the guidelines set out in this document.
2. Confirm whether the property is within a municipality (including City of Vancouver) or in a rural area to determine which legislation to apply.
3. Confirm that worship occurs at the property (i.e., worship likely does not occur on the entirety of a religious recreational camp).
4. Confirm that the worship is public by applying the invitation test (i.e., that anyone is invited to attend to worship, not just a group within the congregation or specific persons attending at the property).
5. Confirm that public worship is the principal use of the property.
6. For properties within a municipality¹ (except City of Vancouver), confirm that the property is owned by one of the following:²
 - The religious organization using the building
 - Trustees for the use of that organization
 - A religious organization granting a lease of the building and land to be used solely for public worship
 - If the property is owned by none of these, confirm whether the municipality has passed a permissive exemption for the property.³
 - For properties within the City of Vancouver, confirm that the property is owned by a religious

¹ The *Taxation (Rural Area) Act*, section 15(1)(d) does not have an "ownership" criterion.

² Pursuant to section 220(1)(h) of the *Community Charter*.

³ A permissive exemption can be passed for a leased property owned by a non-religious owner, under section 224(2)(g) of the *Community Charter*, no matter who the owner is.

organization, either directly or through trustees (includes owner under agreement).⁴

7. For properties within a municipality (except City of Vancouver) that conform to the ownership requirement, confirm whether the municipality has passed a permissive exemption for:
 - Land surrounding the worship building
 - A hall necessary to the worship building
 - Land surrounding the hall
8. Public places of worship must be classified based on their use as set out in BC Regulation 438/81, *Prescribed Classes of Property*, using the guidelines set out in this document.

⁴ Pursuant to section 396(1)(c)(iv) of the *Vancouver Charter*.



The Corporation of the District of Saanich

Report

To: Finance and Governance Standing Committee
From: Laura Ciarniello, Director of Corporate Services
Date: January 9, 2020
Subject: Council Code of Conduct Policy Update

RECOMMENDATIONS

That the Finance and Governance Standing Committee endorse the proposed changes to the Council Code of Conduct Policy and recommend approval by Council.

PURPOSE

The Code of Conduct Policy was adopted by Council in November 2016 and sets out the minimum expectations for the behaviour of Council officials while carrying out their functions. Since its inception there have been numerous complaints filed under it. Through the process of finding resolve for those complaints, staff and Council have highlighted deficiencies or gaps in the policy that need to be addresses. This report and proposed / updated policy is an attempt to address these issues.

PREPARED BY:

A handwritten signature in black ink, appearing to read "Laura Ciarniello", written over a horizontal line.

Laura Ciarniello, Director of Corporate Services

ADMINISTRATOR'S COMMENTS:

I endorse the recommendations of the Director of Corporate Services.

A handwritten signature in blue ink, appearing to read "Paul Thorkelsson", written over a horizontal line.

Paul Thorkelsson, CAO

COUNCIL POLICY

NAME:	CODE OF CONDUCT	INDEX REFERENCE:
ISSUED:	November, 2016	
AMENDED:	January 2020	COUNCIL REFERENCE: 16/CNCL

PURPOSE:

To set minimum expectations for the behaviour of Council officials in carrying out their functions.

SCOPE:

All Council officials and the Chief Administrative Officer.

DEFINITIONS:

Advisory Body Member: a person sitting on an advisory committee, task force, commission, board, or other Council-established body.

Confidential Information: Confidential Information includes information that could reasonably harm the interests of individuals or organizations, including the District of Saanich, if disclosed to persons who are not authorized to access the information, as well as information to which section 117 of the *Community Charter* applies.

Council official: the Mayor and members of Council

Personal Information: has the same meaning as in the *Freedom of Information and Protection of Privacy Act*

Staff: an employee or contract employee of the District of Saanich, and includes staff that supports Advisory Bodies.

Municipal Officer: a member of staff designated as an officer under section 146 of the *Community Charter* or a bylaw under that section.

INTERPRETATION:

- (a) In this policy, a reference to a person who holds an office includes a reference to the persons appointed as deputy or appointed to act for that person from time to time.
- (b) This Code of Conduct applies to the use of social media by Council officials in relation to District related matters.

POLICY STATEMENTS:**1. Key Principles**

- 1.1. **Integrity:** Council officials are keepers of the public trust and must uphold the highest standards of ethical behaviour. Council officials are expected to:
- make decisions that benefit the community;
 - act lawfully and within the authorities of the *Community Charter*, *Local Government Act* and other applicable enactments; and
 - be free from undue influence and not act, or appear to act, in order to gain financial or other benefits for themselves, family, friends or business interests.
- 1.2. **Accountability:** Council officials are obligated to answer for the responsibility that has been entrusted to them. They are responsible for decisions that they make. This responsibility includes acts of commission and acts of omission. In turn, decision-making processes must be transparent and subject to public scrutiny; proper records must be kept.
- 1.3. **Leadership:** Council officials must demonstrate and promote the key principles of the Code of Conduct through their decisions, actions and behaviour. Their behaviour must build and inspire the public's trust and confidence in local government. Council officials will provide leadership to District staff through the Chief Administrative Officer.
- 1.4. **Respect:** Council officials must conduct public business efficiently and with decorum. They must treat each other and others with respect at all times. This means not using derogatory language towards others, respecting the rights of other people, treating people with courtesy and recognition of the different roles others play in local government decision making.
- 1.5. **Openness:** Council officials have a duty to be as open as possible about their decisions and actions. This means communicating appropriate information openly to the public about decision-making processes and issues being considered; encouraging appropriate public participation; communicating clearly; and providing appropriate means for recourse and feedback.

2. General Conduct

- 2.1. Council officials must adhere to the key principles and provisions of the Code of Conduct.
- 2.2. Council officials must act lawfully and within the authorities of the *Community Charter, Local Government Act* and other applicable enactments and exercise a reasonable degree of care and diligence in carrying out their functions.
- 2.3. Council officials have an obligation to consider issues and exercise powers, duties and functions in a manner that avoids arbitrary and unreasonable decisions.
- 2.4. Council officials must avoid behaviour that could constitute an act of disorder or misbehaviour. Specifically, Council officials must avoid conduct that:
 - contravenes this policy;
 - contravenes the law, including the *BC Human Rights Code*, and other enactments, and District Bylaws; and
 - is an abuse of power or otherwise amounts to improper discrimination, intimidation, harassment or verbal abuse of others.

3. Collection and Handling of Information

- 3.1. Council officials must:
 - Collect and use personal information in accordance with *Freedom of Information and Protection of Privacy Act* legislation and the Protection of Privacy Policy and guidelines as established in Saanich;
 - Protect information that is specifically marked confidential, that is Personal Information and other material identified or understood to be confidential in nature;
 - Refrain from discussing or disclosing any Confidential Information with or to Staff, or with persons outside the organization except as authorized;
 - Refrain from discussing or disclosing any Personal Information with or to other Council Officials, Staff, or with persons outside the organization except in a manner consistent with the duty to protect Personal Information under the *Freedom of Information and Protection of Privacy Act*.

- Take reasonable care to prevent the examination of confidential material or access to Personal Information by unauthorized individuals;
- Not use Confidential Information except for the purpose for which it is intended to be used;
- Only release information in accordance with established District policies and procedures and in compliance with the *Freedom of Information and Protection of Privacy Act* (British Columbia);
- Not disclose decisions, resolutions or report contents forming part of the agenda for or from an in-camera meeting of Council until a corporate decision has been made for the information to become public; and
- Not disclose details on Council's in-camera deliberations or specific detail on whether individual Councillors voted for or against an issue.

3.2. Except in the normal course of duties, Council officials must not in any way change or alter District records or documents.

3.3. When dealing with Personal Information, Council officials must comply fully with the provisions of the *Freedom of Information and Protection of Privacy Act*. All reasonable and necessary measures must be taken to ensure that the personal or private business information of individuals is protected. Personal information includes information or an opinion about a person whose identity is apparent, or can be determined from the information or opinion.

4. Conflict of Interest

4.1. Council officials are expected to make decisions that benefit the community. They are to be free from undue influence and not act or appear to act in order to gain financial or other benefits for themselves, family, friends, or business interests.

4.2. Council officials must appropriately resolve any conflict or incompatibility between their personal interests and the impartial performance of their duties in accordance with statutory requirements of the *Community Charter*.

5. Interactions of Council officials with Staff and Advisory Body Members

5.1. Council is the governing body of the District of Saanich. It has the responsibility to govern the District in accordance with the *Community Charter* and other legislation.

- 5.2. The Mayor is the head and chief executive officer of the District and has a statutory responsibility to provide leadership to the Council and to provide general direction to municipal officers respecting the municipal policies, programs and other directions of the council as set out in the *Community Charter*.
- 5.3. Council officials are to contact staff including Municipal Officers, according to the procedures authorized by Council and the District Chief Administrative Officer regarding the interaction of Council officials and staff. As a general principle, the District adopts the one employee model where Council's point of contact with staff is the Chief Administrative Officer.
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- 5.10. Significant information provided to any member of Council, which is likely to be used in Council or in political debate, should also be provided to all other Council officials, and to the Chief Administrative Officer.
- 5.11. Council officials must treat members of the public, other Council officials, Advisory Body Members and staff appropriately, and without bullying, abuse or intimidation in order to preserve a workplace free from harassment.

6. Council Officials Use of Social Media

6.1. As it is not the role of individual Council officials to report directly on District related business. Council officials will use their social media profiles and websites as a secondary information source once matters have been officially released by the District.

6.2. Council officials will include an "in my opinion", or similar disclaimer, either within the banner of their individual social media site(s) or separately when making follow up posts to the District's social media postings and when creating original posts pertaining to District related business.

(Sample Disclaimer – "Opinions expressed are my own and do not reflect the view or opinions of the District of Saanich")

6.3. Council officials will refrain from using or permitting use of their social media accounts for purposes that include:

- defamatory remarks, obscenities, profane language or sexual content;
- negative statements disparaging other members of council;
- negative statements disparaging staff or calling into question the professional capabilities of staff;
- content that endorses, promotes, or perpetuates discrimination or mistreatment on the basis of race, religion or belief, age, gender, marital status, national origin, physical or mental disability or sexual orientation;
- statements that indicate an actual attitudinal bias in relation to a matter that is to be the subject of a statutory or other public hearing;
- promotion of illegal activity;
- information that may compromise the safety or security of the public or public systems.

6.4. Council officials must regularly monitor their social media accounts and immediately take measures to remove messages or postings by others that violate this Code of Conduct.

7. Interactions with the Public and the Media

- 7.1. Council officials will accurately communicate the decisions of the Council, even if they disagree with the majority decision of Council, and by so doing affirm the respect for and integrity in the decision-making processes of Council.
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8. Gifts and Personal Benefits

The receipt and reporting of gifts and personal benefits is dealt with under sections 105 and 106 of the *Community Charter*. Ultimately, the interpretation of those sections is a matter for the courts. However, the general language used in those sections creates some level of uncertainty and this Code of Conduct is intended to provide some guidance to Council officials.

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- 8.1.1. Gifts and personal benefits are items or services of value that are received by Council officials for personal use. These would include, but are not limited to, cash, gift cards, tickets to events, items of clothing, jewellery, pens, food or beverages, discounts or rebates on purchases, free or subsidized drinks or meals, entertainment, invitations to social functions, etc.
- 8.1.2. The following are not to be considered gifts or personal benefits:
- Compensation authorized by law (see section 105(2)(b) of the *Community Charter*).
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 - A lawful contribution made to a Council official who is a candidate for election conducted under the *Local Government Act*.

8.2. What Gifts and Personal Benefits may be Accepted?

- 8.2.1. Section 105(1) of the *Community Charter* prohibits Council officials from directly or indirectly accepting a fee, gift or personal benefit connected with the official's performance of the duties of office.
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- 8.2.3. Gifts and personal benefits received in accordance with section 105(2)(a) of the *Community Charter* as referenced in section 8.2.2 must be reported and disclosed in accordance with section 106 to the Corporate Officer.
- 8.2.4. Where a gift or personal benefit that may be accepted under the *Community Charter* has a value in excess of \$100.00, the Council official who receives the gift will do so on behalf of the District and turn over the gift to the District, except as otherwise permitted by Council.
- 8.2.5. Council officials must not accept a gift or personal benefit that could reasonably be expected to result in a real or perceived conflict of interest, and to assist in avoiding that situation, Council officials will not accept gifts or personal benefits from business or commercial enterprises having a value that exceeds \$50.00 or, where the total value of such gifts and benefits, received directly or indirectly from one source in any twelve (12) month period, would exceed \$250.00.

8.3. How Must Gifts and Personal Benefits be Reported?

- 8.3.1. Council officials must disclose to the Corporate Officer gifts and personal benefits in accordance with section 106 of the *Community Charter*.
- 8.3.2. If a Council official receives a gift or personal benefit that they do not wish to accept, regardless of value, they may immediately relinquish the gift or personal benefit to the District, in which case a disclosure form would not be required. If the gift or personal benefit is not immediately relinquished to the District, then the Council official must file a disclosure form.
- 8.3.3. The content of the disclosure must comply with section 106(2) of the *Community Charter* and must be filed "as soon as reasonably practicable".

8.3.4. It is the responsibility of Council officials to be familiar with the provisions in the *Community Charter* relating to acceptance and disclosure of gifts and to ensure that they comply with these requirements as contemplated by the statute.

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8.4.1. For the purposes of this Code, the value of each gift or personal benefit shall be determined by its replacement cost, i.e., how much it would cost to replace the item?

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8.5.1. Where a gift or personal benefit is relinquished to the District, the Corporate Officer will record the receipt of the item, nature of the gift or personal benefit, source (including the addresses of at least two individuals who are directors, in the case of a corporation), when the gift was received, and the circumstances under which it was given and accepted.

9. Breaches, Complaint Handling and Disciplinary Action

General

9.1. This section, Breaches, Complaint Handling and Disciplinary Action, is for internal use only. Council officials and staff within the District of Saanich can use this section to lodge a complaint against a member of Council in relation to their own interactions with that Council official.

9.2. Council officials are to abide by the requirements of the *Community Charter* and this Code of Conduct, and shall endeavour to resolve interpersonal disputes in good faith, recognizing that interpersonal rancour does not facilitate good governance.

Council Officials

9.3. Alleged breaches of this Code of Conduct by Council Officials shall be submitted in a written complaint addressed to the Mayor and the Chief Administrative Officer within six (6) months of the last alleged breach. The written complaint must outline what section of the Code has been breached, when and how the breach occurred and the requested resolution.

In the event that 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 Deputy Mayor unless that individual is the subject of, or implicated in the complaint.

In the event that the Chief Administrative Officer 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 Director of Corporate Services unless that individual is the subject of or implicated in the complaint.

9.4. Upon receipt of a complaint under section 9.3, the Mayor or designated Councillor, and the Chief Administrative Officer or designate (Director, Corporate Services) shall review the Policy and the details of the alleged breach.

- The role of the Mayor and CAO (or designates) is not to adjudicate the complaint rather it is to facilitate and seek a mutually beneficial resolution between the parties. Information from both parties should be obtained, reviewed and options for resolve canvassed. There is no ability for the Mayor / CAO or designates to give advice about the processing or quality of resolution of the complaint.

9.5. If the situation is not able to be resolved through the informal process within thirty (30) days, the Mayor and the Chief Administrative Officer or designates will work to appoint an independent third party. Numerous third party investigators will be identified. The Complainant(s) and Respondent(s) will be provided with the resumes of the identified parties. The Complainant(s) and Respondent(s) have the ability to agree or disagree that the proposed parties have the necessary professional skills, knowledge and experience to investigate the complaint (the "Third Party Investigator").

The Complainant(s) and Respondent(s) will notify the Mayor and CAO or designate if they have a conflict of interest with any of the proposed Third Party Investigators.

The Third Party Investigators will then be contacted and the individual with the next available opening in their schedule will be appointed to the matter.

9.6. If the parties cannot agree on the choice of investigator, a nominee of the Complainant(s) and the Respondent(s) shall jointly select a suitable Third Party Investigator.

9.7. If the Complainant(s) or Respondent(s) refuse to participate in a formal investigation, the investigation may continue without that individuals' participation. The Third Party Investigator will make their determination based on the information they are provided.

Not participating in the process may also be considered grounds for a complaint under the policy.

- 9.8. Throughout both the informal or formal investigation, either party can have legal counsel present to assist them. This legal counsel will be required to follow any rules of in-camera or procedural bylaw process that are applicable.
- 9.9. As confidentiality is key, at no point during the investigation (either informal or formal) will the Respondent(s) be permitted to see the formal written complaint. They will be informed of the contents of the complaint during the informal investigation process.
- 9.10. The Third Party Investigator:

- 9.10.1. 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;

If the Third Party Investigator determines to continue the complaint, the Third Party Investigator shall:

- 9.10.2. 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;
- 9.10.3. Provide an investigation update within ninety (90) days of his or her appointment to the Mayor and the Chief Administrative Officer or designates, as applicable, and to the Complainant and the Respondent;
- 9.10.4. 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 of Conduct, to the Mayor and the Chief Administrative Officer or designates, as applicable;
- 9.10.5. A copy of the final Report may be provided to the Complainant and the Respondent by either the Third Party Investigator or by the Mayor and the Chief Administrative Officer or designates if deemed appropriate; and
- 9.10.6. Provide recommendations in the Report as to the appropriate resolution of the complaint, which recommendations may include:

- dismissal of the complaint; or
- public censure of the Council Official or Officials for misbehaviour or a breach of this Code of Conduct;
- a recommendation that a Council Official or Officials apologize to any person adversely affected by a breach of this Code of Conduct;
- counselling of a Council Official or Officials; and/or
- such other recommendations as are deemed appropriate in the professional judgment of the Third Party Investigator.

9.11. The Mayor and the Chief Administrative Officer or designates shall consider whether the Report or an executive summary of the Report should be presented to Council.

9.12. The Director of Corporate Services will receive and retain all reports prepared under section 9.10.3 and 9.10.4.

9.13. At the conclusion of the process (when the resolution has been communicated with the parties and if necessary Council), the Third Party Investigator will destroy all notes that were taken or documents that were provided throughout the process of the investigation.

9.14. Where a Council Official alleges a breach of this Code of Conduct by a fellow Council Official, all Council Officials shall refrain from commenting on such allegations at open meetings of Council pending the conclusion of the Report and any decision of Council on the Report.

9.15. Council Officials who retain legal counsel to represent them in proceedings under this section may request in writing that the District indemnify them for their reasonable costs of representation, in accordance with section 740 of the *Local Government Act*.

9.16. Staff who retain legal counsel to represent themselves in proceedings under this section may request, in writing, reimbursement of reasonable costs from the District.

10. Attachments

10.1. Attached to this document are two templates that could be utilized as part of the information resolution process:

- Proactive Apology by Council Member
- Apology by Council Member if held by Council to have violated the Code of Conduct

10.2. Please note: British Columbia's Apology Act provides that an "apology" made by or on behalf of a person in connection with any matter does not constitute an express or implied admission or acknowledgement of fault or liability. "Apology" is defined as "an expression of sympathy or regret, a statement that one is sorry or any other words or actions indicating contrition or commiseration, whether or not the words or actions admit or imply an admission of fault." The Act further provides that an apology does not void, impair or otherwise affect any insurance coverage that is available, or that would, but for the apology, be available to the person in connection with the matter. Evidence of an apology made by or on behalf of a person in connection with any matter is not admissible in any court as evidence of the fault or liability of the person in connection with that matter and must not be taken into account in any determination of fault or liability.

TEMPLATE 1 – Proactive Apology by Council Member

[DATE]

PERSONAL AND CONFIDENTIAL

[Name of Recipient]

[Title]

District of Saanich

[Address]

[City, Province, Postal Code]

Dear [title] [last name]:

Re: Apology [subject]

As you know, on [date], I [briefly set out the nature of the offending conduct. It is recommended you provide dates, times and a description of the conduct at issue as you understand it].

On [date], you confronted me about my behaviour/conduct and expressed [describe briefly the conduct complained of and how it affected the offended person]. I acknowledge that my conduct / actions made you feel [describe how it affected the offended person] and I admit that my [actions / conduct] were [reformulate why your actions were wrong in your own words – ex: offensive, derogatory, belittling, in poor taste, defamatory, wrong, discriminatory, callous, harmful to your reputation etc.].

Having reflected on [your complaint / our conversation], I take full responsibility for my [actions / conduct] and wish to apologize for the harm that I have caused you. My behaviour was not in keeping with the key principles of our Council's Code of Conduct. In particular, I acknowledge that my conduct was in violation of [identify the section(s) of the Code of Conduct breached].

Going forward, I commit to being more careful in my [words / actions] and to making better efforts to respect and abide by my obligations set out in the Code of Conduct. Please accept my heartfelt apology.

Sincerely,

[name]

[title]

TEMPLATE 2 - If held by Council to have violated the Code of Conduct

[DATE]

PERSONAL AND CONFIDENTIAL

[Name of Recipient]

[Title]

District of Saanich

[Address]

[City, Province Postal Code]

Dear [title] [last name]:

Re: Apology [subject]

As you know, on [date], I [briefly set out the nature of the offending conduct. It is recommended you provide dates, times and a description of the conduct at issue as you understand it].

On [date], you confronted me about my behaviour/conduct and expressed [describe briefly the conduct complained of and how it affected the offended person]. In light of Council having concluded that my conduct constituted a violation of the District's Council Code of Conduct, I acknowledge that my conduct / actions made you feel [describe how it affected the offended person] and I admit that my [actions / conduct] were [reformulate why your actions were wrong in your own words – ex: offensive, derogatory, belittling, in poor taste, defamatory, wrong, discriminatory, callous, harmful to your reputation etc.]

Having reflected on [the decision of Council], I take full responsibility for my [actions / conduct] and wish to apologize for the harm that I have caused you. My behaviour was not in keeping with the key principles of our Council's Code of Conduct. In particular, I acknowledge that my conduct was in violation of [identify the section(s) of the Code of Conduct breached].

Going forward, I commit to being more careful in my [words / actions] and to making better efforts to respect and abide by my obligations set out in the Code of Conduct. Please accept my heartfelt apology.

Sincerely,

[name]

[title]

COUNCIL POLICY

NAME:	CODE OF CONDUCT	
ISSUED:	November, 2016	INDEX REFERENCE:
AMENDED:	<u>January 2020</u>	COUNCIL REFERENCE: 16/CNCL

PURPOSE:

To set minimum expectations for the behaviour of Council officials in carrying out their functions.

SCOPE:

All Council officials and the Chief Administrative Officer.

DEFINITIONS:

Advisory Body Member: a person sitting on an advisory committee, task force, commission, board, or other Council-established body.

Confidential Information: Confidential Information includes information that could reasonably harm the interests of individuals or organizations, including the District of Saanich, if disclosed to persons who are not authorized to access the information, as well as information to which section 117 of the *Community Charter* applies.;

Council official: the Mayor and members of Council ~~members~~

Personal Information: has the same meaning as in the *Freedom of Information and Protection of Privacy Act*

Staff: an employee or contract employee of the District of Saanich, and includes staff that supports Advisory Bodies.

Municipal Officer: a member of staff designated as an officer under section 146 of the *Community Charter* or a bylaw under that section.

INTERPRETATION:

- (a) In this policy, a reference to a person who holds an office includes a reference to the persons appointed as deputy or appointed to act for that person from time to time.
- (b) This Code of Conduct applies to the use of social media by Council officials in relation to District related matters.

POLICY STATEMENTS:**1. Key Principles**

- 1.1. **Integrity:** Council officials are keepers of the public trust and must uphold the highest standards of ethical behaviour. Council officials are expected to:
 - make decisions that benefit the community;
 - act lawfully and within the authorities of the *Community Charter*, *Local Government Act* and other applicable enactments; and
 - be free from undue influence and not act, or appear to act, in order to gain financial or other benefits for themselves, family, friends or business interests.
- 1.2. **Accountability:** Council officials are obligated to answer for the responsibility that has been entrusted to them. They are responsible for decisions that they make. This responsibility includes acts of commission and acts of omission. In turn, decision-making processes must be transparent and subject to public scrutiny; proper records must be kept.
- 1.3. **Leadership:** Council officials must demonstrate and promote the key principles of the Code of Conduct through their decisions, actions and behaviour. Their behaviour must build and inspire the public's trust and confidence in local government. Council officials will provide leadership to District staff through the Chief Administrative Officer.
- 1.4. **Respect:** Council officials must conduct public business efficiently and with decorum. They must treat each other and others with respect at all times. This means not using derogatory language towards others, respecting the rights of other people, treating people with courtesy and recognition of the different roles others play in local government decision making.
- 1.5. **Openness:** Council officials have a duty to be as open as possible about their decisions and actions. This means communicating appropriate information openly to the public about decision-making processes and issues being considered; encouraging appropriate public participation; communicating clearly; and providing appropriate means for recourse and feedback.

2. General Conduct

- 2.1. Council officials must adhere to the key principles and provisions of the Code of Conduct.
- 2.2. Council officials must act lawfully and within the authorities of the *Community Charter, Local Government Act* and other applicable enactments and exercise a reasonable degree of care and diligence in carrying out their functions.
- 2.3. Council officials have an obligation to consider issues and exercise powers, duties and functions in a manner that avoids arbitrary and unreasonable decisions.
- 2.4. Council officials must avoid behaviour that could constitute an act of disorder or misbehaviour. Specifically, Council officials must avoid conduct that:
 - contravenes this policy;
 - contravenes the law, including the *BC Human Rights Code*, and other enactments, and District Bylaws; and
 - is an abuse of power or otherwise amounts to improper discrimination, intimidation, harassment or verbal abuse of others.

3. Collection and Handling of Information

- 3.1. Council officials must:
 - Collect and use personal information in accordance with *Freedom of Information and Protection of Privacy Act* legislation and the Protection of Privacy Policy and guidelines as established in Saanich;
 - Protect information that is specifically marked confidential, that is Personal Information and other material identified or understood to be confidential in nature;
 - Refrain from discussing or disclosing any Confidential Information with or to Staff, or with persons outside the organization except as authorized;
 - Refrain from discussing or disclosing any Personal Information with or to other Council Officials, Staff, or with persons outside the organization except in a manner consistent with the duty to protect Personal Information under the *Freedom of Information and Protection of Privacy Act*.

- Take reasonable care to prevent the examination of confidential material or access to Personal Information by unauthorized individuals;
- Not use Confidential Information except for the purpose for which it is intended to be used;
- Only release information in accordance with established District policies and procedures and in compliance with the *Freedom of Information and Protection of Privacy Act* (British Columbia);
- Not disclose decisions, resolutions or report contents forming part of the agenda for or from an in-camera meeting of Council until a corporate decision has been made for the information to become public; and
- Not disclose details on Council's in-camera deliberations or specific detail on whether individual Councillors voted for or against an issue.

3.2. Except in the normal course of duties, Council officials must not in any way change or alter District records or documents.

3.3. When dealing with Personal Information, Council officials must comply fully with the provisions of the *Freedom of Information and Protection of Privacy Act*. All reasonable and necessary measures must be taken to ensure that the personal or private business information of individuals is protected. Personal information includes information or an opinion about a person whose identity is apparent, or can be determined from the information or opinion.

4. Conflict of Interest

4.1. Council officials are expected to make decisions that benefit the community. They are to be free from undue influence and not act or appear to act in order to gain financial or other benefits for themselves, family, friends, or business interests.

4.2. Council officials must appropriately resolve any conflict or incompatibility between their personal interests and the impartial performance of their duties in accordance with statutory requirements of the *Community Charter*.

5. Interactions of Council officials with Staff and Advisory Body Members

5.1. Council is the governing body of the District of Saanich. It has the responsibility to govern the District in accordance with the *Community Charter* and other legislation.

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9.1.9.2. Council officials are to abide by the requirements of the *Community Charter* and this Code of Conduct, and shall endeavour to resolve interpersonal disputes in good faith, recognizing that interpersonal rancour does not facilitate good governance.

Council Officials

9.2:9.3. Alleged breaches of this Code of Conduct by Council Officials shall be submitted in a written complaint addressed to the Mayor and the Chief Administrative Officer within six (6) months of the last alleged breach. The written complaint must outline what section of the Code has been breached, when and how the breach occurred and the requested resolution.

In the event that 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 Deputy Mayor unless that individual is the subject of, or implicated in the complaint.

In the event that the Chief Administrative Officer 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 Director of Corporate Services unless that individual is the subject of or implicated in the complaint.

9.4. Upon receipt of a complaint under section ~~9.2~~ 9.3, the Mayor or ~~Deputy Mayor~~ designated Councillor, and the Chief Administrative Officer or designate (Director, Corporate Services) shall review the Policy and the details of the alleged breach.

- The role of the Mayor and CAO (or designates) is not to adjudicate the complaint rather it is to facilitate and seek a mutually beneficial resolution between the parties. Information from both parties should be obtained, reviewed and options for resolve canvassed. There is no ability for the Mayor / CAO or designates to give advice about the processing or quality of resolution of the complaint.

~~9.3.9.5.~~ If the situation is not able to be resolved the matter informally through the informal process within thirty (30) days, the Mayor and the Chief Administrative Officer or designates will work to appoint an independent third party. Numerous third party investigators will be identified, and agreed between The Complainant(s) and Respondent(s) will be provided with the resumes of the identified parties. The Complainant(s) and Respondent(s) have the ability to agree or disagree that the proposed parties as having have the necessary professional skills, knowledge and experience to investigate the complaint (the "Third Party Investigator").

The Complainant(s) and Respondent(s) will notify the Mayor and CAO or designated if they have a conflict of interest with any of the proposed Third Party Investigators.

The Third Party Investigators will then be contacted and the individual with the next available opening in their schedule will be appointed to the matter.

9.6. If the parties cannot agree on the choice of investigator, a nominee of the Complainant(s) and the Respondent(s) shall jointly select a suitable Third Party Investigator.

~~9.4.9.7.~~ If the Complainant(s) or Respondent(s) refuse to participate in a formal investigation, the investigation may continue without that individuals' participation.

The Third Party Investigator will make their determination based on the information they are provided.

Not participating in the process may also be considered grounds for a complaint under the policy.

9.8. Throughout both the informal or formal investigation, either party can have legal counsel present to assist them. This legal counsel will be required to follow any rules of in-camera or procedural bylaw process that are applicable.

9.9. As confidentiality is key, at no point during the investigation (either informal or formal) will the Respondent(s) be permitted to see the formal written complaint. They will be informed of the contents of the complaint during the informal investigation process.

9.5.9.10. The Third Party Investigator:

9.5.1.9.10.1. 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;

If the Third Party Investigator determines to continue the complaint, the Third Party Investigator shall:

9.5.2.9.10.2. 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;

9.5.3.9.10.3. Provide an investigation updated within ninety (90) days of his or her appointment to the Mayor ~~or Deputy Mayor~~ and the Chief Administrative Officer or designates, as applicable, and to the Complainant and the Respondent;

9.10.4. 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 of Conduct, to the Mayor ~~or Deputy Mayor~~ and the Chief Administrative Officer or designates, as applicable;

9.10.5. A copy of the final Report may be provided, and to the Complainant and the Respondent by either the Third Party Investigator or by the Mayor and the Chief Administrative Officer or designates if deemed appropriate; and

~~9.5.4.9.10.6.~~ Provide recommendations in the Report as to the appropriate resolution of the complaint, which recommendations may include:

- dismissal of the complaint; or
- public censure of the Council Official or Officials for misbehaviour or a breach of this Code of Conduct;
- a recommendation that a Council Official or Officials apologize to any person adversely affected by a breach of this Code of Conduct;
- counselling of a Council Official or Officials; and/or
- ~~such other recommendations as are deemed appropriate in the professional judgment of the Third Party Investigator.~~

~~9.6.9.11.~~ The Mayor ~~or Deputy Mayor~~ and the Chief Administrative Officer or designates shall consider whether the Report or an executive summary of the Report should be presented to Council.

~~9.12.~~ The ~~District Clerk~~Director of Corporate Services will receive and retain all reports prepared under section ~~9.10.39.4.3~~ and ~~9.10.49.4.4~~.

~~9.7.9.13.~~ At the conclusion of the process (when the resolution has been communicated with the parties and if necessary Council), the Third Party Investigator will destroy all notes that were taken or documents that were provided throughout the process of the investigation.

~~9.8.9.14.~~ Where a Council Official alleges a breach of this Code of Conduct by a fellow Council Official, all Council Officials shall refrain from commenting on such allegations at open meetings of Council pending the conclusion of the Report and any decision of Council on the Report.

~~9.9.9.15.~~ Council Officials who retain legal counsel to represent them in proceedings under this section may request in writing that the District indemnify them for their reasonable costs of representation, in accordance with section 740 of the *Local Government Act*.

~~9.16.~~ Staff who retain legal counsel to represent themselves in proceedings under this section may request, in writing, reimbursement of reasonable costs from the District.

10. Attachments

10.1. Attached to this document are two templates that could be utilized as part of the information resolution process:

- Proactive Apology by Council Member
- Apology by Council Member if held by Council to have violated the Code of Conduct

10.2. Please note: British Columbia's Apology Act provides that an "apology" made by or on behalf of a person in connection with any matter does not constitute an express or implied admission or acknowledgement of fault or liability. "Apology" is defined as "an expression of sympathy or regret, a statement that one is sorry or any other words or actions indicating contrition or commiseration, whether or not the words or actions admit or imply an admission of fault." The Act further provides that an apology does not void, impair or otherwise affect any insurance coverage that is available, or that would, but for the apology, be available to the person in connection with the matter. Evidence of an apology made by or on behalf of a person in connection with any matter is not admissible in any court as evidence of the fault or liability of the person in connection with that matter and must not be taken into account in any determination of fault or liability.

TEMPLATE 1 – Proactive Apology by Council Member

[DATE]

PERSONAL AND CONFIDENTIAL

[Name of Recipient]

[Title]

District of Saanich

[Address]

[City, Province Postal Code]

Dear [title] [last name]:

Re: Apology [subject]

As you know, on *[date]*, I *[briefly set out the nature of the offending conduct. It is recommended you provide dates, times and a description of the conduct at issue as you understand it]*.

On *[date]*, you confronted me about my behaviour/conduct and expressed *[describe briefly the conduct complained of and how it affected the offended person]*. I acknowledge that my conduct / actions made you feel *[describe how it affected the offended person]* and I admit that my *[actions / conduct]* were *[reformulate why your actions were wrong in your own words – ex: offensive, derogatory, belittling, in poor taste, defamatory, wrong, discriminatory, callous, harmful to your reputation etc.]*.

Having reflected on *[your complaint / our conversation]*, I take full responsibility for my *[actions / conduct]* and wish to apologize for the harm that I have caused you. My behaviour was not in keeping with the key principles of our Council's Code of Conduct. In particular, I acknowledge that my conduct was in violation of *[identify the section(s) of the Code of Conduct breached]*.

Going forward, I commit to being more careful in my *[words / actions]* and to making better efforts to respect and abide by my obligations set out in the Code of Conduct. Please accept my heartfelt apology.

Sincerely,

*[name]**[title]*

TEMPLATE 2 - If held by Council to have violated the Code of Conduct

[DATE]

PERSONAL AND CONFIDENTIAL

[Name of Recipient]

[Title]

District of Saanich

[Address]

[City, Province Postal Code]

Dear [title] [last name]:

Re: Apology [subject]

As you know, on [date], I ***[briefly set out the nature of the offending conduct. It is recommended you provide dates, times and a description of the conduct at issue as you understand it].***

On [date], you confronted me about my behaviour/conduct and expressed ***[describe briefly the conduct complained of and how it affected the offended person].*** In light of Council having concluded that my conduct constituted a violation of the District's Council Code of Conduct, I acknowledge that my conduct / actions made you feel ***[describe how it affected the offended person]*** and I admit that my ***[actions / conduct]*** were ***[reformulate why your actions were wrong in your own words – ex: offensive, derogatory, belittling, in poor taste, defamatory, wrong, discriminatory, callous, harmful to your reputation etc.]***

Having reflected on ***[the decision of Council]***, I take full responsibility for my ***[actions / conduct]*** and wish to apologize for the harm that I have caused you. My behaviour was not in keeping with the key principles of our Council's Code of Conduct. In particular, I acknowledge that my conduct was in violation of ***[identify the section(s) of the Code of Conduct breached]***.

Going forward, I commit to being more careful in my ***[words / actions]*** and to making better efforts to respect and abide by my obligations set out in the Code of Conduct. Please accept my heartfelt apology.

Sincerely,

[name]

[title]