



**RESORT MUNICIPALITY OF WHISTLER**

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## STAFF REPORT TO COUNCIL

**PRESENTED:** November 21, 2023 **REPORT:** 23-118  
**FROM:** Legislative Services **FILE:** 3900-20-2397  
**SUBJECT:** CODE OF CONDUCT BYLAW AND RELATED RESPECTFUL CONDUCT  
POLICIES

### RECOMMENDATION

**That** the recommendation of the Chief Administrative Officer be endorsed.

### RECOMMENDATIONS

Code of Conduct Bylaw

**That** Council consider giving first, second and third readings to “Code of Conduct Bylaw No. 2397, 2023” (OPTION A);

OR

**That** Council consider giving first, second and third readings to “Code of Conduct Bylaw No. 2397, 2023” (OPTION B); and

Elected Officials Oath of Office Bylaw

**That** Council consider giving first, second and third readings to “Elected Officials Oath of Office Bylaw No. 2414, 2023”; and

Council Governance Manual

**That** Council adopt *Council Policy A-21: Council Governance Manual* as amended and attached as Appendix A to this Administrative Report to Council No. 23-118; and further

Council Remuneration Policy

**That** Council adopt *Council Policy A-30: Council Remuneration Policy* as amended and attached as Appendix B to this Administrative Report to Council No. 23-118.

### PURPOSE OF REPORT

The purpose of this report is to seek Council approval for the new “Code of Conduct Bylaw No. 2397, 2023” (New Code). The New Code will replace the existing Code of Conduct Policy (Appendix A: Code of Conduct and Conflict of Interest Guidelines for Councillors (Existing Code) of *Council Policy A-21:*

*Council Governance Manual*), attached as Appendix C. Two alternate bylaws are being presented for Council's consideration.

In addition to the New Code, there are several related responsible conduct policies, procedures or bylaws that need to be introduced or amended to align with the New Code. These are:

- "Elected Officials Oath of Office Bylaw No. 2414, 2023"
- *Council Policy A-21: Council Governance Manual* (Council Governance Manual)
- *Council Policy A-30: Council Remuneration Policy* (Council Remuneration Policy)
- Administrative Procedure F-13: Respectful Workplace
- "Council Procedure Bylaw No. 2207, 2018" (Council Procedure Bylaw)

The updates to the above list are recommended irrespective of which New Bylaw Council approves.

Information Report

Administrative Report (Decision or Direction)

## CONTEXT

A code of conduct is a written document that sets shared expectations for conduct and behaviour of elected officials. It demonstrates that Council members share a common understanding of ethical obligations which are essential to good governance. Codes of conduct are also an opportunity to signal to the community, and potential candidates, the principles, and standards that a council values upholding in the course of their work as elected officials. Having clear agreements for conduct and behaviour is also an opportunity for Council to provide leadership on how we want to interact and be with each other as residents of Whistler.

There are two options for the New Code presented in this report. This was done because the direction that Council provided staff results in a weaker New Code than what already exists and a higher barrier for a member of Council or staff to bring a complaint forward. As the bylaw had not yet been written during the workshops, staff thought it important to bring two options forward to help Council review the direction provided with more detail and context.

Staff recommend bylaw OPTION A. This option follows the recommendations of the Working Group on Responsible Conduct (a collaboration between the Union of B.C. Municipalities, the Ministry of Municipal Affairs, and the Local Government Management Association, which also included the participation of a Whistler Council member) and is in line with what has been implemented by other local governments. OPTION A takes advantage of the benefits of an internal enforcement process, it upholds the standards of conduct currently established by the Existing Code, it applies the province's prescribed principles, it is easier to implement than OPTION B and takes into account diversity, equity, and inclusion practices. On the other hand, bylaw OPTION B, which excludes some of the most important standards of ethical conduct (e.g., conflict of interest), does not achieve any of the above benefits and would result in the Resort Municipality of Whistler's (RMOW) New Code falling short of expectations set across the province.

## DISCUSSION

### Background

The RMOW's Council Governance Manual was adopted by Council in 2005 (it is attached as Appendix C). The Existing Code covers standards of conduct imposed by law, appropriate conduct,

implementation, and enforcement of alleged breaches.

In accordance with the requirements of the *Municipal Affairs Statutes Amendment Act (No. 2), 2021*, Council passed a resolution on [April 3, 2023](#), directing staff to review the Existing Code. Upon reviewing the Existing Code, staff noted that many changes should be made to bring the New Code more in line with the modern landscape of municipal government. Importantly, the new legislation requires councils to consider “prescribed principles” when deciding whether to review a code of conduct. These principles are set out by the *Principles for Codes of Conduct Regulation, BC Reg 136/2022* as follows:

- Council members must carry out their duties with integrity;
- Council members are accountable for the decisions that they make, and the actions that they take, in the course of their duties;
- Council members must be respectful of others; and
- Council members must demonstrate leadership and collaboration.

Generally, ethical conduct is driven by the above principles. It is a central component of good governance and guides the way elected officials conduct themselves with their colleagues, staff, and the public. The *Community Charter (CC)* also sets out several “ethical conduct” rules for elected officials. Contravention of these rules may result in an elected official’s disqualification from office. This report refers to conduct that breaches these rules as “disqualifiable conduct”. Disqualifiable conduct centres on conflict of interest rules and also includes a failure to make the oath of office, an unexcused absence, and an unauthorized expenditure.

Following the legislative changes in 2021, local governments across the province have been reviewing and updating their codes of conducts. Over this time code complaints have also been conducted and have provided an opportunity to review what works well and what needs improvement. The RMOW has worked closely with lawyers from Young Anderson in the development of the New Code. Young Anderson has recently drafted multiple codes of conduct and Mr. Reece Harding, a partner at the firm, was also the former Ethics Commissioner for the City of Surrey. Staff were able to draw from Mr. Harding’s practical experience as well as feedback and shared lessons learned from senior staff at other local governments, including the District of Squamish and the City of Nanaimo.

#### *Suggested changes to the Existing Code*

There are strong elements of the Existing Code that staff recommend carrying through to the New Code, including the Existing Code’s purpose and conduct provisions. The Existing Code’s purpose is focused on committing to excellence in local government by ensuring stringent standards of ethical behaviour, and by demonstrating honesty, integrity, and fairness. The Existing Code contains provisions dealing with conflict of interest, corporate information, preferential treatment, and gifts and benefits. These provisions fall under the category of disqualifiable conduct under the CC and are consistent with the overriding commitment to excellence in local government.

Yet, changes are needed to bring the New Code in alignment with the legislative requirements and current best practices among other local governments. Notably, the Province’s prescribed principles (set out above) need to be incorporated into the New Code. Staff also recommend a new approach to the implementation and enforcement provisions in the New Code, as the Existing Code relies too heavily on staff and the Governance and Ethics Standing Committee (GAESC). Further the Existing Code refers to the role of an Ethics Commissioner, which was not properly established. The types of conduct included should also be broadened to incorporate additional topics such as social media and elections. Looking to best practices, staff recommend that the list of available remedies be more

comprehensive and that breaches of the New Code be connected to Council's Remuneration Policy. Staff also propose removing the New Code from the Existing Code and instead introduce it as a bylaw to make its contents more enforceable.

### *Development of the New Code*

At the direction of Council, staff workshopped key themes of the New Code with GAESC. GAESC provided initial oversight on the scope of the New Code and then, given the importance of subject matter, discussion was brought to the full Council table.

Council Meetings on the New Code were held in closed sessions due to the receipt of legal advice. Mr. Reece Harding, partner from Young Anderson, assisted Council in working through 11 key questions to help shape the New Code. Council passed a resolution to bring forward the closed Council resolutions from these meetings (Appendix D). These questions addressed several topics, including the New Code's application, the types of conduct to include, informal resolution, the role of an independent third-party, transparency, and remedies.

### *The two bylaws (OPTION A & OPTION B)*

The resolutions passed in answer to these questions form the basis of the New Code. With respect to the types of conduct to be captured by the New Code, Council did not pass a resolution in line with best practices set by other local governments. To address this divergence and given that the subject matter is complex, takes time to understand and is perhaps more easily understood through comparison, staff are presenting two bylaws for consideration. Staff recommend that the New Code contain robust and broad provisions, including disqualifiable conduct. This is presented in bylaw OPTION A. Council, however, directed staff to draft the New Code such that it excludes any matters that could be administered through another process, specifically referring to disqualifiable conduct under the CC, election offences under the *Local Government Act* and the *Local Elections Campaign Financing Act*, and offences under the *Criminal Code*. Any complaint with respect to this type of conduct must be closed by the investigator; additionally, in the case of criminal conduct, the investigator must refer the matter to the appropriate authorities. This direction is presented in bylaw OPTION B. Staff understand that the reason Council preferred the direction under Option B was to avoid Council becoming judge and jury to a process related to a colleague and to not duplicate existing legal processes.

In accordance with this direction, the conduct that is **not** captured by OPTION B is as follows:

- General conduct with respect to any financial benefit
- Handling of confidential information with respect to any financial benefit
- Conflict of interest
- Gifts and personal benefits
- Use of influence with respect to any financial benefit
- Election offences

Following this direction, and excluding these types of conduct, results in a significant weakening of the Existing Code, which currently contains, apart from election offences, the conduct listed above. It should be noted that both bylaws contain a section on Criminal Conduct, noting that if the investigator believes there may have been a contravention of the *Criminal Code*, they must refer the matter to the appropriate authorities. Human rights complaints would also be directed to a more appropriate process under both bylaws. The above list noting the variance in the types of Council member conduct covered by the New Code is the main difference between the two bylaws. Incidentally, the investigator's

dismissal powers under the two bylaws are also distinct. These variations are captured in Appendix E, which compares the two versions of the New Code.

In developing bylaw OPTION A, staff drew from recent Codes of Conduct developed by the District of Squamish, the City of New Westminster, and the City of Nanaimo. Staff also took inspiration from the City of Winnipeg's Members of Council Code of Conduct By-law, which follows Manitoba's *Council Members' Code of Conduct Regulation 98/2020*. The Working Group on Responsible Conduct created a Model Code of Conduct and associated Companion Guide, both of which were very helpful in drafting OPTION A.

Both bylaws OPTION A and OPTION B contain the following provisions:

- **Application** The New Code applies to Council members and complaints may be made by Council members and staff. Committee members (members of the community who are appointed to committees but are not Council members) will be expected to comply with the standards set out in the New Code. If a committee member breaches the New Code their appointment to the committee will be rescinded by the Mayor or Council under the existing authority of the CC. Terms of reference for all RMOW committees will be updated to incorporate language to this effect.
- **Investigator** The New Code relies on an independent third-party who will be responsible for administering and conducting investigations. The New Code incorporates provisions to allow the investigator to conduct preliminary assessments and summarily dismiss complaints.
- **Informal Resolution** Informal resolution, including restorative justice approaches, will be the preferred primary path for all complaints. A third-party mediator may aid in the resolution of the complaint.
- **Formal Resolution** In the case of a formal investigation, the investigator must conclude the investigation and prepare a report for Council within 90 days.
- **Transparency** The New Code requires Council to consider accepting the investigator's findings that the New Code was breached and what remedial measures, if any, should be imposed in an open meeting (unless there is a justification for closing the meeting under the CC). Following Council's decision, the investigation report, or a summary, along with Council's decision, will be released to the public (subject to the *Freedom of Information and Protection of Privacy Act*).
- **Penalties** The New Code provides the investigator with considerable discretion to recommend a remedy proportionate to the conduct at issue. If the investigator finds that a Council member breached the New Code, or submitted a complaint that was frivolous, vexatious, or made in bad faith, the Council member's remuneration will be reduced. The reduction will increase if the Council member has breached the New Code more than once. Remuneration will not be reduced if the Council member took all reasonable steps to prevent the breach, the breach was trivial or inadvertent, or if an error was made in good faith.

## Analysis

Staff are supportive of bylaw OPTION A for several reasons. Firstly, OPTION A captures the benefits of an internal enforcement process for an important segment of responsible conduct (i.e., disqualifiable conduct). Secondly, it upholds the standards of conduct set by the Existing Code. Thirdly, it aligns with the province's prescribed principles. Fourthly, its scope of conduct goes beyond the relational, or respect and dignity, behaviours, which can be challenging to investigate and enforce. Finally, OPTION



A provides an opportunity to create a more equitable and diverse Council table. More detail on each of these points is set out below.

#### *Effective enforcement*

In the Working Group on Responsible Conduct's publication "*Forging the Path to Responsible Conduct in Your Local Government*", the advantages of code of conduct enforcement are set out as follows: "*enhanced certainty and transparency, improved compliance, administrative efficiencies, and enhanced fairness.*" The UBCM Executive has also expressed support for the ability of local governments to manage the conduct of local elected officials:

*"The UBCM Executive affirms the value of local governments taking ownership of tools that support responsible conduct. Codes of Conduct that have been developed and endorsed by Councils and Boards through discussion lead to a deeper understanding than those imposed externally. These important discussions also prepare the ground for the effective informal resolution of differences, which has been shown in local government experience to lead to more effective outcomes than formal processes of enforcement. (UBCM Executive Comments on SR3 Strengthening Responsible Conduct, UBCM 2021 Resolutions Book at page 24)."*

The above excerpt from the UBCM Resolutions Book is attached as Appendix F.

This highlights the importance of the ability of OPTION A to apply its enforcement mechanisms, including informal resolution tools, to alleged breaches of disqualifiable conduct.

With respect to disqualifiable conduct, the remedies available under OPTION A and OPTION B, which would lead to a CC application, are also notably different. Under the CC, a successful challenge will result in the Council member's disqualification. Under OPTION A, the remedies available under the New Code can be more appropriately scaled to fit the conduct in issue; for example, the remedy could be a requirement to attend a training session or issuing a public apology.

#### *Standards in the Existing Code*

Excluding disqualifiable conduct under OPTION B is also a step back from the broad scope of conduct captured by the Existing Code. As noted above, one of the strongest elements of the Existing Code is that it contains provisions dealing with conflict of interest, corporate information, preferential treatment, and gifts and benefits.

#### *Prescribed principles*

OPTION A aligns with all principles prescribed by the province. Most notably, the principle that points to accountability: Council members are accountable for the decisions that they make, and the actions that they take, in the course of their duties. OPTION A increases Council member accountability through its inclusion of a broader range of Council member conduct. The framework established under OPTION B would make it considerably more difficult to hold Council members accountable for their actions and decisions because it excludes provisions that deal with disqualifiable conduct. By excluding such provisions, any recourse to address this type of Council member misconduct would need to go through an application to the BC Supreme Court for a declaration of disqualification under the CC.

Appendix G to this report includes a comparison chart and a flow diagram demonstrating how an alleged breach of disqualifiable conduct would be handled under each bylaw option. Under OPTION B, the investigator would be required to close the complaint and the only recourse available for the

complainant would be an application to court for a declaration of disqualification. This application must be made by 10 or more electors of the municipality or a special majority (2/3) vote of Council. It also requires significant resources and time, and as such, it is a much more burdensome and inaccessible process than initiating and investigating a complaint made under OPTION A.

Conversely, under OPTION A, a complaint alleging a breach of disqualifiable conduct may still be investigated. Under OPTION A this complaint may be made by one Council member or one staff member. To address Council's concern around parallel proceedings occurring under the New Code and the CC, staff have built into OPTION A a disqualification proceedings provision. This provision acts as an "off-ramp", such that if the conduct is already engaged in the CC process (or if the window is still open to do so), the process under the New Code is suspended until the court has dealt with the matter or the time limit has run out. If the CC process is not engaged, or does not result in the Council member's disqualification, the complaint may be recommenced under OPTION A. This provision allows the CC process to run its course before a complaint can be investigated under OPTION A.

Given the higher thresholds for applying to the court and the required resources, especially when compared with the prioritization of informal resolution under OPTION A, it is foreseeable that many complainants would not be able to avail themselves of the CC process and this does not work to uphold the accountability of Council members. Requiring any investigation with respect to disqualifiable conduct to go through the courts does not demonstrate accountability for Council members' conduct. Nor does it demonstrate leadership in this field (another prescribed principle). A review of best practices among other local governments indicates that the RMOW would be an outlier if it were to exclude disqualifiable conduct from its New Code.

Council previously expressed concerns over being the "judge and jury" with respect to a finding that the New Code was breached by a fellow Council member and indicated a preference to that work being undertaken by a B.C. Supreme Court judge. To address this, the complaint and resolution procedures established under the New Code rely heavily on the determinations made by the third-party investigator. In being asked to endorse the investigator's finding that the New Code was breached by a Council member, and that certain remedies should be imposed, Council is expected to give considerable deference to the investigator's recommendations and depart from them only when they are manifestly unfit.

### *Implementation*

An additional concern with OPTION B is that when the disqualifiable conduct pieces are removed from the New Code, the provisions that are left are mainly relational or respect and dignity provisions. These are important provisions, but it should be noted that enforcement in this area may be of limited application. These provisions are much more subjective, and unlike objective acts (for example, the unlawful acceptance of a gift), they are not as susceptible to investigation and are much harder to prove. OPTION B also challenges the investigator with the difficult task of distinguishing what conduct amounts to disqualifiable conduct (for example, was there a financial benefit or not?) in deciding whether a complaint may proceed or if it needs to be closed.

### *Diversity, equity, and inclusion*

The Province has signaled the importance of diversity, equity, inclusion, and reconciliation through work undertaken by the Parliamentary Secretary for Gender Equity, the Parliamentary Secretary for Anti-Racism Initiatives and the implementation of the *Declaration of the Rights of Indigenous Peoples Act*. Looking to Terrace, where an Indigenous Council member stepped down due to an unwelcoming and inequitable political system, it is apparent that work is also needed at the local government level.

Following the Province's lead, the RMOW can continuously take steps to create a government that is welcoming, safe, and attractive to people regardless of their background.

The Working Group on Responsible Conduct has noted that:

*“Councils and Boards that welcome healthy debate, diverse ideas and conflicting views make better decisions. Different lived experiences and fresh perspectives can provide valuable insights, uncover opportunities and bring out solutions that hadn't previously been considered but are better for the community.”* (Forging the Path to Responsible Conduct in Your Local Government, April 2021)

Chapter two of “Forging the Path to Responsible Conduct in Your Local Government” is attached as Appendix H.

Given the importance of diverse perspectives at the Council table, it is necessary to create a safe and welcoming environment and strong codes of conduct can work to achieve this. By capturing a broader range of conduct, OPTION A allows complainants to bring complaints against disqualifiable conduct without having to overcome the often-insurmountable hurdles of bringing a CC challenge. OPTION A works to everyone's benefit, but also creates equity for those with diverse backgrounds. OPTION A signals to diverse members of the community and potential candidates that members of the RMOW Council will be held accountable to the highest ethical standards.

### **Related Policies**

#### **Elected Officials Oath of Office Bylaw**

The current oath of office for RMOW Council members is the form of oath prescribed by the *Local Government Oath of Office Regulation*. The CC also permits, under section 120(2), a Council, by bylaw, to establish its own oath of office. The new “Elected Officials Oath of Office Bylaw, No. 2414, 2023” follows the form prescribed by the regulation, which includes a commitment to the province's prescribed principles, and adds a commitment to abide by the provisions of the New Code. A Council member will be disqualified from holding office for failure to make the oath of office; however, they will not be disqualified for breaching the oath of office. The new oath would take effect at the start of the next term.

#### **Council Governance Manual**

To reflect the introduction of the Code of Conduct Bylaw in place of the Existing Code, which is part of Council Governance Manual, staff propose deleting Appendix A: Code of Conduct and Conflict of Interest Guidelines for Councillors and adding in the following explanatory note: “All references to Appendix A: Code of Conduct and Conflict of Interest Guidelines for Councillors shall now be referred to ‘Code of Conduct Bylaw No. 2397, 2023’”.

Following Council's decision on which bylaw option is preferred, staff recommend further review of the Existing Code to ensure that the two documents complement each other as two separate tools in the RMOW's responsible conduct toolkit.

#### **Council Remuneration Policy**

Staff recommend an amendment to the Council Remuneration Policy to add an additional section speaking to the reduction of remuneration for breach of the New Code. The new section would require that if the investigator finds that a Council member breached the New Code, or submitted a complaint that was frivolous, vexatious, or made in bad faith, the Council member's remuneration will be reduced. The reduction will increase if the Council member has breached the New Code more than once. A 10



per cent reduction would be applied for the first breach, 15 per cent for the second, and 25 per cent for the third or subsequent breach. If a Council member breaches the New Code more than once within a year, there will be a cumulative reduction for any period of overlap. Remuneration will not be reduced if the Council member took all reasonable steps to prevent the breach, the breach was trivial or inadvertent, or if an error was made in good faith.

#### Respectful Workplace Administrative Procedure

Council approval is not required for amendments to administrative procedures. As such, staff will be making an amendment to Administrative Procedure F-13: Respectful Workplace to remove Council members from its scope of application. The result will be that all conduct matters concerning Council members will be administered under the New Code. This allows for a much clearer application of respectful conduct policies and helps to safeguard Council-staff relationships by keeping staff removed from the resolution of complaints involving Council members.

#### Council Procedure Bylaw

In line with best practices for procedure bylaws, staff will be introducing an amendment to the Council Procedure Bylaw to connect it to the New Code. The new subsection will note that while at a Council or Committee Meeting, Council Members will be expected to adhere to the standards set out in the New Code. Amendments to the Council Procedure Bylaw related to the New Code will follow in a subsequent staff report introducing a new Council Procedure Amendment Bylaw.

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## **POLICY CONSIDERATIONS**

### **Relevant Council Authority/Previous Decisions**

#### Council Policies

- Appendix C: Code of Conduct and Conflict of Interest Guidelines for Councillors of *Council Policy A-21: Council Governance Manual* (Existing Code)
- *Council Policy A-21: Council Governance Manual*
- *Council Policy A-30: Council Remuneration Policy*

#### Administrative Procedure

- Administrative Procedure F-13: Respectful Workplace

#### Bylaw

- “Council Procedure Bylaw, No. 2207, 2018”

#### Previous Council Decisions and Report

- [April 3, 2023: Administrative Report No. 23-040](#), Code of Conduct Review
- Resolutions brought forward from previous Closed Council Meetings on the Code of Conduct (Appendix D)
  - Special Closed Meeting - May 30, 2023
  - Closed Council Meeting - June 20, 2023
  - Special Closed Council Meeting - June 27, 2023
  - Closed Council Meeting - July 18, 2023

## Legislation

- **CC**  
**Code of Conduct:** As added by *Bill 26 – 2021 Municipal Affairs Statutes Amendment Act (No. 2), 2021*, section 113.1 of the CC requires a council to decide whether a code of conduct should be reviewed. This section also requires that, in making this decision, the council consider the prescribed principles. Additionally, section 113.2 states that should a council decide not to review an existing code of conduct, the council must reconsider that decision before January 1 of the year of the next general local election.  
**Oath of Office:** Section 120(2) of the CC permits a council, by bylaw, to establish the oath or affirmation of office.
- *Principles for Codes of Conduct Regulation, BC Reg 136/2022*  
**Code of Conduct:** Sets out the prescribed principles that must be considered by Councils when deciding whether to renew a code of conduct.
- *Local Government Oath of Office Regulation, BC Reg. 137/2022*  
**Oath of Office:** This regulation prescribes the form of the RMOW's current oath of office for the purposes of section 120(3) of the CC.

## **2023-2026 Strategic Plan**

The 2023-2026 Strategic Plan outlines the high-level direction of the RMOW to help shape community progress during this term of Council. The Strategic Plan contains four priority areas with various associated initiatives that support them. This section identifies how this report links to the Strategic Plan.

### **Strategic Priorities**

Housing

*Expedite the delivery of and longer-term planning for employee housing*

Climate Action

*Mobilize municipal resources toward the implementation of the Big Moves Climate Action Plan*

Community Engagement

*Strive to connect locals to each other and to the RMOW*

Smart Tourism

*Preserve and protect Whistler's unique culture, natural assets and infrastructure*

Not Applicable

*Aligns with core municipal work that falls outside the strategic priorities but improves, maintains, updates and/or protects existing and essential community infrastructure or programs*

## **Community Vision and Official Community Plan**

The Official Community Plan (OCP) is the RMOW's most important guiding document that sets the community vision and long-term community direction. This section identifies how this report applies to the OCP.

This report moves the RMOW toward our Community Vision, particularly by valuing our relationships and working together as partners and community members. A New Code, one that is more in line with

best practices and the province's prescribed principles, will help the RMOW promote the following Community Vision Characteristics:

- **INCLUSIVE:** Residents and visitors of all ages, abilities and incomes are welcome, included, and share our love for nature, active recreation, human connections and innovation.
- **CONDUCT:** Everyone is treated with fairness, respect and care, and as a result we enjoy high levels of mutual trust and safety.
- **PARTICIPATION:** We are able to meaningfully participate in community decisions, collaborating to achieve our Community Vision.
- **PARTNERSHIPS:** We have established strong partnerships with the Squamish Nation, Líl'wat Nation, other levels of government and community stakeholders based on open dialogue, honesty, respect and collaboration, resulting in the achievement of mutual goals and shared benefits.

Bylaw OPTION A is a more robust bylaw and goes further toward achieving our Community Vision. It does so by increasing the accountability of Council members with respect to a broader range of conduct. A more accountable Council will promote and create space for a more inclusive Council, which can be more representative of the population it seeks to serve.

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## **BUDGET CONSIDERATIONS**

The costs associated with a complaint could range from \$10,000 to \$40,000 based on the complexity of the investigation. Staff do not expect that there would be more than one complaint submitted in the first year of the New Code's operation. It is anticipated that costs can be accommodated within the existing legislative services legal budget.

Costs associated with the necessary training on the New Code are estimated at \$2,000 per year and will be funded through the Council budget.

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## **LÍL'WAT NATION & SQUAMISH NATION CONSIDERATIONS**

The RMOW is committed to working with the Líl'wat People, known in their language as *L'il'wat7úl* and the Squamish People, known in their language as *Skwxwú7mesh* to: create an enduring relationship; establish collaborative processes for Crown land planning; achieve mutual objectives; and enable participation in Whistler's resort economy. This section identifies areas where RMOW activities intersect with these relationships.

The framework created under OPTION A will lead to a more accountable Council. Establishing an expectation that fellow Council members will be held accountable for a broader range of conduct matters will hopefully encourage participation on Council from a more diverse candidate pool, including representation from *L'il'wat7úl* and *Skwxwú7mesh*.

## COMMUNITY ENGAGEMENT

Level of community engagement commitment for this project:

Inform     Consult     Involve     Collaborate     Empower

Comment(s):

Following adoption of the New Code, staff will work with the General Manager of Community Engagement and Cultural Services to ensure that the public is adequately informed of the New Code. With respect to all RMOW elections, the New Code will be included as part of the nomination package. This will ensure that all prospective candidates are informed of the standards and expectations of all Council members.

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## REFERENCES

Appendix A – Amended *Council Policy A-21: Council Governance Manual*  
Appendix B – Amended *Council Policy A-30: Council Remuneration Policy*  
Appendix C – Appendix A of the Code of Conduct and Conflict of Interest Guidelines for Councillors of *Council Policy A-21: Council Governance Manual* (Existing Code)  
Appendix D – Closed Council Meeting Resolutions  
Appendix E – Compare Document (Bylaw OPTION A & Bylaw OPTION B)  
Appendix F – Excerpt Regarding Code of Conduct from 2021 UBCM Resolutions Book  
Appendix G – Complaint Comparison Chart, Example Scenarios & Flow Diagrams  
Appendix H – Chapter two from “Foraging the Path to Responsible Conduct in Your Local Government”

### Bylaws (included in Council Package)

“Code of Conduct Bylaw No. 2397, 2023” (OPTION A)  
“Code of Conduct Bylaw No. 2397, 2023” (OPTION B)  
“Elected Officials Oath of Office Bylaw, No. 2414, 2023”

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## SUMMARY

Given legislative changes from the province, Council directed staff to review the RMOW’s Existing Code. Following thorough discussion with GAESC and Council, and consideration of the province’s prescribed principles, staff present two bylaw options for the New Code for Council’s consideration. Staff strongly support bylaw OPTION A, as it represents a New Code that is in line with the prescribed principles and best practices amongst other local governments and the Working Group on Responsible Conduct.

To ensure a cohesive and robust conduct toolkit at the RMOW, staff also propose the introduction of the “Elected Officials Oath of Office Bylaw No. 2414, 2023” and amendments to the Existing Code, the Council Remuneration Policy, and the Respectful Workplace Administrative Procedure. Amendments to the Council Procedure Bylaw will follow in a subsequent staff report.

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**SIGN-OFFS**

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