



ARCHITECTURAL INSTITUTE OF BRITISH COLUMBIA

# Proposed Code of Ethics and Administrative Bylaw Amendments

*Note: New or amended language is found in yellow highlighting; ~~strikeout~~ indicates wording proposed for removal from existing bylaws. A substantive edit or re-write is shown by the entire proposed amendment in yellow highlighting.*

*Red writing indicates changes proposed as of June 25, 2019 and Blue highlighting indicates changes proposed arising from consultation. Green highlighting at Bylaw 12.0 shows phrase, to be deleted in amended bylaw, that was missing from first draft of memorandum.*

## CODE OF ETHICS AND PROFESSIONAL CONDUCT

### Professional Engagement

28.0 The architect's professional services shall be engaged subject to the following conditions:

34.10 Except in an approved competition, an architect shall provide no form of service until retained and in receipt of the client's instructions.

...

*[council rulings:]*

- (d) An architect must confirm the terms and conditions of engagement, in a written agreement with the client, executed prior to the architect's commencing work, on any commission.
- (e) Before entering into an agreement to provide architectural services, a Certificate of Practice holder must notify the client in writing whether or not professional liability insurance is held and under what terms.
- (f) Each (i) proposal for architectural services, and (ii) client-architect agreement (contract), must contain the statement that it "is in compliance with the AIBC Bylaws, including especially (but not limited to) Bylaw 28: Professional Engagement and Bylaw 34.16; the Tariff of Fees for Architectural Services; and the Code of Ethics."

### Proposed Bylaw Amendment:

28.0 An architect is not permitted to provide architectural services to a client until the following conditions are satisfied:

- (a) All terms and conditions of engagement have been confirmed in a written architectural services contract with the client, executed by the parties; and
- (b) The client has been advised in writing:
  - (i) whether professional liability insurance is in place in relation to the architectural services to be provided for the commission;
  - (ii) that the professional liability insurance policy in (i) is available for review by the client upon request; and

	(iii) that the contract “is in compliance with AIBC Bylaws, including the Code of Ethics and Professional Conduct.”
28.1	Services, responsibilities and General Conditions shall be based upon and generally consistent with those described in the most recent edition of the “Canadian Standard Form of Agreement Between Client and Architect”, or such other form of agreement as Council may approve.  <b>Proposed Bylaw Amendment:</b>
28.1	The architectural services contract required under Bylaw 28.0 must be a standard form contract approved by council, or be based upon and substantially conforming in all material respects to such standard contract in relation to services, responsibilities and general conditions.
28.2	Certification as to construction performance and as to payment therefor requires such general review of the work as the architect deems necessary.  <b>No Amendments Proposed</b>
28.3	All drawings, specifications, models and documents prepared by the architect as instruments of service shall remain the architect’s property, the copyright in the same being reserved to the architect in the first instance. As a precondition of their use, all fees and reimbursable expenses due the architect are to be paid.  <b>Repeal of Bylaw 28.3 Proposed</b>  <b>[The current bylaw is a restatement of federal copyright law, not a professional standard]</b>
	<b>Full Disclosure</b>
32.5	An architect who knows of an apparent violation of the <i>Architects Act</i> , Bylaws or Council rulings shall report such knowledge to the Institute.  <b>Current Council Rulings Proposed for Repeal by Council:</b>  (a) <del>An architect must not withhold information from the AIBC about an apparent infraction regardless of who might ask the architect or require the architect under an agreement, to do so.</del>  (b) <del>An architect acting in the capacity of a mediator or arbitrator, under an agreement that includes a confidentiality provision, is not obliged to report information so received to the Institute.</del>

## Proposed Bylaw Amendment

[Blue Highlighting Indicates Changes Proposed Arising from Consultation]:

32.5 An architect ~~is required to~~ must promptly notify the AIBC in writing ~~and without delay~~ in any of the following circumstances:

- (a) Having reasonable grounds to believe that a non-AIBC registrant has illegally practised or offered to practise the profession of architecture, or otherwise violated the *Architects Act*;
- (b) ~~Becoming aware of an apparent violation of the *Architects Act*, AIBC Bylaws or council rulings by any party, including oneself;~~
- (b) Having reasonable grounds to believe that an AIBC registrant, including oneself, has breached any standard related to competency, professional conduct, or public safety, including any breach of the Code of Ethics and Professional Conduct;
- (c) Upon filing for assignment or upon being petitioned into bankruptcy or receivership;
- (d) In the event of a finding or admission of professional misconduct, unprofessional conduct, incompetency, conduct unbecoming or other disciplinary breach in another jurisdiction in which the architect is registered;
- (e) Upon being charged with an offence under the *Criminal Code*; and
- (f) Upon receipt or service of a notice of civil claim or other legal proceeding in which allegations are made of professional negligence, fraud, or other cause of action, claim, or offence that may be determined by council rules.

[Note that the BRC proposes repeal of current council rulings (a) and (b) above, and replacement of them through commentary in the Code of Ethics. Repeal of council rulings, which requires a council motion, can take place after the bylaw approval and provincial disallowance period.]

## Conduct Architectural Competitions

34.11 An approved architectural competition is either a competition conducted according to the current “Canadian Rules for the Conduct of Architectural Competitions” or an alternate arrangement, specifically approved in writing by Council, that assures equitable treatment and equal and adequate remuneration to participating architects.

- (a) Prior to an architect’s participation, an architectural competition’s “approved” status must be confirmed with the AIBC.
- (b) An architect invited to participate in a non-approved architectural competition must decline the invitation and advise the AIBC of the competition.

## Proposed Bylaw Amendment:

34.11 An approved architectural competition is either a competition conducted according to ~~architectural competition rules approved by council~~, the current “Canadian Rules for the Conduct of Architectural Competitions” or an alternate arrangement, specifically approved in writing by

<p><del>Council, that assures equitable treatment and equal and adequate remuneration to participating architects.</del></p> <p><b>Current Council Rulings Proposed for Repeal by Council:</b></p> <p><del>(a) Prior to an architect's participation, an architectural competition's "approved" status must be confirmed with the AIBC.</del></p> <p><del>(b) An architect invited to participate in a non-approved architectural competition must decline the invitation and advise the AIBC of the competition.</del></p>	<p>34.12 An architect's conduct when participating in an approved competition must comply with the "Canadian Rules for the Conduct of Architectural Competitions" or as directed by Council.</p> <p><b>Proposed Bylaw Amendment:</b></p> <p>34.12 An architect's conduct when participating in an approved competition must comply with the "Canadian Rules for the Conduct of Architectural Competitions" <b>architectural competition rules or alternate arrangement approved by council in Bylaw 34.11</b> or as directed by Council.</p>
<b>CONSENSUAL RESOLUTION BYLAWS:</b>	
<b>Practices and Procedures</b>	
<p>36.3 In the event that the respondent declines to enter into consensual resolution, or should a party later withdraw from consensual resolution, the matter shall proceed to resolution in keeping with the inquiry provisions of the <i>Architects Act</i>.</p> <p><b>Proposed Bylaw Amendment:</b></p> <p>36.3 In the event that the respondent declines to enter into consensual resolution, or should a party later withdraw from consensual resolution, the matter shall proceed to resolution in keeping with the inquiry provisions of the <i>Architects Act</i> <b>and in accordance with these Bylaws.</b></p>	<p><b>Consensual Resolution Fees</b></p> <p>36.21 Council may establish fees payable to the institute by respondents with respect to engaging in consensual resolution, including but not limited to any fees for mediation or other facilitation of consensual resolution.</p> <p><b>Proposed Bylaw Amendment:</b></p> <p>36.21 Council may establish fees <b>a schedule of costs</b> payable to the institute by respondents with respect to engaging in consensual resolution, including but not limited to any fees for mediation or other facilitation of consensual resolution.</p>

36.22 The institute shall publish any fees established by council for consensual resolution.

**Proposed Bylaw Amendment:**

36.22 The institute shall publish any **schedule of costs** established by council for consensual resolution.

**INVESTIGATION AND DISCIPLINE BYLAWS:**

**Complaints and Investigations**

37.2 Information provided to the CEO from any source that indicates a respondent's conduct or competency may constitute a disciplinary violation must be treated as a potential complaint and processed in accordance with these bylaws.

**Proposed Bylaw Amendment:**

37.2 Information provided to the CEO from any source that indicates a respondent's conduct or competency may constitute a disciplinary violation ~~must~~ **may** be treated as a potential complaint and processed in accordance with these bylaws.

**Investigations Committee**

37.16 The investigations committee shall have the following functions:

...

- (i) to review decisions of the CEO made under bylaw 37.7 at the written request of a complainant per bylaw 39.9 and, in its sole discretion without further appeal or review by any party, determine whether to further investigate the matter and exercise any of its powers or to concur with the CEO's decision; and

...

**Proposed Bylaw Amendment:**

37.16 The investigations committee shall have the following functions:

...

- (i) to review decisions of the CEO made under bylaw 37.7 at the written request of a complainant per bylaw ~~39.9~~ **37.9** and, in its sole discretion without further appeal or review by any party, determine whether to further investigate the matter and exercise any of its powers or to concur with the CEO's decision; and

...

## Disciplinary Committee

- 37.31 The disciplinary committee shall conduct its hearings at the offices of the AIBC, unless an alternative venue is required. Hearings shall be open to the public except for the disciplinary committee's in camera deliberations and in any circumstance where the disciplinary committee deems it appropriate to exclude some or all non-parties to the proceeding.

### Proposed Bylaw Amendment:

- 37.31 ~~The disciplinary committee shall conduct its hearings at the offices of the AIBC, unless an alternative venue is required.~~ Hearings of the disciplinary committee shall be open to the public except for the disciplinary committee's in camera deliberations and in any circumstance where the disciplinary committee deems it appropriate to exclude some or all non-parties to the proceeding.

## HONORARY MEMBERS:

- 12.1 Honorary Members shall be nominated by the Council and conferred by a four-fifths vote of members present at the Annual Meeting.

### Proposed Bylaw Amendment:

- 12.0 Honorary members shall be nominated by the council and shall be conferred by a four-fifths majority vote of members present at the Annual Meeting, to be conducted by electronic means.
- 12.1 Council shall establish rules for the conduct of the electronic vote established by bylaw 12.0.