

**SUMMER VILLAGE OF BIRCHCLIFF  
CODE OF CONDUCT FOR MEMBERS OF COUNCIL AND COMMITTEES  
BY-LAW 207-18**

*A By-law of the Summer Village of Birchcliff to establish a code of conduct for members of Council and Council Committees.*

WHEREAS, pursuant to section 146.1(1) of the *Municipal Government Act*, a Council must, by bylaw, establish a code of conduct governing the conduct of Councillors;

AND WHEREAS, pursuant to section 146.1(3) of the *Municipal Government Act*, a Council may, by bylaw, establish a code of conduct governing the conduct of members of Council Committees and other bodies established by the Council who are not Councillors;

NOW WHEREAS, pursuant to section 153 of the *Municipal Government Act*, Councillors have a duty to adhere to the code of conduct established by the Council;

AND WHEREAS, the public is entitled to expect the highest standard of conduct from the members that it elects to Council and the members that are appointed to committees of Council for the Summer Village of Birchcliff;

AND WHEREAS, the establishment of a code of conduct for members of Council and Council Committees is consistent with the principles of transparent and accountable government;

AND WHEREAS, a code of conduct ensures that members of Council and Council Committees share a common understanding of acceptable conduct extending beyond the legislative provisions governing the conduct of Councillors and Council Committee Members;

NOW THEREFORE, the Council of the Summer Village of Birchcliff, in the Province of Alberta, duly assembled, enacts as follows:

**PART 1 – INTERPRETATION**

**Short Title**

1. This Bylaw may be referred to as the “Council and Committee Code of Conduct Bylaw”.

**Definitions**

2. In this Bylaw, words have the meanings set out in the Act, except that:
  - (a) “Act” means the *Municipal Government Act*, R.S.A. 2000. C. M-26, and associated regulations, as amended;
  - (b) “Administration” means the administrative and operational arm of the Municipality, comprised of the various departments and business units and including all employees who operate under the leadership and supervision of the Chief Administrative Officer;
  - (c) “Chief Administrative Officer” means the Chief Administrative Officer of the Municipality, or their delegate;
  - (d) “Council” means the municipal Council of the Summer Village of Birchcliff elected pursuant to the provisions of the Act;
  - (e) “Member” means a member of Council or a member of a committee of Council and includes a Councillor, the Mayor and an unelected public appointee to a committee of Council; and
  - (f) “Municipality” means the municipal corporation of the Summer Village of Birchcliff.

### **Purpose and Application**

3. The purpose of this Bylaw is to maintain public confidence in the integrity of its local government by establishing standards for the ethical conduct of Members relating to their roles and obligations as representatives of the Municipality and a procedure for the investigation and enforcement of those standards.
4. This Bylaw is one aspect of accountability and transparency both internally, as among Members and as between Council and Administration, as well as externally, with other orders of government, the media and the public at large.
5. The provisions of this Bylaw shall apply to members of Council and unelected members of the public appointed to committees of Council with such modification as is necessary to reflect the distinct roles and responsibility of elected and non-elected Members.

### **Framework and Interpretation**

6. This Bylaw provides a framework to guide ethical conduct in a way that upholds the integrity of the Municipality and the high standards of professional conduct the public expects of its local government representatives. This Bylaw is intended to supplement existing legislation governing the conduct of Members.
7. Along with the bylaws and policies of Council, the following provincial and federal legislation governs the conduct of Members:
  - (a) *The Municipal Government Act*;
  - (b) *The Freedom of Information and Protection of Privacy Act*;
  - (c) *The Local Authorities Election Act*;
  - (d) *The Alberta Human Rights Act*;
  - (e) *The Occupational Health and Safety Act*; and
  - (f) *The Criminal Code of Canada*.
8. This Bylaw is to be given a broad and liberal interpretation in accordance with the applicable legislations. It is not possible to prepare a code of conduct that covers every scenario and, accordingly, Members are to be guided by the conduct themselves in a manner that reflects the spirit and intent of this Bylaw.

## **PART II – CODE OF CONDUCT**

### **Representing the Municipality**

9. Members shall:
  - (a) act honestly and, in good faith, serve the welfare and interests of the Municipality as a whole;
  - (b) perform their functions and duties in a conscientious and diligent manner with integrity, accountability and transparency;
  - (c) conduct themselves in a professional manner with dignity and make every effort to participate diligently in the meetings of Council, Committees of Council and other bodies to which they are appointed by Council; and
  - (d) arrange their private affairs and conduct themselves in a manner that promotes public confidence and will bear close public scrutiny.

### **Communicating on Behalf of the Municipality**

10. A Member must not claim to speak on behalf of Council unless authorized to do so.

11. Unless Council directs otherwise, the Mayor is Council's official spokesperson and in the absence of the Mayor it is the Deputy Mayor. All inquiries from the media regarding the official Council position on an issue shall be referred to Council's official spokesperson.
12. A Member who is authorized to act as Council's official spokesperson must ensure that their comments accurately reflect the official position and will of Council as a whole, even if the Member personally disagrees with Council's position.
13. All Members may present facts and information about Council that are the public domain, including motions of Council comments made in public meetings, facts and recommendations in reports to Council. Opinions of positions held by a Member must be clearly identified as those of the Member making the statement.
14. No Member shall make a statement when they know that statement is false.
15. No Member shall make a statement with the intent to mislead Council or members of the public.
16. A Member shall ensure that any social networking account associated with the Member includes the following disclaimer prominently displayed: "The postings on this site are my own and don't necessarily represent the Summer Village of Birchcliff's position or opinions."

#### **Respecting the Decision Making Process**

17. Decision making authority lies with Council, and not with any individual Member. Council may only act by bylaw or resolution passed at a Council meeting held in public at which there is a quorum present. No Member shall, unless authorized by Council, attempt to bind the Municipality or give direction to employees in Administration, agents, contractors, consultants or other service providers or prospective vendors to the Municipality.
18. Members shall conduct and convey Council business and all their duties in an open and transparent manner other than for those matters which by law are authorized to be dealt with in a confidential manner in an in-camera session, and in so doing, allow the public to view the process and rationale which was used to reach decisions and the reasons for taking certain actions.
19. Members shall accurately communicate the decisions of Council, even if they disagree with Council's decision such that respect for the decision-making processes of Council is fostered.

#### **Adherence to Policies, Procedures and Bylaws**

20. Members shall uphold the law established by the Parliament of Canada and the Legislature of Alberta and the bylaws, policies and procedures adopted by Council.
21. Members shall respect the Municipality as an institution, its bylaws, policies and procedures and shall encourage public respect for the Municipality, its bylaws, policies, and procedures.
22. A Member must not encourage disobedience of any bylaw, policy or procedure of the Municipality in responding to a member of the public, as this undermines public confidence in the Municipality and in the rule of law.

#### **Respectful Interactions with Council Members Staff, the Public and Others**

23. Members shall act in a manner that demonstrates fairness, respect for individual differences and opinions, and an intention to work together for the common good and in furtherance of the public interest.

24. Members shall treat one another, employees of the Municipality and members of the public with courtesy, dignity and respect and without abuse, bullying or intimidation.
25. No Member shall use indecent, abusive or insulting words or expressions toward another Member, any employee of the Municipality or any member of the Public.
26. No Member shall speak in a manner that is discriminatory to any individual based on the person's race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place or origin, marital status, source of income, family status or sexual orientation.
27. Members shall respect the fact that employees in Administration work for the Municipality as a body corporate and are charged with making recommendations that reflect their professional expertise and a corporate perspective and that employees are required to do so without undue influence from any Member or group of Members.
28. Members must not:
  - (a) involve themselves in matters of Administration, which fall within the jurisdiction of the Chief Administrative Officer;
  - (b) use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any employee of the Municipality with the intent of interfering in the employee's duties; or
  - (c) maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of employees of the Municipality.

#### **Confidential Information**

29. Members must keep in confidence matters discussed in private at a Council or Council Committee meeting until the matter is discussed at a meeting held in public.
30. Members shall refrain from disclosing or releasing any confidential information acquired by virtue of their office except when required by law or authorized by Council to do so.
31. No Member shall use confidential information for personal benefit or for the benefit of any other individual organization.
32. No Member shall access or attempt to gain access to confidential information in the custody or control of the Municipality unless it is necessary for the performance for the Member's duties and is not otherwise prohibited by Council, and only then if the information is acquired through appropriate channels in accordance with applicable Council bylaws and policies.

#### **Conflicts of Interest**

33. Members have a statutory duty to comply with the pecuniary interest provisions set out in Part 5, Division 6 of the Act and a corresponding duty to vote unless required or permitted to abstain under the Act or another enactment.
34. Members 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 associates, business or otherwise.
35. Members shall approach decision-making with an open mind that is capable of persuasion.

36. It is the individual responsibility of each Member to seek independent legal advice, at the Member's sole expense, with respect to any situation that may result in pecuniary or other conflict of interest.

#### **Improper Use of Influence**

37. No Member shall use the influence of the Member's office for any purpose other than for the exercise of the Member's official duties.
38. No Member shall act as a paid agent to advocate on behalf of any individual, organization or corporation entity before Council or a Committee of Council or any other body established by Council.
39. Members shall not contact or otherwise attempt to influence members of any adjudicative body regarding any matter before it relating to the Municipality.
40. Members shall refrain from using their positions to obtain employment with the Municipality for themselves, family members or close associates. Members are ineligible to apply or be considered for any position with the Municipality while they hold their elected position and for one year after leaving office.

#### **Use of Municipal Assets and Services**

41. Members shall have full access to Council Chambers, Council meeting rooms and common areas in the Summer Village office.
42. Members shall not access file rooms, the safe, and staff work space or secure storage areas unless they are required to do so by direction of Council or with the approval of the Chief Administrative Officer.
43. Members will respect the work space and schedule of staff in Administration and will not disrupt the day to day work of Administration.
44. Members shall show proper regard for the assets of the Summer Village of Birchcliff at their disposal and shall use municipal property, equipment, services, supplies and staff resources only for the performance of their duties as a Member, subject to the following limited exceptions:
- (a) municipal property, equipment, service, supplies and staff resources that are available to the general public may be used by a Member for personal use upon the same terms and conditions as members of the general public, including booking and payment of any applicable fees or charges.
  - (b) electronic communication devices, including but not limited to desktop computers, laptops, tablets and smartphones, which are supplied by the Municipality to a Member, may be used by the Member for personal use, provided that the use is not for personal gain, offensive or inappropriate.
45. Members shall report any damage to or loss of municipal property immediately to the Chief Administrative Officer.
46. No Member shall use any facilities, equipment, supplies, services, municipal logo or other resources of the Municipality for any election campaign or campaign-related activity.

#### **Meeting Attendance**

47. Members have a statutory duty to attend Council meetings, and failure to attend as required by the Act may lead to a Member's disqualification from Council.
48. Members are expected to exceed the minimum meeting attendance standards required to avoid disqualification under the Act. No Member shall be absent from

three regular meetings of Council or Committee of the Whole meetings, or any combination of both, in a given calendar year without the prior approval of Council.

#### **Orientation and Other Training Attendance**

49. Every Member must attend the orientation training offered by the Municipality within 90 days after the Member takes the oath of office.
50. Unless excused by Council, every Member must attend any other training organized at the direction of Council for the benefit of Members throughout the Council term.

#### **Remuneration and Expenses**

51. Members are stewards of public resources and shall avoid waste, abuse and extravagance in the use of public resources.
52. Members shall be transparent and accountable with respect to all expenditures and strictly comply with all municipal bylaws, policies and procedures regarding claims for remuneration and expenses.
53. Members' travel and education funds shall be used for their intended purpose. Without restricting the ability of Members to decide the best use of their time it is expected that Members be in attendance at events where related registration fees and/or living expenses are covered by the Municipality.

#### **Gifts and Hospitality**

54. Members shall not accept gifts, hospitality or other benefits that would, to a reasonable member of the public, appear to be in gratitude for influence, to induce influence, or otherwise to go beyond the necessary and appropriate public functions involved.
55. Members may accept hospitality, gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation, provided that the value of the hospitality, gift or benefit does not exceed one hundred dollars.
56. Gifts received by a Member on behalf of the Municipality as a matter of official protocol which have significance or historical value for the Municipality shall be left with the Municipality when the Member ceases to hold office.

#### **Informal Complaint Process**

57. Any person who has identified or witnessed conduct by a Member that the person reasonably believes in good faith, is in contravention of this Bylaw may address the prohibited conduct by:
  - (a) advising the Member that the conduct violates this Bylaw and encouraging the Member to stop,
  - (b) requesting the Mayor to assist in informal discussion of the alleged complaint with the Member in an attempt to resolve the issue. In the event that the Mayor is the subject of, or is implicated in a complaint, the person may request the assistance of the Deputy Mayor.
58. Individuals are encouraged to pursue this informal complaint procedure as the first means of remedying conduct that they believe violates this Bylaw. However, an individual is not required to complete this informal complaint procedure prior to pursuing the formal complaint procedure outlined below.

### **Formal Complaint Process**

59. Any person who had identified or witnessed conduct by a Member that the person reasonably believes, in good faith, is in contravention of this bylaw may file a formal complaint in accordance with the following procedure:
- (a) All complaints shall be made in writing and shall be dated and signed by an identifiable individual;
  - (b) All complaints shall be addressed to Council, attention of the Mayor, or, if the Mayor is the subject of, or is implicated in a complaint, to the attention of the Deputy Mayor;
  - (c) The Complaint must set out reasonable and probable grounds for the allegation that the Member has contravened this Bylaw, including a detailed description of the facts, as they are known, giving rise to the allegation;
  - (d) If the facts, as reported, include the name of one or more Members who are alleged to be responsible for the breach of this Bylaw, the Member or Members concerned shall receive a copy of the complaint submitted to Council;
  - (e) Upon receipt of a complaint under this Bylaw, Council shall meet, in camera, excluding the Member concerned, and decide whether to proceed to investigate the complaint or not. If Council is of the opinion that a complaint is frivolous or vexatious or is not made in good faith, or that there are no grounds or insufficient grounds for conducting an investigation, Council may choose not to investigate or, if already commenced, terminate any investigation, or may dispose of the complaint in a summary manner. In that event, the complainant shall be notified of Council's decision.
  - (f) If Council decides to investigate the complaint, it shall take such steps as it may consider appropriate, which may include hiring a third party investigator and seeking legal advice. All proceedings of Council regarding the investigation shall be in-camera;
  - (g) A Member who is the subject of an investigation shall be afforded procedural fairness, including an opportunity to respond to the allegations before Council deliberates and makes any decision or any sanction is imposed;
  - (h) A Member who is the subject of an investigation is entitled to be represented by legal counsel, at the Member's sole expense.

### **Compliance and Enforcement**

60. Members shall uphold the letter and the spirit and intent of this Bylaw.
61. Members are expected to co-operate in every way possible in securing compliance with the application and enforcement of this bylaw.
62. No Member shall:
- (a) undertake any act of reprisal or threaten reprisal against a complainant or any other person for providing relevant information to Council or to any other person;
  - (b) obstruct Council, or any other person, in carrying out the objectives or requirements of this Bylaw.
63. Sanctions that may be imposed on a Member, by Council, upon a finding that the Member has breached this Bylaw may include:
- (a) a letter or reprimand addressed to the Member;
  - (b) requesting the Member to issue a letter of apology;
  - (c) publication of a letter of reprimand or request for apology and the Member's response;
  - (d) suspension or removal of the appointment of a Member as the chief elected official under section 150(2) of the Act;
  - (e) suspension or removal of the appointment of a Member as the deputy chief elected official or acting chief elected official under section 152 of the Act;

- (f) suspension or removal of the chief elected official's residing duties under section 154 of the Act;
- (g) suspension or removal of from some or all Council committees and bodies to which Council has the right to appoint members;
- (h) reduction or suspension of remuneration as defined in section 275.1 of the Act corresponding to a reduction in duties, excluding allowances for attendance to Council meetings;
- (i) any other sanction Council deems reasonable and appropriate in the circumstances provided that the sanction must not prevent a Member from fulfilling the legislated duties of a Councillor.

#### **PART 1V – GENERAL**

##### **Review**

64. This Bylaw shall be brought forward for review at the beginning of each term of Council, when relevant legislation is amended, and at any other time that Council considers appropriate to ensure that it remains current and continues to accurately reflect the standards of ethical conduct expected of Members.

##### **Severability**

65. Should any provision of this Bylaw be invalid, then the invalid provision shall be severed and the remainder of this Bylaw shall be maintained.

READ a first time this 24<sup>th</sup> day of April, 2018.

READ a second time this 24<sup>th</sup> day of April, 2018.

READ a third and final time this 24<sup>th</sup> day of April, 2018.

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Roger Dufresne, Deputy Mayor

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Phyllis Forsyth, C.A.O.