

**REGULAR MEETING AGENDA
SUMMER VILLAGE OF BIRCHCLIFF
OCTOBER 12, 2023 @ 10:00 A.M.**

A. CALL TO ORDER

B. AGENDA - additions/deletions
 - adoption

C. INFORMATION ITEMS

1) Public Works Update

D. REQUESTS FOR DECISION

1) Planning and Development

a) Bylaw #249-23 and Encroachment Policy Public Hearing

E. ADJOURNMENT

Summer Village of Birchcliff

Public Works

Information Item

Agenda Item: *Birchcliff OS8 trail project – project concerns & clarification*

Background: The following will provide Council with an update on the OS8 viewpoint pathway/trail project:

- Work has begun on the bush/tree removal

On October 9, 2023 Council has requested work to stop due to some questions or concerns with the project.

Public Works has discussed Councils concerns with the contractor.

Administrative Recommendations: That Council continue the trail work construction.

Authorities: MGA 207(c) “advises and informs the council on the operation and affairs of the municipality”.

Summer Village of Birchcliff

October 12, 2023

Planning and Development

Request for Decision

Agenda Item: Bylaw #249-23 Public Hearing

Background:

Public Hearing will be held at 10:00 a.m.

regarding the Use of Reserves, Parks & Pathways Bylaw #249-23.

The reason for the proposed changes is for council to allow specific encroachments in the form of stairs to access the lake and the storage of dock sections on lands considered to be environmental reserve. Council and Administration are trying to ensure that the granting of rights are consistent across landowners and compliant with the MGA. Previous agreements were entered into in contravention of the MGA as the required bylaw pursuant to Section 676 of the MGA was not passed prior to the agreements being made. That is the purpose of the bylaw amendments in question today – to satisfy section 676 of the MGA which allows a Council to permit a certain use on Environmental Reserve lands.

The current agreements are not enforceable, and the Summer Village is taking active steps to bring the current agreements in line with the MGA. Having enforceable agreements in place is a step that is beneficial to people, property, and environment. Landowners will have an appropriate legal agreement they can rely on that will run with the lands and allow the encroachment of stairs and dock storage to continue. The municipality retains the ability to maintain and manage its reserves.

Temporary storage rights were not included into the discussion as the goal is to have an agreement in place that will run with the lands. Temporary storage rights are personal rights that will not bind anyone other than the original parties to an agreement. For any temporary storage rights, new landowners must seek new permits or agreements from the Summer Village. The new agreements would specifically allow for the winter storage of pier sections.

The amendment of the Use of Reserves, Parks, and Pathways Bylaw and the Encroachment Policy ensures that our bylaws and policy language are the same,

and both will be in alignment with the language eventually written into the encroachment agreements.

Administration has enclosed four written submissions received for Council discussion.

Council is also considering related amendments to the Encroachment Policy.

Options for Consideration:

1. Council to give second reading to Bylaw #249-23.
2. Council to give second and third reading to Bylaw #249-23.
3. Council to amend the Encroachment Policy by resolution.
4. Council to table Bylaw #249-23 and Encroachment Policy and give direction to Administration.

Administrative Recommendations:

Council to give second reading to Bylaw #249-23.

Authorities:

Section 216(4) of the MGA – states a public hearing on at proposed bylaw must be held before the second reading of the bylaw. First reading to Bylaw #249-23 was done on September 21, 2023.

Birchcliff SV Council

October 1, 2023

without prejudice

Feedback - Proposed Encroachment Policy

I listened carefully to the discussion in the September council meeting regarding the proposed Encroachment Policy bylaw changes.

I was encouraged by the rhetoric about ensuring that the rights of the lakefront properties that abut the shoreline reserve and the continuity through time and property ownership of this proposal.

There were questions regarding the need for five- year reviews when the agreement was meant to be evergreen. These issues were tabled for review following the Public Hearing on the 12th of October.

..... then I read the proposed bylaw changes

Let me summarize.

Whereas:

Council wishes to embark on a major construction project on the shoreline reserves.

Council expects to get push back from the property owners abutting the reserve potentially delaying construction.

Birchcliff SV has valid legal signed and registered agreements with each of these properties.

Birchcliff SV has the right under this agreement to perform any work as required on the reserve.

Council has failed to demonstrate a valid reason to terminate these agreements.

Given these conditions;

Council has chosen to consider a revised bylaw that strips these properties of the rights granted and documented by 25 years of successive councils (including this one) and 50 years of community practice by passing a condition that all encroachment agreements future and past are prohibited.

Council is proposing this as a means to terminate a valid agreement via bylaw revisions.

Really ?

The documents make long winded support for the R reserve to be considered an ER.

Pointless, as the rules allow the council to make allowances as required/desired – the agreement/contract and the stroked-out portions of the current bylaw make this obvious.

“Kept in a natural state”- council has a decision to make; either perform a major construction project on the reserve, gutting the riparian zone at the toe of slope and replacing it with boulders to protect the bank from lake level erosion..... Or

Ignoring the issue and incurring the potentially massive liability that ensues.

The pertinent point here is protecting the bank and recognize that by this project it could never be considered "environmental" ... or ... do not, and allow the reserve to collapse, flooding the lake with silt (and perhaps a house or two), thereby removing the reserve and solving the debate.

Mary and I support this construction project as a reasonable and logical approach. We appreciate that there will be some personal cost associated with repairing the existing infrastructure following the construction. We see no reason that this project should require us to give up our property/access rights.

I continue to call my property waterfront because it abuts the shoreline reserve and barring sale of that reserve, there will be no other house between me and the lake.

The province of Alberta owns the lake itself and, to manage the future population impact on the near shore has introduced new legislation.

- It established permitted use for all waterfront properties including dock size, length, offsets etc. and regulates watercraft allowances as "personal use and registered to the dock owner" There is no current nor future plan to regulate the number of craft beyond this description.
- Our pier assembly conforms with this permitted use.
- For clarity, it further establishes two types of waterfront properties (Riparian and Semi), those with a reserve in front and those with riparian rights. Both have the same permitted use.

In conclusion, we find this proposal to be highly selective, focused on a minority component of the village. I can see no benefit to the village nor positive or negative impact on those properties not directly affected by the current agreement/contract.

We find this bylaw approach appalling to say the least.

It severely damages the credibility of our village both inside and outside our borders – who in their right mind would sign an agreement with an entity that cannot be relied upon to honour its obligations and commitments and proposes to arbitrarily renege on its current agreements with its constituents.

I encourage administration not to waste its time building and registering its new bullet proof agreement when it can so readily be dismantled by council. The longevity and success of any agreement is not found in the integrity of the document.

Best Regards

A handwritten signature in black ink, appearing to read 'Mary and Thom Jewell', with a long horizontal flourish extending to the right.

Mary and Thom Jewell

385 Birchcliff Road

Date: October 4, 2023

Without Prejudice

To: Summer Village of Birchcliff - Summer Villages Administration Office

#2 Erickson Drive

Sylvan Lake, AB

T4S 1P5

tmusseau@sylvansummervillages.ca

Cc: Summer Village of Birchcliff – Council & CAO

Roger Dufresne – roger.gj.dufresne@gmail.com

Frank Tirpak – frank@tirpak.co

Ann Zakarius – zakyak@telus.net

Tanner Evans – tevans@sylvansummervillages.ca

Cc: Steven Johnson - 415homeport@gmail.com

From: Owner and spouse of owner of 411 Birchcliff Road, Summer Village of Birchcliff:

Scott Gray (owner) – scott.m.gray@outlook.com

Sonia Bhardwaj – sonia.bhardwaj@albertahealthservices.ca

Re: Access Agreement

As your records will show, a legally binding, mutually agreed upon and signed agreement by all parties, was put into effect and registered against title to the land in 2018.

As the registered owner of the lakefront property 411 Birchcliff road, I have a vested interest in all matters pertaining to my property and have read the proposed bylaw changes posted here: [birchcliff_september_2023_agenda_package_1_.pdf \(sylvansummervillages.ca\)](#), specifically pertaining to SUMMER VILLAGE OF BIRCHCLIFF USE OF RESERVES, PARKS AND PATHWAYS BY-LAW 249-23.

I, (we) are strongly opposed to the proposed changes and request the Bylaw to be defeated, preserving the existing agreement.

Kind regards,

Scott Gray and Sonia Bhardwaj

411 Birchcliff Road

Date: October 5, 2023

Without Prejudice

To: Summer Village of Birchcliff - Summer Villages Administration Office

#2 Erickson Drive

Sylvan Lake, AB

T4S 1P5

tmusseau@sylvansummervillages.ca

Cc: Summer Village of Birchcliff – Council & CAO

Roger Dufresne – roger.gj.dufresne@gmail.com

Frank Tirpak – frank@tirpak.co

Ann Zakarius – zakyak@telus.net

Tanner Evans – tevans@sylvansummervillages.ca

Cc: Steven Johnson - 415homeport@gmail.com

From: Owners of 433 Birchcliff Road, Summer Village of Birchcliff:

John Puddifant, – jpuddifant@icloud.com

Marilyn Slawinsky – mdslawinsky@gmail.com

Gillian Marriott – gmarriott.calgary@gmail.com

Re: Public Hearing October 12, 2023 re: proposed amendment to Bylaw 249-23

We are following up on our letter of September 17, 2023 (which we wish to correct to confirm that we have in fact received the third page of the July 5, 2023 letter from administration).

We understand that a public hearing has been scheduled for October 12, 2023 from 10:00 am – 12:00 noon with respect to council's proposed amendments to the Use of Reserves, Parks & Pathways Bylaw 249-23. Due to the relatively short notice, and work commitments that cannot be changed, we are unable to attend this public hearing in person. We provide this letter for presentation to council at the public hearing, as our formal written opposition to many of the proposed amendments, and as supplementary comments to our position set out in our September 17, 2023 letter and the contents of the email from Tanner Evans to Steven Johnson dated September 20, 2023. We attempted to arrange a meeting with Mr. Evans on October 5, 2023 to present and discuss this letter, but were advised he was unavailable.

To begin, we repeat our previously stated position regarding the validity and enforceability of our Access Agreement, namely that “We consider the agreement to be binding unless established otherwise, regardless of whether the Summer Village moves forward with its stated intention to discharge the Agreements from title or amend its reserve and encroachment policies.” We disagree that the SV of Birchcliff can unilaterally decide that our Agreement is invalid, or indirectly attempt to nullify it by making subsequent bylaw amendments enacted years after the contract was entered into by the SV of Birchcliff.

Nevertheless, we also wish to raise certain issues and concerns with the proposed bylaw amendments:

1. Mr. Evans suggested to Mr. Johnson in his September 20, 2023 email that the proposed bylaw amendments are necessary to address Mr. Evans' concerns that the access agreements were "potentially signed in contravention of the MGA", and that "someone could successfully argue that the municipality has not followed proper procedural process". We have not been provided with any confirmation that there is or has ever been any such challenge by "someone", or that a formal determination has actually been made that there has been any contravention of the MGA, or that any of the agreements have been adjudicated to be invalid. In the absence of such actual issues or determinations, it appears to us that the SV of Birchcliff has itself decided to create speculative problems as an excuse to try to invalidate our existing agreement and impose a new, more restrictive arrangement by amending the bylaw to prevent future contractual terms that currently exist.
2. Mr. Evans also suggested to Mr. Johnson that the actions being contemplated by council are a "win-win" for the SV of Birchcliff and the property owners holding Access Agreements (he wrote: "I may be missing the reasons behind wanting to preserve the original agreement rather than transition to something that is bulletproof for the residents to have their rights to stairway access and dock storage carry forward and run with the lands. It seems like a win-win to me so I'd like to hear more about the concerns.")). We emphatically point out that attempts to invalidate our agreement as worded, and to require us to comply with the proposed amended bylaw is not a "win-win", as such a result would diminish the rights we currently hold under the Access Agreement. In addition to already holding rights to stairway access and dock storage that are clearly stated and intended to run with the land, we specifically have the right in our agreement to personal storage on the reserve land, including our dock stairs, boat lift, shed and lake level deck, most of which the SV of Birchcliff is attempting to eliminate and prohibit by the proposed bylaw amendments.
3. As you are no doubt aware, the topography of our property requires more than 100 stairs from our home to the water, approximately 70 of which cross the reserve land. The proposed amended bylaw, should it ever be determined to have any retroactive effect and/or be capable of nullifying our agreement, would unquestionably reduce the enjoyment of use and value of our property. For example:
 - a. If no boat lift storage is allowed, the lift would have to be hauled in and out at the nearest lake access point by the Church Camp, which we understand would cost us in the range of \$1500 or more annually;
 - b. If no personal property storage is allowed at any time, other large items necessary for use and enjoyment of the lake, such as kayaks, paddleboards, chairs etc. would have to be hauled up and down the 100+ stairs each time they were used, which is prohibitive and would prevent or significantly limit most such activities;

- c. The proposed changes make multiple references to payment of “all applicable fees” to be imposed by the SV of Birchcliff to allow future access and dock storage, but these fees are undefined in scope or amount. These fees are an additional cost to obtain something that has already been conferred; and
 - d. The cumulative effect of the proposed amendments, if enforceable against our property, would negatively impact its value and marketability as lakefront property, which was purchased by us with the existing agreement in place and upon which we relied.
4. Holding the public hearing during regular working hours further impacts the ability for many property owners to attend the hearing and have their voices properly heard, particularly for those who do not primarily reside in the area. We also note with concern that the proposed amendments indicate both a second and third reading of the amended bylaw on October 12, 2023, the same day as the public hearing. This strongly suggests to us that council intends to proceed with passing the bylaw immediately after hearing public concerns, regardless of what those concerns are.

We choose not to raise in detail at this time specific issues relating to the official designation of the reserve land in front of our property, and the confusion that will be created from the proposed definitions in the amendments. Our review of the title to the reserve, the relevant sections of the MGA, the SV of Birchcliff Land Use Bylaw, and the SV of Birchcliff Open Space Plan, convince us that the proposed course of action by the SV of Birchcliff will create more challenges than it purports to solve.

In closing, we are concerned that the position and approach of the SV of Birchcliff to these issues demonstrates a lack of the duty to act in good faith and in the public interest, which is required from municipalities, their councillors and officers. We again urge council and administration to work collaboratively with us to address any specific concerns that the SV of Birchcliff may have (which to date have not been shared with us), given our expressed willingness to engage in those discussions and consider appropriate amendments to the agreement. Having those discussions with homeowners could allow a collaborative process and solutions to emerge that will meet everyone’s needs.

Yours truly,



for: John (“Jack”) Puddifant, Marilyn Slawinsky and Gillian Marriott
Owners of 433 Birchcliff Road, Summer Village of Birchcliff

From: [REDACTED]
To: [REDACTED]
Subject: FW: Bylaw # 249-23
Date: October 10, 2023 9:04:34 AM

From: Brad Lockyer [REDACTED]
Sent: Friday, October 6, 2023 7:59 PM
To: [REDACTED]
[REDACTED]
[REDACTED]
Subject: Bylaw # 249-23

Dear Mayor, Council and Administration.

I am writing to express my strong opposition to bylaw 249-23. I am a lakefront (semi lake front by your definition) property owner and I am concerned about the negative impacts of this bylaw on my property rights, value and enjoyment. And consider this an overreach by council and administration.

The proposed bylaw on Spruce cliff lakefront property would impose a number of restrictions and regulations on the use and enjoyment of lakefront properties. Limiting the size and type of docks, stairs and imposing fees and penalties for non-compliance is an unnecessary measure. These restrictions and regulations would severely limit the ability of lakefront property owners to use and enjoy their properties, as well as reduce their property values and marketability.

Therefore, I urge you to reject Bylaw 249-23 and instead work with lakefront property owners to find a balanced and reasonable approach to protect the lake and the environment, while respecting their rights and interests. I appreciate your attention and consideration of this matter.

Sincerely,

Brad and Stacey Lockyer

From: [REDACTED]
To: [REDACTED]
Subject: FW: Proposed By-Law changes 249-23
Date: October 10, 2023 9:04:47 AM

From: MIKE VIRTUE [REDACTED]
Sent: Monday, October 9, 2023 6:31:15 PM
To: [REDACTED]
[REDACTED]
[REDACTED]
Subject: Proposed By-Law changes 249-23

To whom it may concern,

Having read through the SV's proposed changes (By-Law 249-23), the Virtue's #371 wish to express their concern and disagreement with the specifics described therein.

As seasonal and permanent residents of Sprucecliff since 1964, our long standing residency has involved our active participation in shaping well constructed policies and procedures, not just for Birchcliff but all Summer Villages.

We believe our communal Access Agreement of 2017 to be legal and binding, and this new bylaw threatens to dissolve the essence of that agreement and more.

Purposeful dialogue and engagement in these instances, between Council, Administration and the residents should be a priority if moving forward in alignment is the goal.

With Regards,

The Virtue's
#371

SUMMER VILLAGE OF BIRCHCLIFF USE OF RESERVES, PARKS AND PATHWAYS BY-LAW 249-23

WHEREAS the Municipal Government Act being Chapter M-26 of the Revised Statutes of Alberta, 2000, Part 2, Section 7 and 8 and amendments thereto, authorizes the Council of a municipality to pass bylaws pertaining to the protection of people, property, and transportation systems, and

WHEREAS within the corporate limits of the Summer Village of Birchcliff there are reserves, public parks, and pathways under the ownership, control, and management of the Summer Village of Birchcliff, and

WHEREAS it is deemed desirable and expedient to provide for the control and use of these reserves, parks, and pathways, and

WHEREAS the Alberta Traffic Safety Act, and amendments thereto, authorizes the Council of a municipality, with respect to highways under its direction, to control, manage and pass bylaws authorizing persons to operate vehicles on any portion of such highways, and

WHEREAS the Council of the Summer Village of Birchcliff considers it desirable and expedient to do so.

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

TITLE

1. This Bylaw may be referred to as the “Use of Reserves, Parks and Pathways Bylaw”

PURPOSE

2. The Summer Village of Birchcliff wishes to preserve the integrity of its Municipal Reserves, parks, and pathways for the future. The purpose of this bylaw is as follows:
 - (a) To set forth the objectives of the Village Municipal Reserves, Parks, and Pathways
 - (b) To set forth restrictions on Village Municipal Reserves, Parks, and Pathways
 - (c) To outline action which may be taken in cases of contravention of the Municipal Reserve, Parks, and Pathways bylaw

DEFINITIONS

3. 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, Chapter M-26, as amended.
 - (b) **“All-Terrain Vehicle”** includes a motorized recreational vehicle commonly known as a quad or side by side and is included in the term “off highway

vehicle”.

(c) **“Chief Administrative Officer” or “CAO”** means the Chief Administrative Officer of the Summer Village or the Chief Administrative Officer’s delegate;

(d) **“Council”** means the Council of the Summer Village of Birchcliff.

(e) **“Environmental Reserve” or “ER”** means:

- i. a parcel of land designated as an environmental reserve under the Act;
- ii. or an environmental reserve easement as defined under the Act; or
- iii. any Summer Village owned land which has a reserve designation on the certificate of title for the land pursuant to a former enactment (for example, R- Reserve) and which bears the traits of an environmental reserve as defined in the Act.

(f) **“Firearms”** means any weapon from which any shot, bullet or other projectile capable of causing bodily injury or death can be discharged and includes air guns, air rifles, air pistols, B.B. guns, sling shots, all types of archery equipment, and gas-powered guns.

(g) **“Highway”** means a highway as defined in the Alberta Traffic Safety Act, and amendments thereto and excludes pathways defined in h) below. In this Bylaw the term “road” is synonymous with the term “highway”.

(h) **“Off-highway Vehicle”** means an off-highway vehicle as defined in the Alberta Traffic Safety Act.

(i) **“Operator”** means a person who drives or is in actual physical control of any vehicle.

(j) **“Owner”** includes a person renting any vehicle or having exclusive use of that vehicle for a period of more than thirty days.

(k) **“Pathway”** means any paved, graveled, or natural walkway used by pedestrians and people using mobility aids, such as wheelchairs, and people using bicycles within the Summer Village.

(l) **“Peace Officer”** means a member of the Royal Canadian Mounted Police, a Peace Officer, or a Bylaw Enforcement Officer.

(m) **“Person”** means any person, individual, owner, public body, society, firm, or partnership.

- (n) **“Reserve”** means any area designated as a public reserve, environmental reserve, community reserve, or park, title to which is vested in the Summer Village of Birchcliff.
- (o) **“Snow Vehicle”** includes a recreational vehicle with motor, skis and tracks commonly known as a snowmobile or skidoo and is included in the term “off-highway vehicle”.
- (p) **“Structure”** means buildings, sheds, fences, tree houses, swings, and similar installations.
- (q) **“Summer Village”** means the Summer Village of Birchcliff.
- (r) **“Trailer”** means a vehicle so designated that it may be attached to or drawn by a motor vehicle and intended to transport property or persons and includes any trailer that is designed, constructed, and equipped as a dwelling, sleeping, or living place.
- (s) **“Vehicle”** means a motor vehicle as defined in the Alberta Traffic Safety Act.

RESERVES, PARKS, AND PATHWAYS – GOALS

- 4. The Summer Village of Birchcliff is fortunate to have a rich resource in open space areas. These areas are largely undeveloped and enhance the rural setting of the Village. The open space goals as listed in the Municipal Development Plan and Open Space Plan are:
 - (a) To establish and implement policies for the dedication and use of municipal reserves, environmental reserves, and other spaces
 - (b) To conserve, wherever possible, areas having natural attributes, so they remain an integral part of the community fabric
 - (c) To encourage the provision of areas for passive recreation opportunities and pathway linkages
 - (d) To provide a network of open spaces which contribute to the character of the community
 - (e) To connect open spaces by a series of trails and pathways
 - (f) To provide access into open space appropriate to the intended use of the open space
 - (g) To conserve areas which are fragile or more susceptible to impairment from inappropriate use or magnitude of use

- (h) To provide amenities which promote and serve healthy leisure time activities

RESERVES, PARKS, AND PATHWAYS - RESTRICTIONS

- 5. On Village Reserves no person or persons shall:
 - (a) Light a fire;
 - (b) Abandon any garbage or refuse of any kind including animal droppings;
 - (c) Cause or permit any noise that annoys or disturbs the peace of any other person, or cause any nuisance, as listed in Birchcliff’s Community Standards Bylaw;
 - (d) Be in possession of a firearm or other weapon;
 - (e) Use a Reserve to launch trailered watercraft;
 - (f) Use motorized vehicles or ATV’s except for specific authorized tasks. Off-highway vehicle use is permitted along the RA15 right-of-way;
 - (g) Cut or remove vegetation without Village approval;
 - (h) Store any private property of any kind on Reserve land, ~~with exceptions where allowed through access and encroachment agreements.~~ Any private property found on Reserve land will result in the removal of the property at the owner’s expense.
- 6. Notwithstanding Section 5(h), an Environmental Reserve may be used for the following purposes if authorized by Council:
 - (a) construction of stairways to directly connect private property to the shores of Sylvan Lake; PROVIDED THAT:
 - (i) the owner of the private property has entered into and complies with the Summer Village's form of Encroachment Agreement, the terms and conditions of which shall include, without limitation:
 - A. that the owner must, at its sole cost, construct and maintain stairways in accordance with Summer Village policies, as established by the Summer Village from time; and
 - B. that the owner must pay all applicable fees imposed by the Summer Village; and

- (b) the temporary storage of dock pieces only (no boat lifts or hoists); PROVIDED THAT:
 - (i) the owner of the private property has entered into and complies with the Summer Village's form of Encroachment Agreement, the terms and conditions of which shall include, without limitation:
 - A. that the owner must, at its sole cost, store and maintain the dock pieces in accordance with Summer Village policies, as established by the Summer Village from time; and
 - B. that the owner must pay all applicable fees imposed by the Summer Village.
- 7. No Encroachment Agreement shall grant the exclusive right to use or occupy any portion of Environmental Reserve.
- 8. Except where permitted by this Bylaw, all encroachments on Environmental Reserve are prohibited, regardless of whether or not such encroachment predates this Bylaw coming into force. All existing encroachments shall be brought into compliance in accordance with this Bylaw.
- 9. Landowners with existing encroachments on Environmental Reserve shall, within one year of this Bylaw coming into force, either remove unauthorized encroachments and restore the Environmental Reserve or request a new authorization from the Summer Village.
- 10. All authorizations and agreements required under this Bylaw with respect to encroachments on Environmental Reserve shall be approved by Council, or its delegate, upon payment of applicable fees, if any
- 11. All expenses, cost, liabilities, or other risks associated with bringing an unauthorized encroachment into compliance with this Bylaw shall be the responsibility of the landowner.
- 12. All expenses, cost, liabilities, or other risk associated with an encroachment over Reserves shall be the responsibility of the landowner;
- 13. The provisions of this Bylaw do not apply to actions and operations of the Summer Village or persons acting upon the instructions of the Summer Village in respect to any activities within Environmental Reserve.
- 15. No vehicles, off-highway vehicles or trailers are allowed in any reserve or park at any time except for the following:
 - (a) Vehicles, off-highway vehicles, or trailers owned by utility companies who require access to their installations for construction, repair, or maintenance

purposes,

- (b) Any vehicle, off-highway vehicle or trailer authorized by Council, or the Administrator of the Summer Village, may enter any of the parks or reserves for the construction, repair, or maintenance of any structures or for any community event approved by Council,
- (c) Any emergency vehicle such as those used by Police, fire departments or ambulance services,
- (d) Snow vehicles and all-terrain vehicles used for winter recreational purposes as per Bylaw 230-21 - Off Highway Vehicles.

In addition:

- (e) Operators of all vehicles and off-highway vehicles shall be responsible for all damage incurred by operation of their vehicles in any reserve or park.
- (f) Off-highway vehicles shall be fitted with a forestry approved spark arrester and muffler that meets OEM noise reduction specifications.

LIABILITIES

16. The Summer Village of Birchcliff assumes no liability for any equipment, or its use by the Owner or the Public.

SEVERABILITY

17. Should any section or part of the Bylaw be found to have been improperly enacted, then such section or part shall be regarded as being severable from the rest of this Bylaw and the Bylaw remaining after such severance shall be effective and enforceable as if the section found to be improperly enacted had not been enacted as part of this Bylaw.

CONTRAVENTIONS

18. A Designated Officer authorized to enforce this Bylaw under Part 13, Division 4 of the Municipal Government Act, R.S.A. 2000, Chapter M-26, and who has reasonable and probable grounds to believe that a person has contravened any section of this Bylaw, may under the authority of this Bylaw issue a written order, and where this written order is not paid by the offender, a Part 2 violation ticket may be issued under the Provincial Offences Procedures Act R.S.A 2000, Chapter P-34, to that person.
19. Any person who contravenes this section can be charged as well as assessed the cost of restoration. Any person who contravenes the provisions of this Bylaw shall be guilty of an offense and liable on summary conviction to the penalty as set out in Schedule "A".

20. In some situations, both the Summer Village and the Provincial Government may be involved and occasionally the Federal Government. As a result, penalties can be severe.

21. The Summer Village may use physical barriers to control abuse or encroachment rather than involve penalties.

Upon 3rd reading, Bylaw #229-21 is hereby rescinded.

READ a first time this 21st day of September 2023.

Roger Dufresne, Mayor

Tanner Evans, C.A.O.

PUBLIC HEARING held October 12th, 2023.

READ a second time this 12th day of October 2023.

READ a third and final time this 12th day of October 2023.

Roger Dufresne, Mayor

Tanner Evans, C.A.O.

D-1-A

Summer Village of Birchcliff

Use of Reserves, Parks, and Pathways

By-law 249-23

<u>SECTION</u>	<u>PARTICULARS</u>	<u>PENALTY</u>
Section 5 (a)	Light a fire	\$250.00 To \$2,500.00
(b)	Abandon any garbage or refuse of any kind, including animal droppings	\$250.00
(c)	Interfere with wildlife	\$100.00
(d)	Be in possession of a firearm or other weapon	\$250.00 to \$2500.00
(e)	Use a Reserve to launch trailered watercraft	\$100.00
(f)	Use motorized vehicles or ATV's except for specific authorized tasks	\$250.00
(g)	Cut or remove vegetation without village approval	\$500.00 To \$5,000.00 + cost to replant
(h)	Store any private property of any kind on Reserve land	\$100.00 + cost of removal