

SUMMER VILLAGE OF MEWATHA BEACH

BYLAW 03-24

A BYLAW OF THE SUMMER VILLAGE OF MEWATHA BEACH, IN THE PROVINCE OF ALBERTA, TO ESTABLISH A CODE OF CONDUCT FOR MEMBERS OF COUNCIL.

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 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 standards of conduct from the members that it elects to council for the Summer Village of Mewatha Beach;

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

AND WHEREAS a code of conduct ensures that members of council share a common understanding of acceptable conduct extending beyond the legislative provisions governing the conduct of councillors;

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

1. Short Title

- 1.1. This Bylaw may be referred to as the "Council Code of Conduct Bylaw".

2. Definitions

- 2.1. 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 CAO;
- (c) "**CAO**" means the chief administrative officer of the Municipality, or their delegate;
- (d) "**Complainant**" means a Member of Council, Chief Administrative Officer, or member of the public;
- (e) "**FOIP**" means the *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, any associated regulations, and any amendments or successor legislation;
- (f) "**Investigator**" means Council, excluding the Respondent, or a third party individual or body which Council directs the CAO to retain by resolution, to investigate and report on the complaint;
- (g) "**Member**" means a member of Council and includes the Mayor;
- (h) "**Municipality**" means the municipal corporation of the Summer Village of Mewatha Beach;
- (i) "**Respondent**" means the Member who is the subject of the complaint.

3. Purpose and Application

- 3.1. The purpose of this Bylaw is to establish 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.
- 3.2. In addition to this Bylaw, all Members shall adhere to any other Federal, Provincial or Municipal acts or regulations that govern their role as members of Council, including but not limited to:
 - (a) *Alberta Human Rights Act*,
 - (b) *FOIP*;
 - (c) *Local Authorities Election Act*;
 - (d) *Municipal Government Act*; and
 - (e) *Occupational Health and Safety Act*.
- 3.3. This Bylaw is to be given a broad and liberal interpretation in accordance with applicable legislation. It is not possible to write a code of conduct that covers every scenario and, accordingly, Members are to be guided by and conduct themselves in a manner that reflects the spirit and intent of this Bylaw.

4. Representing the Municipality

- 4.1. 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.

5. Communicating on Behalf of the Municipality

- 5.1. A Member must not claim to speak on behalf of Council unless authorized to do so.
- 5.2. Unless Council directs otherwise, the Mayor is Council's official spokesperson and in the absence of the Mayor 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.
- 5.3. 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.
- 5.4. No Member shall make a statement when they know that statement is false.
- 5.5. No Member shall make a statement with the intent to mislead Council or members of the public.
- 5.6. This Bylaw applies to all forms of communication.

6. Use of Social Media

- 6.1. As with any other activity, Members must ensure that their use of social media complies with the law, the requirements of this Bylaw and any related bylaws, policies or procedures. This Bylaw applies to all communications a Member makes, regardless of the social media account or device from which the communication is made.
- 6.2. For the purposes of section 6.1 of this Bylaw, "communications" means any information or data submitted by a Member to a social media network or platform that is capable of being displayed using software or approved hardware such as text, images, videos, or links to other content and includes a Member "liking", "retweeting", commenting on or sharing content created by other users of the social network or platform.

7. Respecting the Decision-Making Process

- 7.1. 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.
- 7.2. 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.
- 7.3. 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.
- 7.4. 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.
- 7.5. No Member may record any proceedings of Council or any committee of Council without the express prior permission of Council or the committee of Council, as applicable.

8. Adherence to Policies, Procedures and Bylaws

- 8.1. 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.
- 8.2. 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.
- 8.3. 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.

9. Respectful Interactions with Council Members, Staff, the Public and Others

- 9.1. 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.
- 9.2. 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.
- 9.3. 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.

- 9.4. Members shall treat all people in good faith and without bias and shall refrain from any conduct that is discriminatory against any person on the basis of the person's race, religious beliefs, colour, gender, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation.
- 9.5. Members shall respect the fact that employees in Administration work for the Municipality as a corporate body 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.
- 9.6. Members must not:
- (a) involve themselves in matters of Administration, which fall within the jurisdiction of the CAO;
 - (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.

10. Confidential Information

- 10.1. 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.
- 10.2. 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.
- 10.3. No Member shall use confidential information for personal benefit or for the benefit of any other individual organization.
- 10.4. In the course of their duties, Members may also become privy to confidential information received outside of an "in-camera" meeting. Members must not:
- (a) disclose or release by any means to any member of the public, including the media, any confidential information acquired by virtue of their office, unless the disclosure is required by law or authorized by Council to do so;
 - (b) access or attempt to gain access to confidential information in the custody or control of the Municipality unless it is necessary for the performance of 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;
 - (c) use confidential information for personal benefit or for the benefit of any other individual or organization.
- 10.5. Confidential information includes information in the possession of, or received in confidence by, the Municipality that the Municipality is prohibited from disclosing pursuant to legislation, court order or by contract, or is required to refuse to disclose under FOIP or any other legislation, or any other information that pertains to the business of the Municipality, and is generally considered to be of a confidential nature, including but not limited to information concerning:
- (a) the security of the property of the Municipality;
 - (b) a proposed or pending acquisition or disposition of land or other property;
 - (c) a tender that has or will be issued but has not been awarded;

- (d) contract negotiations;
- (e) employment and labour relations;
- (f) draft documents and legal instruments, including reports, policies, bylaws and resolutions, that have not been the subject matter of deliberation in a meeting open to the public;
- (g) law enforcement matters;
- (h) litigation or potential litigation, including matters before administrative tribunals; and
- (i) advice that is subject to solicitor-client privilege.

11. Conflicts of Interest

- 11.1. Members have a statutory duty to comply with the pecuniary interest provisions set out in the Act and a corresponding duty to vote unless required or permitted to abstain under the Act or another enactment.
- 11.2. Members shall approach decision-making with an open mind that is capable of persuasion.
- 11.3. 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 a pecuniary or other conflict of interest.

12. Improper Use of Influence

- 12.1. 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.
- 12.2. No Member shall act as a paid agent to advocate on behalf of any individual, organization or corporate entity before Council or a committee of Council or any other body established by Council.
- 12.3. Members shall not contact or otherwise attempt to influence members of any adjudicative body regarding any matter before it relating to the Municipality.
- 12.4. 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.

13. Use of Municipal Assets and Services

- 13.1. Members 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 or personal use, provided that the use is not for personal gain, offensive or inappropriate.
- 13.2. Members shall not use any facilities, equipment, supplies, services, municipal logo or other resources of the Municipality for any election campaign or campaign-related activity.

14. Orientation and Other Training Attendance

- 14.1. Every Member must attend the orientation training provided by the Municipality in accordance with the Act.
- 14.2. 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.

15. Gifts and Hospitality

- 15.1. 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.
- 15.2. 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 \$200.00. In the event that the value of the hospitality, gift or benefit exceeds \$200.00, it must be reported to Council at the next Council meeting.
- 15.3. Gifts received by a Member on behalf of the Municipality as a matter of official protocol shall be left with the Municipality upon receipt of gift.

16. Election-Related Activity

- 16.1. Members are required to follow the provisions of the *Local Authorities Election Act* and are accountable under the provisions of that statute. Members should not make inquiries of, or rely on, the Municipality's staff to interpret or provide advice to Members regarding the requirements placed on candidates for the office of Councillor. Members must be respectful of the role of the Returning Officer in managing the election process and must not interfere with how the Returning Officer's election duties are carried out.
- 16.2. Members must not use the Municipality's resources, including property, equipment, services, supplies and staff time, for any election-related activities, whether municipal, provincial or federal. Online resources hosted, supplied or funded by the Municipality, including but not limited to Member electronic newsletters and Member social media accounts used for constituency communication must not be used for any election campaign or campaign-related activities. A Member must not use the Municipality's logo for campaign purposes.

17. Informal Complaint Process

- 17.1. Any person who has identified or witnessed conduct, behavior or activity by a Member that the person reasonably believes, in good faith, is a contravention of this Bylaw may pursue informal resolution by:
 - (a) advising the Member believed to have contravened this Bylaw that the conduct, behavior or activity appears to violate this Bylaw and encouraging the Member to stop; or
 - (b) if addressing the Member privately does not resolve the matter, requesting the Mayor to assist in informal discussion of the informal complaint with the Member believed to have contravened this Bylaw in an attempt to resolve the issue. In the event that the Mayor is the subject of, or is implicated in, the informal complaint the person may request the assistance of the Deputy Mayor.
- 17.2. The informal complaint process shall be confidential.

17.3. 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.

18. Formal Complaint Process

18.1. Any person who has identified or witnessed conduct, behavior or activity by a Member that the person reasonably believes, in good faith, is a contravention of this Bylaw may pursue a formal complaint. Formal complaints under this Bylaw can only be made as follows:

- (a) All complaints shall be made in writing and must include the following:
 - i. the name of the Respondent (Member alleged to have contravened the Bylaw);
 - ii. the date;
 - iii. reasonable and probable grounds for the allegation that the Respondent has contravened this Bylaw, including a detailed description of the facts, as they are known, giving rise to the complaint, including the names of any witnesses; and
 - iv. the Complainant's name and contact information (anonymous submissions will not be accepted).
- (b) All complaints shall be provided to the CAO, who will then forward the complaint to all of Council. The Mayor, Deputy Mayor, or other Member of Council, shall confirm the complaint meets the minimum requirements for a complaint as outlined in this Bylaw.
- (c) A complaint must be received not later than 30 days after the date the person became aware of the conduct giving rise to the complaint. Council may, in its discretion, accept a complaint received beyond this time limit if:
 - i. the delay in filing a formal complaint occurred in good faith;
 - ii. it is in the public interest to investigate or to give consideration whether to investigate; and
 - iii. no substantial prejudice will result to any person because of the delay.
- (d) Upon receipt of a formal complaint, Council will meet, excluding the Respondent, and decide whether to proceed to investigate the complaint or not.
- (e) Complaints that:
 - i. are not about a current Member;
 - ii. raise, in substance, contraventions which were the subject of a previous complaint and have already been investigated or decided under the Bylaw;
 - iii. allege criminal activity;
 - iv. are more properly covered by other applicable legislative appeal, complaint, or court processes;
 - v. disclose no grounds or insufficient grounds for conducting an investigation;
 - vi. disclose no identifiable breach of this Bylaw;
 - vii. are frivolous or vexatious or are not made in good faith;

may be refused by Council and the Complainant will be advised in writing, with reasons, and provided information regarding other forums, if applicable, with a copy to Respondent.

- (f) If Council decides to investigate the complaint, it shall take such steps as it may consider appropriate in the circumstances having regard for the specific nature of the complaint, which may include:
 - i. retaining a third-party investigator to investigate the complaint and provide an investigation report;
 - ii. investigating the matter itself as a Council; or
 - iii. if the material facts are not in dispute or the alleged misconduct is admitted by the Member(s) whose conduct is in question, proceeding to decide on the validity of the complaint without further investigation.
- (g) Prior to commencing an investigation, the Complainant and the Respondent will be advised, in writing, of the investigation process.
- (h) The Investigator shall take such steps as it may consider appropriate, which may include seeking legal advice. All proceedings of the Investigator regarding the investigation shall be confidential.
- (i) If the Investigator is not Council, the Investigator shall, upon conclusion of the investigation, provide the Council and the Respondent, the results of the Investigator's investigation.
- (j) A Respondent is entitled to be represented by legal counsel, at the Member's sole expense.
- (k) During an investigation, a Complainant or witness may be asked to provide additional information. Municipal staff may also be requested to provide information, and any person conducting an investigation under this Bylaw may look at any record or thing belonging to or used by the Municipality, and enter any municipal facility for the purpose of completing the investigation.
- (l) The Investigator shall take reasonable steps to conclude any investigation within 60 days of the date upon which a complaint is submitted to the Investigator.

The Respondent shall be afforded procedural fairness and is entitled to disclosure of the investigation report, if one is prepared. Upon disclosure of the investigation report to the Respondent, the Respondent must be given an opportunity to respond to the investigation report findings and conclusion in a private meeting of Council before Council deliberates and disposes of the complaint.
- (m) Upon conclusion of the investigation, Council will convene at a private meeting of Council, excluding the Respondent, to consider the results of the investigation and dispose of the complaint. The Complainant and the Respondent will be advised of Council's disposition of the complaint, in writing, with reasons.
- (n) All formal complaints received under this Bylaw and all information and records received, reviewed or generated during the course of an investigation and disposition of a formal complaint, including interviews and investigation reports, are and must remain strictly confidential, unless Council directs otherwise. Any unauthorized public disclosure related to a formal a complaint by a Member is deemed to be a violation of this Bylaw.
- (o) No complaints may be received or reviewed, nor shall any sanctions be placed on a Member between Nomination Day and Election Day.

19. Compliance and Enforcement

19.1. Members shall uphold the letter and the spirit and intent of this Bylaw.

19.2. Members are expected to co-operate in every way possible in securing compliance with the application and enforcement of this Bylaw.

19.3. 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; or
- (b) obstruct Council, or any other person, in carrying out the objectives or requirements of this Bylaw.

19.4. 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 of 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) a requirement to attend training;
- (e) suspension or removal of the appointment of a Member as the chief elected official under section 150(2) of the Act;
- (f) 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;
- (g) suspension or removal of the chief elected official's presiding duties under section 154 of the Act;
- (h) suspension or removal from some or all Council committees and bodies to which council has the right to appoint members;
- (i) reduction or suspension of remuneration as defined in section 275.1 of the Act corresponding to a reduction in duties, excluding allowances for attendance at council meetings;
- (j) any other sanction Council deems reasonable and appropriate in the circumstances provided that the sanction does not prevent a Member from fulfilling the legislated duties of a councillor and the sanction is not contrary to the Act.

19.5. Nothing in this Code of Conduct requires Council to impose a sanction for any contravention.

19.6. Sanctions are intended to be corrective, serve as a deterrent, and follow the principles of progressive discipline. Prior to imposing any sanction, Council will take into consideration the nature and severity of the breach as well as whether the Member has previously breached this Code of Conduct.

20. Review

20.1. This Bylaw shall be brought forward for review at the beginning of each term of Council, when relevant legislation is amended, every four years, 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.

21. Severability

21.1. It is the intention of Council that each separate provision of this Bylaw be deemed independent of all other provisions and that if any provision of this Bylaw is declared invalid, that all other provisions remain valid and enforceable.

22. Effective Date

22.1. This Bylaw shall become effective upon passing of third reading.

23. Repeal

23.1. Bylaw 02-18 and any previous code of conduct policies or bylaws are hereby rescinded.

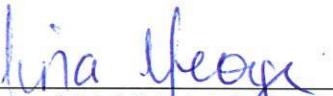
READ a first time this 31st day of August 2024.

READ a second time this 5th of October 2024.

READ a third time and finally passed 18th day of November 2024.


Barry Walker (Dec 28, 2024 14:14:55)

Mayor



Chief Administrative Officer





Code of Conduct - Clean Copy (B5962415).DOCX

Final Audit Report

2024-12-28

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