

CODE OF ETHICS

RESORT VILLAGE OF COCHIN

BYLAW NO. 13/19

A BYLAW TO ESTABLISH A CODE OF ETHICS FOR COUNCIL MEMBERS

Short Title

1. This Bylaw may be cited as the “Code of Ethics Bylaw”.

Legal Requirement

2. This bylaw has been created to comply with section 93.1 of *The Municipalities Act*.

PART I CODE OF ETHICS

Code of Ethics for Members of Council

Preamble

As members of council, we recognize that our actions have an impact on the lives of all residents and property owners in the community. Fulfilling our obligations and discharging our duties responsibly requires a commitment to the highest ethical standards.

The quality of the public administration and governance of the Resort Village of Cochin, as well as its reputation and integrity, depends on our conduct as elected officials.

Purpose and Interpretation

The purpose of this code is to outline basic ethical standards and values for members of council. It is to be used to guide members of council respecting what their obligations are when fulfilling their duties and responsibilities as elected officials.

This code is to be interpreted in accordance with the legislation applicable to the municipality, the common law and the policies and bylaws of the municipality.

Neither the law nor this code is to be interpreted as exhaustive, and there will be occasions on which a council will find it necessary to adopt additional rules of conduct in order to protect the public interest and to enhance the public confidence and trust in local government.

It is the responsibility of each member of council to uphold the standards and values set out in this code.

Standards and Values

a. Honesty

Members of council shall be truthful and open in their roles as council members and as members of the communities they serve.

b. Objectivity

Members of council shall make decisions carefully, fairly and impartially.

c. Respect

Members of council shall treat every person, including other members of council, municipal employees and the public, with dignity, understanding and respect.

Members of council shall not engage in discrimination, bullying or harassment in their roles as members of council. They shall not use derogatory language towards others, shall respect the rights of other people and groups, shall treat people with courtesy and shall recognize the importance of the different roles others play in local government decision making.

d. Transparency and Accountability

Members of council shall endeavour to conduct and convey council business and all their duties in an open and transparent manner, other than those discussions that are authorized to be dealt with in a confidential manner in closed session, so that stakeholders can view the process and rationale used to reach decisions and the reasons for taking certain actions.

Members of council are responsible for the decisions that they make. This responsibility includes acts of commission and acts of omission.

e. Confidentiality

Members of council 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. Members shall not take advantage of or obtain private benefit from information that is obtained in the course of or as a result of their official duties or position and that is not in the public domain. This includes complying with *The Local Authority Freedom of Information and Protection of Privacy Act* in their capacity as members of council of a local authority.

f. Leadership and the Public Interest

Members of council shall serve their constituents in a conscientious and diligent manner and act in the best interests of the municipality. A member shall strive, by focussing on issues important to the community and demonstrating leadership, to build and inspire the public's trust and confidence in local government.

Members of council are expected to perform their duties in a manner that will bear close public scrutiny and shall not provide the potential or opportunity for personal benefit, wrongdoing or unethical conduct.

g. Responsibility

Members of council shall act responsibly and in accordance with the Acts of the Parliament of Canada and the Legislature of Saskatchewan, including *The Municipalities Act*.

This duty includes disclosing actual or potential conflicts of interest, either financial or otherwise relating to their responsibilities as members of council, following policies and procedures of the municipality, and exercising all conferred powers strictly for the purpose for which the powers have been conferred. Every member of council is individually responsible for preventing potential and actual conflicts of interest.

PART II CONTRAVENTION OF THE CODE OF ETHICS

Complaint Procedure

3. As required by clause 93.1(5) (c) of *The Municipalities Act*, the following section details the procedure for handling contraventions of the code of ethics.
 - (a) To report an alleged contravention of the code of ethics, an individual/organization/member of council may submit the form found in Schedule A, by sending the form directly to the Municipal Administrator, by mail, e-mail, fax or courier. The complaint will then be presented to council at the next regular meeting of council in an *in camera* session.
 - (b) Upon receipt of a complaint, Council shall discuss the complaint and take all necessary steps to ensure the complaint is valid.
 - (c) All discussions surrounding alleged and substantiated contraventions of this policy shall be conducted in an *in camera* session at a meeting of council.
 - (d) If the claim is found to be substantiated, Council may, by resolution, impose an appropriate penalty detailed in 5(a) to (f) based on the severity of the contravention of the code of ethics.
 - (i) Any action taken by Council should include a time frame to complete the expected remedial action.

- (e) Council shall inform the claimant, member of council, and any other relevant party of council's decision, which includes:
- (i) Informing the claimant and member of council that the complaint is dismissed, or
 - (ii) Informing the complainant and member of council of the corrective action and/or the measures taken to ensure the behavior or activity does not continue.

The key steps in the process of responding to a complaint about an alleged contravention of a code of ethics include:

1. Administration- Receiving and acknowledging the complaint
2. Notifying the affected council member
3. Notifying the council
4. Trying to resolve the complaint informally
5. Investigating the complaint • Clarifying the issues • Fact finding • Determining the relevant law and policy • Applying the law and policy – Making preliminary findings
6. Giving the council member and others an opportunity to comment on preliminary findings
7. Deciding how to deal with the complaint
8. Giving reasons

1. **Receiving and Acknowledging the Complaint** - Once submitted, all complaints should be received by whomever is initially responsible for responding to them: the clerk, the administrator, an integrity commissioner, or a code of ethics officer or investigator. This should be done within the first few days after the complaint is submitted.

Whomever receives the complaint must initially assess whether it meets the definition of a complaint under the code of ethics. For example, the complainant might have raised more than one issue – one of which is an alleged contravention of a code of ethics, along with other issues that are not. It might be important to reach out to the complainant to clarify the information provided in the complaint.

In any event, the official should acknowledge receiving the complaint and explain to the complainant who will be dealing with it. If the complaint is not a proper complaint under the code of ethics, the official can direct the complainant to other avenues of redress or review that may be available to them.

2. **Notifying the Affected Council Member** -The council member who is the subject of the complaint is entitled to be notified that a complaint has been made against them. Ideally, this

should be done before the rest of the council or anyone else is notified. Depending on the nature of the complaint, the council member may be able to take steps to resolve the complaint informally.

3. **Notifying the Council** - Though the council has the ultimate authority to decide how to address a proven contravention of its code of ethics by one of its own members, depending on the nature of the allegation, it might not be necessary or fair to formally notify the council about a complaint being received until later in the complaint-handling process – for example, if the complaint was leveled by another council member, or if the complaint is salacious, or ends up being found to be false. This helps maintain the affected council member’s confidentiality until the allegations are investigated and confirmed to be true or false.

4. **Trying to Resolve the Complaint Informally**- Depending on the specifics of the complaint, it might still be reasonable to try to resolve it early and informally, even if the complainant did not start off using the informal process. The main point of early resolution is to resolve a complaint at the earliest opportunity at the most appropriate level. As mentioned earlier, this often means the complainant and the council member meeting face-to face. For example, if the allegation is that the council member was disrespectful to the complainant, the complaint might be resolved by the council member offering a sincere apology, since it was the complainant’s personal interest at stake. On the other hand, if it is alleged that the council member participated in a decision of council to further his or her private financial interests, then informal resolution might not be reasonable since the public’s interest is at stake.

5. **Investigating the Complaint** -A complaint should be investigated if: • Informal resolution failed to resolve the complaint, or the complainant refuses to take part in the informal resolution process. • The issues are complex and require detailed investigation. • The complaint relates to serious, high-risk or high-profile issues.

Step 1: Clarifying the issues, it is useful to clarify the issues raised by a complaint before collecting and reviewing any additional information. If an investigator is not clear about the issues, he or she might not gather all the relevant information or might waste time gathering irrelevant information. If the questions are wrong, the answers will be wrong. If the investigator is clear about the issues, they can help focus witnesses on providing relevant (and not irrelevant) information and submissions.

Step 2: Fact Finding- Getting the facts right is the most important step in an investigation. If the facts are wrong or irrelevant, the decision is very likely to be wrong or irrelevant. When the council is reviewing the investigator’s findings, it needs to be able to decide what is relevant and analyze the relevant information to decide the facts and events upon which its decision will be based. The investigator’s assessment of what evidence is valid and relevant is crucial for the council to be able to do this. Here are some of the key steps in the fact-finding process:

Gathering Information: This includes information provided by people in interviews or hearings, documents (emails, letters, notes, photographs, videos, etc.) and, sometimes, physical evidence.

Identifying the Information, That is Relevant to the Issues: Is the information logically connected to an issue arising from the complaint? Does it help to prove or disprove the issue? Information is relevant if it directly relates to the issues.

Resolving Conflicts or Inconsistencies: Reliable information stands up to scrutiny. It often (not always) comes from credible sources. Part of dealing with inconsistent information includes deciding how much weight to give certain information and why. Reliable information should be given more weight. For example, if several people give the same information, that information is usually entitled to more weight unless there is a reason to think they are working together. If several people have credibility issues, then giving more weight to the information of one credible individual might be the best decision. As a rule, determine the facts that everyone agrees on first. Then deal with anything directly linked to the facts that everyone agrees on. Finally, deal with contradictory facts, assessing credibility and assigning weight to the information.

Step 3: Determining the Relevant Law and Policy- The rules that are relevant to an alleged contravention of a code of ethics are found in municipal legislation, bylaws (the code of ethics itself and maybe others), the common law, and possibly local policies and practices. In many cases, the only relevant law is the code of ethics bylaw and relevant provisions of the municipal statute (e.g. the conflict of interest rules). Keep this in mind: What is the purpose of the code and what are the provisions of the statute? What are they trying to accomplish? Sometimes, rules and principles set out in the common law (court cases) are relevant. Cases that have similar facts and similar issues are going to be more relevant. Decisions from higher courts are more important than lower courts. Local policies or common practices might also be relevant to a code of ethic complaint. In many cases, it would be wise to get advice from a lawyer about what rules are relevant and how to interpret them.

Step 4: Applying the Law and Policy- The final step is to apply the relevant rules to the findings of fact. If steps 1, 2 and 3 are done well, this step is often straightforward. The conclusion the investigator needs to reach should be clear. If it isn't, the investigator may have missed something in the first three steps.

6. Giving the Affected Council Member and Others an Opportunity to Comment on Findings For a decision-making process to be fair, it is critical that the affected council member and possibly others who will be substantially affected by the council's decision be given a reasonable opportunity to review the investigator's preliminary findings and conclusions and to provide contrary or alternative relevant information for consideration. Practically, it helps to ensure that the investigator has all the relevant information available. It is also fundamental to a procedurally fair process.

Once the investigator has considered the comments and submissions made by the affected council member and others, the findings and conclusions should be presented to the council in a written report. The report should summarize the complaint as it was received, the issues that were investigated, and the findings of fact, the relevant laws and rules, the analysis of how the laws and rules apply to the facts, the investigator's conclusions, and any recommendations to the council about how to resolve the complaint.

7. Deciding How to Deal with the Complaint - Once the council receives the investigator's report, and each council member who is going to participate in making a decision about the complaint has had a reasonable opportunity to review it, the council should convene an in camera session at a special or regular council meeting to discuss the report. The investigator should attend the session to answer questions. Once the council has discussed the report, it should go back into public session and pass a resolution about the complaint.

The resolution should answer the question: Did the council member contravene the code of ethics or not? If the council decides that there was a contravention of the code of ethics, it should also decide how it intends to resolve the complaint. Depending on the circumstances, the council might need to seek further advice before deciding how to resolve a founded complaint. Will it sanction the council member in accordance with its code of ethics? Will it ask the council member to resign (i.e. if the member is found to have been in a conflict of interest)? Will the council apply to the court for an order enforcing the council member's disqualification? In addition, the council may make other decisions intended to remedy the complaint. For example, if the complaint is about a council member voting on a decision in which he or she had a conflict of interest, the council could consider repealing the decision and voting on it again. Or if the complaint was about a council member treating a person inappropriately, the council might want to issue a formal apology.

8. Giving Reasons- In any event, whether the council decides the complaint was founded or not, it should ensure that both the affected council member and the complainant are given reasons for its decision. Depending on the circumstances, this might be accomplished by sharing the investigation report and a copy of the resolutions based on it. Sometimes, however, it will not be appropriate, for reasons of confidentiality, to share the entire investigation report. Instead, it might be appropriate for the investigator or staff member to meet with a person to explain the results and the council's reasons for its decision. However, giving no reasons is never appropriate or reasonable.

The reasons should address all issues raised in the complaint. All points raised by the complainant and the affected council member should be fully addressed. If the investigation identified a contravention of the code of ethics, the response to the complainant should explain what actions the municipality proposes to take to resolve it. What will be done and when?

The response to the complainant should explain their right to complain to the Ombudsman if they are still dissatisfied with the outcome of their complaint and include contact information for the Ombudsman.

Contravention during a Council Meeting

- 4. If council is of the opinion that a member has violated the code of ethics during a council meeting, council may require the member to remove themselves for the remainder of the council meeting. Council may apply additional penalties based on the severity of the contravention.

Remedial Action if Contravention Occurs

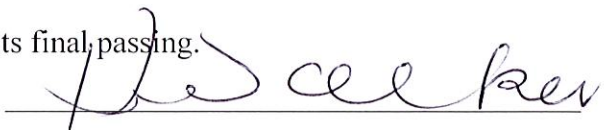
- 5. Should a Member of a Council breach any of the principles outlined in this code, the possible courses of action that are available to Council include but are not limited to:
 - (a) An apology, either written and/or verbal, by the Member of Council to the impacted individual(s), Council, and/or the general public.
 - (b) Educational training on ethical and respectful conduct.
 - (c) Repayment of moneys/gifts received.
 - (d) Removal of the Member from Council Committees and/or bodies.
 - (e) Dismissal of the Member from a position of Chairperson of a Committee.
 - (f) Reprimand.

PART VII

COMING INTO FORCE

- 6. Bylaw No. 5-16 is hereby repealed.
- 7. This Bylaw shall come into effect on the day of its final passing.



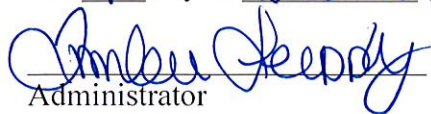


Reeve / Mayor



Administrator

Read a third time and adopted
this 12 day of November, 2019



Administrator

**Schedule A
Formal Complaint Form**

Please note that knowingly signing a false affidavit may expose you to prosecution under The Criminal Code of Canada.

I _____ of

(First and Last Name)

(Full mailing address)

do solemnly swear/(affirm and declare) that the following contents of this statement are true and correct and hereby request the council of the Resort Village of Cochin to (*look into/ conduct an investigation/ inquiry/ follow-up on*) whether or not the following member(s) of the Resort Village Council has (have) contravened the Code of Ethics:

Member(s) of council name(s)

I have reasonable and probable grounds to believe that the above member(s) has (have) contravened the Code of Ethics by reason of the following:

1. insert date(s), time and location of conduct;
2. include the sections of this bylaw that have been contravened;
3. provide the particulars and names of all persons involved, and of all witnesses;
4. provide contact information for all people listed;
5. any exhibits can be attached; and
6. if more space is required, please attach additional pages as needed.

(Signature of Complainant)

(Date signed)

For Office Use Only

(Date filed)

(Signature of _____ (i.e. Municipal administrator, City Clerk, or other applicable position pursuant to subsection 4(a) of bylaw)

