
A BYLAW OF THE SUMMER VILLAGE OF ITASKA BEACH TO ESTABLISH THE POSITION OF BYLAW ENFORCEMENT OFFICER AS A DESIGNATED OFFICER AND TO ESTABLISH POWERS, DUTIES, AND DISCIPLINARY PROCEDURES

WHEREAS, Section 7(i) of the MGA (as defined below), provides that a council may pass bylaws respecting the enforcement of bylaws;

AND WHEREAS, pursuant to Section 210 of the MGA, a council of a municipality may by bylaw establish one or more positions to carry out the powers, duties and functions of a designated officer;

AND WHEREAS, pursuant to Section 556 of the MGA, a council of a municipality must pass a bylaw specifying the powers and duties of bylaw enforcement officers, and to provide disciplinary and appeal procedures for misuse of power by bylaw enforcement officers;

NOW THEREFORE, the Council (as defined below), duly assembled, enacts as follows:

1. SHORT TITLE

1.1 This Bylaw shall be known as the "Bylaw Enforcement Officer Bylaw".

2. DEFINITIONS

2.1 Definitions used in this Bylaw, if not defined in this Bylaw, shall have the same meaning attributed to those definitions in the MGA.

2.2 In this Bylaw:

- a) **"Appeal"** means an appeal of the decision of the CAO in accordance with Section 7.1 below;
- b) **"Appellant"** means either the Complainant or the Bylaw Enforcement Officer, whoever is the individual who chooses to pursue an Appeal;
- c) **"Bylaw"** means a bylaw of the Summer Village;
- d) **"Bylaw Enforcement Officer"** means (i) a person who is an employee of the Summer Village or a third party and who has been appointed to carry out the duties of enforcing its Bylaws, (ii) a person who is a community peace officer as defined under the *Peace Officer Act, Revised Statutes of Alberta, 2006 Chapter P-3.5*, or (iii) a person who is a member of the Royal Canadian Mounted Police;

- e) **"CAO"** means the Chief Administrative Officer of the Summer Village;
- f) **"Complaint"** means a complaint sent to the CAO in accordance with Section 6.1 below;
- g) **"Complainant"** means the individual who chooses to send a Complaint to the COA;
- h) **"Council"** means the Council of the Summer Village;
- i) **"MGA"** means the *Municipal Government Act, Revised Statutes of Alberta, 2000 Chapter M-26*;
- j) **"Misuse of Power"** by a Bylaw Enforcement Officer shall mean any one or more of the following: (i) failure to perform or carry out his or her duties according to law, or (ii) failure to carry out the duties and responsibilities given to him or her within the terms of their appointment as a Bylaw Enforcement Officer;
- k) **"Municipal Tag"** means a ticket issued by the Summer Village pursuant to the MGA for breach of its Bylaws;
- l) **"Notice"** means any notice authorized to be given under any Bylaw;
- m) **"POPA"** means the *Provincial Offences Procedure Act, Revised Statutes of Alberta, 2000 Chapter P-34*;
- n) **"Respondent"** means either the Complainant or the Bylaw Enforcement Officer, whoever is the individual who is responding to an Appeal by the Appellant;
- o) **"Summer Village"** means the Summer Village of Itaska Beach;
- p) **"Violation Ticket"** means a ticket issued pursuant to Part 2 or Part 3, as applicable, of the POPA.

3. GENERAL INTERPRETATION

- 3.1 Headings or subheadings in this Bylaw are inserted for ease of reference and guidance purposes only and do not form part of this Bylaw.

- 3.2 Words in the singular include the plural and words in the plural include the singular.
- 3.3 Where this Bylaw cites or refers to any act, regulation, code or other bylaw, the citation or reference to the act, regulation, code or other bylaw includes any amendments thereto before or after the commencement of this Bylaw, and includes reference to any act, regulation, code or other bylaw that may be substituted in its place.
- 3.4 Each provision of this Bylaw is independent of, and severable from, all other provisions and if any provision is declared invalid or unenforceable for any reason by a court of competent jurisdiction, all other provisions of this Bylaw remain valid and enforceable.
- 3.5 Nothing in this Bylaw relieves a person from complying with any provision of any federal, provincial or municipal law or regulation or any requirement of any lawful permit, order or license.
- 4. ESTABLISHMENT**
- 4.1 The position of Bylaw Enforcement Officer is hereby established as a designated officer of the Summer Village.
- 4.2 The CAO may appoint or remove the Bylaw Enforcement Officer from his or her position.
- 4.3 The Bylaw Enforcement Officer shall be under the direct supervision of, and report directly to, the CAO.
- 5. POWERS, DUTIES AND RESPONSIBILITIES**
- 5.1 The Bylaw Enforcement Officer may:
- a) issue warnings, Municipal Tags, Notices and/or Violation Tickets for offences under the Bylaws;
 - b) exercise all the powers, duties, and functions of a designated officer to conduct any inspections, remedies, or enforcement authorized or required by a Bylaw or enactment in accordance with Section 542 of the MGA;
 - c) exercise all the powers, duties, and functions of a designated officer to issue written orders pursuant to Sections 545 and 546(0.1) of the MGA;

- d) take whatever actions or measures are necessary to remedy a contravention of the MGA, an enactment or resolution that the Summer Village is authorized to enforce, or a Bylaw in accordance with Sections 549, 550 or 551 of the MGA;
- e) collect or recover costs, damages or expenses owed to the Summer Village in accordance with Sections 552, 553, 553.1 and 554.1 of the MGA; and
- f) obtain an injunction in accordance with Section 554 of the MGA.

5.2 The Bylaw Enforcement Officer shall also have the following duties and powers:

- a) to enforce the Bylaws;
- b) to act in accordance with any authority granted to Bylaw Enforcement Officers under provincial or federal law;
- c) to respond to, and investigate complaints;
- d) to conduct routine patrols of the Summer Village for the purpose of preventing and detecting violations of the Bylaws;
- e) to maintain liaison with the RCMP, provincial agencies and neighboring municipalities;
- f) to prepare all necessary documentation required for attendance at court proceedings and ensure proper filing of same;
- g) to report to the CAO as required in regards to Bylaw enforcement; and
- h) to perform any other duties or tasks required by the CAO.

5.3 The appointment of an individual as a Bylaw Enforcement Officer in accordance with this Bylaw is deemed to be written authorization to issue Municipal Tags and Violation Tickets for the offences under the Bylaws.

5.4 The Bylaw Enforcement Officer may enforce the bylaws of another municipality within the boundaries of that municipality in the event that the Summer Village has entered into an agreement to provide such a service outside the boundaries of the Summer Village.

6. DISCIPLINARY PROCEDURE

- 6.1 An individual may file a Complaint in the manner described in this Bylaw if the individual believes that there has been a Misuse of Power by a Bylaw Enforcement Officer.
- 6.2 A Complaint made under Section 6.1 above shall:
- a) be in writing;
 - b) be sent to the Summer Village's office to the attention of the CAO;
 - c) include the name, address and telephone number of the Complainant; and
 - d) set out the reasons for the Complaint in reasonable detail.
- 6.3 Upon receipt of a Complaint, the CAO may summarily dismiss the Complaint if, in the opinion of the CAO, the Complaint:
- a) does not comply with Section 6.2 above;
 - b) has been made in excess of 180 days after the alleged Misuse of Power;
 - c) does not raise an issue of Misuse of Power by the Bylaw Enforcement Officer; or
 - d) is frivolous or vexatious.
- 6.4 If the CAO dismisses a Complaint under Section 6.3 above, then the CAO shall send to the Complainant a notice setting out the reasons for the dismissal and advising the Complainant of the right of appeal under Section 7 below.
- 6.5 If Section 6.3 above is not applicable, then, upon receipt of a Complaint, the CAO shall, within 60 days following receipt of the Complaint:
- a) send a written acknowledgement of receipt of the Complaint to the Complainant;

- b) advise the Bylaw Enforcement Officer of the allegations in the Complaint and request that the Bylaw Enforcement Officer respond to the allegations; and
 - c) commence an investigation of the Complaint.
- 6.6 The CAO may conduct the investigation of the Complaint in any manner that the CAO considers appropriate. During the investigation of the Complaint, the CAO may, in his or her discretion, review all relevant documents and speak with any witnesses or other persons having knowledge relevant to the Complaint.
- 6.7 Upon concluding the investigation of the Complaint, the CAO shall decide that the Bylaw Enforcement Officer is either guilty or not guilty of a Misuse of Power.
- 6.8 If the CAO decides that the Bylaw Enforcement Officer is guilty of a Misuse of Power, then the CAO shall, in his or her discretion, do one or more of the following:
- a) issue a warning to the Bylaw Enforcement Officer;
 - b) reprimand the Bylaw Enforcement Officer;
 - c) suspend the Bylaw Enforcement Officer from duty, with or without pay, for a period of time considered appropriate by the CAO;
 - d) dismiss the Bylaw Enforcement Officer; or
 - e) sanction or penalize the Bylaw Enforcement Officer in another manner considered appropriate by the CAO.
- 6.9 Within 30 days following the conclusion of the investigation of the Complaint, the CAO shall give to the Complainant and the Bylaw Enforcement Officer written notice of the CAO's decision together with the reasons for the decision, the nature of the discipline given under Section 6.8 above and the advice that each of the Complainant and the Bylaw Enforcement Officer has the right to Appeal the CAO's decision under Section 7 below.

7. APPEAL

- 7.1 The Complainant or the Bylaw Enforcement Officer may Appeal a decision of the CAO under Sections 6.3, 6.7 or 6.8 above. Such Appeal shall be made to the Council.
- 7.2 Any Appeal under Section 7.1 above shall:
- a) be in writing;
 - b) be sent to the Summer Village's office to the attention of the CAO within 15 days following receipt of the notice of the CAO's decision by the Appellant or the Respondent, as the case may be;
 - c) include the name, address and telephone number of the Appellant;
 - d) set out the grounds for the Appeal in reasonable detail; and
 - e) be accompanied by an Appeal fee of \$100 but only in circumstances where the Appellant is the Complainant.
- 7.3 Within 30 days following receipt of an Appeal, the COA shall send to:
- a) the Council a copy of the notice of Appeal together with copies of all documents applicable to the investigation conducted by the CAO including, without limitation, copies of the Complaint and the CAO's decision; and
 - b) the Respondent a copy of the notice of Appeal.
- 7.4 The Appeal shall be heard by the Council on a date which is acceptable to the Council, the Appellant, the Respondent and the CAO provided that if no agreement can be reached, then the Appeal shall be heard on a date which is chosen by the Council and which is no earlier than 60 days, and no later than 90 days, following the date of receipt, by the Council, of the documents described in Section 7.3(a) above. The Council shall give written notice of the date of the Appeal to the Appellant, the Respondent and the CAO no later than 45 days prior to the date of the hearing of the Appeal.
- 7.5 The Council may conduct the hearing of the Appeal in any manner that the Council considers appropriate provided that:

- a) the Appellant and the Respondent shall be permitted to review the documents described in Section 7.3(a) above unless the Council has reason to believe that the disclosure of such documents will violate applicable privacy laws; and
 - b) each of the Appellant, the Respondent and the CAO shall be given a reasonable opportunity to make submissions to the Council.
- 7.6 Upon concluding the hearing of the Appeal, the Council shall decide to either dismiss or allow the Appeal in whole or in part. The decision of the Council shall be made by a majority of the Council.
- 7.7 If the Council decides to allow the Appeal in whole or in part and, in doing so, the Council finds that the Bylaw Enforcement Officer was guilty of an Abuse of Power, then the Council shall discipline the Bylaw Enforcement Officer in one or more of the ways described in Section 6.8 above.
- 7.8 Within 30 days following the conclusion of the hearing of the Appeal, the Council shall give to the Appellant, the Respondent and the CAO written notice of the Council's decision together with the reasons for the decision and, if applicable, the nature of the discipline given under Section 7.7 above.
- 7.9 The decision of the Council with respect to an Appeal shall be final.

8. COMING INTO FORCE

8.1 This Bylaw shall come into full force and effect upon final passing.

READ a first time this 17th day of June, 2020.

READ a second time this 17th day of June, 2020.

UNANIMOUS CONSENT to proceed to third reading 17th day of June, 2020.

READ a third and final time this 17th day of June, 2020.

David Alton, Mayor
Summer Village of Sundance Beach

June Boyda, Chief Administrative Officer
Summer Village of Itaska Beach