SUMMER VILLAGE OF BETULA BEACH IN THE PROVINCE OF ALBERTA
BYLAW NO. 5-2020

BYLAW ENFORCEMENT OFFICER BYLAW

BEING A BYLAW OF THE SUMMER VILLAGE OF BETULA BEACH, IN THE PROVINCE OF ALBERTA, TO SPECIFY THE POWERS AND DUTIES OF BYLAW ENFORCEMENT OFFICERS AND TO ESTABLISH A DISCIPLINARY PROCEDURE AND PROCESS FOR MISUSE OF POWER

WHEREAS, Section 556 of the *Municipal Government Act* provides every council must by bylaw specify the powers and duties of bylaw enforcement officers and establish disciplinary procedures applicable to its bylaw enforcement officers;

AND WHEREAS, Section 210(1) of the *Municipal Government Act* provides that a council may, by bylaw, establish one or more positions to carry out the powers, duties and functions of a designated officer,

NOW THEREFORE, the Council for the Summer Village of Betula Beach, duly assembled, enacts as follows:

PART 1 -INTERPRETATION

Short Title

1. This bylaw may be cited as the "Bylaw Enforcement Officer Bylaw."

Definitions

2. In this Bylaw, unless the context otherwise requires:

   a. "Bylaw Enforcement Officer" means an individual who has been appointed pursuant to this Bylaw as a Bylaw Enforcement Officer for the Village;

   b. "Chief Administrative Officer" or "CAO" means the individual appointed by Council as the Chief Administrative Officer of the Village or his or her delegate;

   c. "Council" means the municipal council for the Summer Village of Betula Beach;

   d. "Municipal Tag" means a tag or similar document issued by the Village pursuant the *Municipal Government Act* that alleges a bylaw offence and provides a person with the opportunity to pay an amount to the Village in lieu of prosecution for the offence;

   e. "Village" means the municipal corporation of the Summer Village of Betula Beach, in the Province of Alberta or, if the context requires, the geographical area within the boundaries of the municipality; and

f. "Violation Ticket" has the meaning given to it in the *Provincial Offences Procedure Act.*

Rules of Interpretation

3. The headings in this Bylaw are for guidance purposes and convenience only.

4. Every provision in this Bylaw is independent of all other provisions and if any provision of this Bylaw is declared invalid for any reason by a court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable.

5. In this Bylaw, a citation of or reference to any enactment of the Province of Alberta or of Canada, or of any other bylaw of the Village, is a citation of or reference to that enactment or bylaw as amended, whether amended before or after the commencement of the enactment or bylaw in which the citation or reference occurs.

6. Nothing in this Bylaw relieves a person from complying with any provision of any provincial or federal legislation or regulation, other bylaw or any requirement of any lawful permit, order or licence.

PART 2 – CHIEF ADMINISTRATIVE OFFICER

Powers and Duties

7. The Chief Administrative Officer:

   a. may appoint one or more individuals as Bylaw Enforcement Officers in accordance with this Bylaw;

   b. may revoke, suspend, or modify the appointment of Bylaw Enforcement Officers in accordance with this Bylaw;

   c. may authorize or require Bylaw Enforcement Officers to carry out any powers and duties necessary to fulfill their responsibility for the preservation and maintenance of the public peace;

   d. may establish the standards of uniform, insignia, and identification for Bylaw Enforcement Officers;

   e. will ensure complaints of misuse of power by Bylaw Enforcement Officers are investigated and dealt with in accordance with this Bylaw,

   f. will report on the status and effectiveness of bylaw enforcement within the Village, when requested to do so by Council; and

   g. may delegate any of the CAO's powers, duties, or functions contained in this section to any employee of the Village, including the option to further

delegate those powers, duties, and functions.

PART 3 -BYLAW ENFORCEMENT OFFICERS

Appointment

8. To be eligible for appointment as a Bylaw Enforcement Officer, individuals must provide to the Chief Administrative Officer:

   a. a recent criminal record check acceptable to the CAO;

   b. a recent driver's abstract acceptable to the CAO; and

   c. any other requirements specified by the CAO.

9. The Chief Administrative Officer may impose terms and conditions on a Bylaw Enforcement Officer appointment.

Oath of Office

10. A Bylaw Enforcement Officer must, before starting his or her duties, take the official oath contained in Schedule A.

Powers and Duties

11. Subject to the terms and conditions of their appointment by the CAO, the powers and duties of Bylaw Enforcement Officers are to:

   a. enforce the bylaws of the Village;

   b. provide public education on the Village's bylaws and enforcement services;

   c. conduct routine patrols to ensure compliance with bylaws;

   d. respond to and investigate complaints and alleged breaches of bylaws;

   e. exercise all the powers and duties 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 *Municipal Government Act;*

   f. exercise all the powers and duties of a designated officer to issue written orders pursuant to Section 545 and 546 of the *Municipal Government Act;*

   g. issue warning notices, Municipal Tags and Violation Tickets for offences under bylaws;

   h. prepare and relay information to the CAO and residents of the Village;

i. assist in the prosecution of bylaw offences, including the gathering of evidence, the swearing of complaints, preparation of prosecution files, ensuring the attendance of witnesses, and attending Court and providing evidence as required; and

j. perform all other duties as may from time to time be assigned by the CAO.

12. Bylaw Enforcement Officers must comply with their appointment and exercise their powers and duties in accordance with all Village policies, procedures, and guidelines.

Officer Identification

13. While acting in the course of their duties Bylaw Enforcement Officers shall carry on their person identification, in a form approved by the CAO, evidencing their appointment as a Bylaw Enforcement Officer.

Appointment Ceases to be in Effect

14. A Bylaw Enforcement Officer's appointment ceases to be in effect:

a. when the Bylaw Enforcement Officer ceases to be employed or engaged by the Village in the capacity of a Bylaw Enforcement Officer,

b. when the Bylaw Enforcement Officer's appointment is revoked in accordance with this Bylaw, or

c. while the Bylaw Enforcement Officer's appointment is suspended in accordance with this Bylaw.

15. Upon a Bylaw Enforcement Officer appointment ceasing to be in effect, other than when suspended, the Bylaw Enforcement Officer shall immediately return to the CAO, all uniforms, patrol cars, equipment, Municipal Tag and Violation Ticket books, appointment certificates, and all other materials or equipment supplied to the Bylaw Enforcement Officer by the Village.

PART 4 - MISUSE OF POWER

Complaints

16. If a person believes that a Bylaw Enforcement Officer has misused their power, the person may file a complaint in accordance with this Part.

17. A complaint made under Section 16 shall:

a. be in writing;

b. include the full name of the complainant;

c. include contact information for the complainant;

d. indicate the reasons for the complaint; and

e. be sent to the Village, Attention: Chief Administrative Officer, Bylaw Enforcement Services.

18. The CAO may summarily dismiss a complaint that, in the opinion of the CAO:

a. does not comply with section 17;
b. is made more than 180 days after the alleged misuse of power;
c. does not raise an issue of misuse of power by a Bylaw Enforcement Officer; or
d. is frivolous or vexatious.

19. If the CAO dismisses a complaint under Section 18, the CAO shall send a notice to the complaint:

a. specifying the reasons for the dismissal; and

b. advising of the right of appeal to Council.

Investigations

20. Unless a complaint is summarily dismissed, the CAO shall, within 30 days of receiving a complaint:

a. send written acknowledgement of receipt of the complaint to the complainant.

b. advise the Bylaw Enforcement Officer of the allegations in the complaint and provide the Bylaw Enforcement Officer with a reasonable opportunity to respond to the allegations; and

c. commence an investigation into the complaint.

21. The CAO may conduct an investigation into a complaint in the manner that the CAO considers appropriate and may, but is not required to, hold a hearing into the matter.

22. If the CAO decides to hold a hearing into a matter of complaint, the CAO shall specify the procedure and send the complainant and the Bylaw Enforcement Officer notice of the procedure that will be used.

23. Despite no complaint having been received, if the CAO has reason to believe that

a Bylaw Enforcement Officer has misused their power the CAO may conduct an investigation.

24. If an investigation is conducted under Section 23, the CAO shall give the Bylaw Enforcement Officer notice of the matter being investigated and an opportunity to respond to the matter of concern.

25. Upon concluding an investigation, the CAO shall decide that either:

    a. the Bylaw Enforcement Officer did not misuse their power; or

    b. the Bylaw Enforcement Officer misused their power.

Sanctions and Penalties

26. If the CAO decides that the Bylaw Enforcement Officer misused their power, the CAO shall:

    a. warn the Bylaw Enforcement Officer;

    b. reprimand the Bylaw Enforcement Officer;

    c. suspend the Bylaw Enforcement Officer from duty for an appropriate period of time as determined in the sole discretion of the CAO;

    d. dismiss the Bylaw Enforcement Officer; or

    e. sanction or penalize the Bylaw Enforcement Officer in any other appropriate manner not inconsistent with Village policies, procedures and guidelines.

Written Decision

27. Within 30 days of concluding an investigation, the CAO shall send written notice of the CAO's decision to the complainant (if any) and to the Bylaw Enforcement Officer.

28. The written notice of decision must include:

    a. reasons for the CAO's decision; and

    b. notice advising of the right of appeal to Council.

PART 5 - APPEALS

Notice of Appeal

29. Within 14 days of receipt of the CAO's written decision, the complainant or the

Bylaw Enforcement Officer may appeal the decision to Council.

30. An appeal under Section 29 shall:

    a. be in writing;

    b. include the full name of the appellant;

    c. include contact information for the appellant;

    d. set out the grounds for the appeal; and

    e. be sent to the Village, Attention: Council

31. The Council may summarily dismiss an appeal that, in the opinion of Council, does not comply with Section 30.

32. Council dismisses an appeal under Section 31, the Council shall send a notice to the appellant specifying the grounds and giving the reasons for the dismissal.

Conduct of Appeal

33. Unless an appeal is summarily dismissed, the Council shall, within 30 days of receiving a notice of appeal:

    a. send written acknowledgement of receipt of the appeal to the appellant;

    b. send the CAO a notice requiring the CAO to, within seven (7) days, forward all documents relating to the original complaint (if any), as well as the subsequent investigation and decision; and

    c. send the respondent (if any) a copy of the notice of appeal.

34. The Council may conduct the appeal as the Council considers appropriate and may, but is not required to, conduct a new investigation and hold a new hearing.

35. In conducting the appeal, the Council shall specify the procedure and send the parties notice of the procedure that will be used.

    a. Upon concluding the appeal, the Council shall dismiss or allow the appeal in whole or in part.

    b. If, in allowing the appeal in whole or in part, the Council finds that the Bylaw Enforcement Officer has misused his or her power, the Council may exercise any of the powers of the CAO as set out under Section 26.

Written Decision on Appeal

36. Within 30 days of concluding the appeal, Council shall send written notice of Council's decision to the appellant and respondent (if any).

37. The written notice of decision must include reasons for Council's decision.

Appeal is Final

38. Council's decision regarding an appeal is final and conclusive with no further right of appeal to the Court.

Effective Date

39. This bylaw shall come into force when it has received third and final reading and has been signed.

READ a first time this 16th day of September 2020.

READ a second time this 16th day of September 2020.

READ a third and final time this 16th day of September 2020.

Rob Dickie, Mayor

Susan H. Evans, CAO

Schedule 'A'

OATH OF OFFICE

I, _____, do swear that I will diligently, faithfully, and to the best of my ability, execute according to law, the office and services of Bylaw Enforcement Officer for the Summer Village of Betula Beach, Alberta.

Affirmed before me at the _____)
of _____ in the Province of Alberta)
this _____,day of _____ A.D. 2020) _____

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