



**BYLAW NO. 978/ADM/2021
BYLAW ENFORCEMENT OFFICER BYLAW
MUNICIPAL DISTRICT OF FAIRVIEW NO. 136**

A BYLAW OF THE MUNICIPAL DISTRICT OF FAIRVIEW NO. 136 IN THE PROVINCE OF ALBERTA TO SPECIFY THE POWERS AND DUTIES OF BYLAW ENFORCEMENT OFFICERS AND TO ESTABLISH A DISCIPLINARY PROCEDURE AND PROCESS APPLICABLE TO BYLAW ENFORCEMENT OFFICERS

WHEREAS, Section 7 of the *Municipal Government Act*, RSA, 2000, c.M-26, as amended and replaced from time to time, provides that Council may pass bylaws respecting the enforcement of bylaws; and

WHEREAS, Part 13, Division 4 of the *Municipal Government Act*, RSA, 2000, c.M-26, provides a municipality with enforcement power which may be exercised by a designated officer; and

WHEREAS, pursuant to Sections 555 and 556 of the *Municipal Government Act*, RSA, 2000 c.M-26, 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 of the *Municipal Government Act*, RSA, 2000 c.M-26, 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 of the Municipal District of Fairview No. 136 in the Province of Alberta, duly assembled, hereby enacts as follows:

1. TITLE:

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

2. DEFINITIONS:

2.1 In this Bylaw, unless the context otherwise requires:

- (a) "**Bylaw**" means a bylaw passed by the Council of the Municipal District of Fairview No. 136;
- (b) "**Bylaw Enforcement Officer**" means an individual appointed as a Bylaw Enforcement Officer by the Municipality in accordance with the Bylaw Enforcement Officer Bylaw;
- (c) "**CAO**" means the individual appointed by Council as the Chief Administrative Officer of the Municipal District of Fairview No. 136 under the Chief Administrative Officer Bylaw";
- (d) "**Council**" means the Council of the Municipal District of Fairview No. 136;
- (e) "**MGA**" means the *Municipal Government Act*, being Chapter M-26 of the Revised Statutes of Alberta 2000, as amended from time to time;
- (f) "**Municipality**" means the municipal corporation of the Municipal District of Fairview No. 136 and the area contained within the corporate boundaries of the municipal corporation;
- (g) "**Misuse of Power**" means when a Bylaw Enforcement Officer commits one or more of the following:
 - i. Failure to perform or carry out their duties in accordance with the law; or
 - ii. Failure to carry out the duties and responsibilities given to him/her within the terms of their appointment as a Bylaw Enforcement Officer of the Municipality.

3. APPOINTMENT OF BYLAW ENFORCEMENT OFFICERS

3.1 The Chief Administrative Officer may, from time to time, appoint one or more Bylaw Enforcement Officers, by completing Schedule "A".

3.2 The Bylaw Enforcement Officer shall, before starting their duties, take the official oath prescribed by the *Oaths of Office Act*, as provided in Schedule "B".

- 3.3 A Bylaw Enforcement Officer is a designated officer of the Municipality for the purpose of inspections pursuant to Section 542 of the MGA and the enforcement of Bylaws pursuant to Sections 545 and 546 of the MGA.
- 3.4 The powers and duties of Bylaw Enforcement Officers shall include the following:
- (a) Preserving and maintaining the public peace;
 - (b) Enforcing Bylaws within the Municipality;
 - (c) Conducting routine patrols to ensure compliance with Bylaws;
 - (d) Reporting to and carrying out the directions of the Chief Administrative Officer;
 - (e) Responding to and investigating complaints and alleged breaches of Bylaws;
 - (f) Issuing and serving orders, notices, tags and violation tickets, summonses, subpoenas and providing information as required;
 - (g) Assisting in the prosecution of breaches of Bylaws including gathering evidence, ensuring the attendance of witnesses, attending court, and providing evidence as required;
 - (h) Carrying upon their person at all such times as they are acting as a Bylaw Enforcement Officer, evidence in writing of their appointment as Bylaw Enforcement Officer; and
 - (i) Performing all such other duties as may from time to time be assigned by the Chief Administrative Officer.
- 3.5 Bylaw Enforcement Officers shall exercise their powers and duties in accordance with all applicable Municipal agreements, bylaws, policies and procedures as established from time to time.
- 3.6 The authority of a Bylaw Enforcement Officer shall terminate when:
- (a) the person ceases to be an employee of the Municipality or ceases to be providing bylaw enforcement services pursuant to an agreement with the municipality or an agreement between the Municipality and a third party; or,
 - (b) the Chief Administrative Officer revokes the appointment of the Bylaw Enforcement Officer.
- 3.7 Upon ceasing employment or contract or upon the revocation of their appointment, the Bylaw Enforcement Officer shall immediately return to the CAO any equipment, offence ticket books, appointment certificates and identification, and all other materials or equipment supplied to the Bylaw Enforcement Officer by the Municipality for the purpose of fulfilling their role as Bylaw Enforcement Officer.

4. CODE OF CONDUCT

- 4.1 A Bylaw Enforcement Officer serving the Municipality as an employee shall be subject to all personnel policies of the Municipality as well as the Code of Conduct under this section.
- 4.2 A Bylaw Enforcement Officer serving the Municipality under a third party agreement or contract shall adhere to the Bylaw Enforcement Officer Code of Conduct under this section.
- 4.3 A Bylaw Enforcement Officer shall not violate:
- (a) an Act of the Parliament of Canada;
 - (b) an Act of the Legislature of Alberta;
 - (c) any Regulation made under an Act of either the Parliament of Canada or the Legislature of Alberta.
- 4.4 A Bylaw Enforcement Officer shall not:
- (a) act in a disorderly or inappropriate manner;
 - (b) act in a manner that would be harmful or is likely to discredit the reputation of the Municipality or law enforcement;
 - (c) use profane, abusive, or insulting language to any member of a police force, special constable, Bylaw Enforcement Officer or any member of the public;
 - (d) abet or knowingly become an accessory to a breach of any Municipal bylaw;
 - (e) act in an unprofessional manner;
 - (f) apply the law differently or exercise authority on a basis that contravenes the Canadian and Alberta Human Rights Acts;
 - (g) withhold or suppress a complaint against, or a report made about a Bylaw Enforcement Officer;

- (h) willfully or negligently make or sign a false, misleading or inaccurate statement in any official document or record;
- (i) without lawful reason, destroy, mutilate or conceal, an official document or record or alter or erase an entry in an official document or record;
- (j) make known any matter that is a person's duty to keep in confidence, or communicate to the news media or to any unauthorized person any law enforcement matter which could be injurious to any person or entity or to an ongoing investigation;
- (k) breach or violate any policy or bylaw of the Municipality;
- (l) become involved in a financial, contractual or other obligation with a person whom the Bylaw Enforcement Officer could reasonably expect to report or give evidence about;
- (m) exercise authority when it is unlawful or unnecessary to do so;
- (n) apply excessive or otherwise inappropriate force in circumstances where force is used.

5. COMPLAINTS

- 5.1 Any complaints concerning the Misuse of Power or non-compliance with the Code of Conduct of a Bylaw Enforcement Officer shall be dealt with in accordance with the provisions set out in this Bylaw and upon receipt, shall be directed to the CAO.
- 5.2 All complaints shall be in writing and any complaints received verbally shall be confirmed in writing by the complainant prior to being addressed.
- 5.3 The CAO shall provide written acknowledgement of the complaint to the complainant and to the Bylaw Enforcement Officer against whom the complaint was made within 14 days of receiving the written complaint.

6. INVESTIGATIONS

- 6.1 The CAO shall investigate a complaint.
- 6.2 The Bylaw Enforcement Officer shall be given the opportunity to provide response to the allegations and investigation. The response shall be in writing and directed to the CAO.
- 6.3 Upon review of the Bylaw Enforcement Officer's response and all other information deemed to be relevant, the CAO shall either dismiss the complaint as unfounded or unsubstantiated or find the Bylaw Enforcement Officer has misused their power or violated the Code of Conduct prescribed in Section 4 above.
- 6.4 If the CAO determines that a Misuse of Power or a Code of Conduct violation has occurred, corrective disciplinary measures shall be taken in accordance with Section 7 of this Bylaw.
- 6.5 The CAO may resolve complaints informally, provided that the solution is satisfactory to the complainant and the Bylaw Enforcement Officer against whom the complaint was directed.
- 6.6 The CAO shall complete their investigation and notify the complainant and Bylaw Enforcement Officer of the results within sixty (60) days of receiving the complaint in writing.

7. DISCIPLINARY ACTION

- 7.1 If it has been determined that a Misuse of Power or Code of Conduct violation has been committed by the Bylaw Enforcement Officer, any one of the following measures may be taken by the CAO:
 - i. A reprimand of the Bylaw Enforcement Officer (when the Bylaw Enforcement Officer is an employee);
 - ii. A suspension of the Bylaw Enforcement Officer, with pay, for a period not to exceed seven (7) calendar days (when the Bylaw Enforcement Officer is an employee);
 - iii. A suspension of the Bylaw Enforcement Officer, without pay, for a period not to exceed seven (7) calendar days (when the Bylaw Enforcement Officer is an employee);
 - iv. The Bylaw Enforcement Officer be terminated (when the Bylaw Enforcement Officer is an employee);
 - v. The Bylaw Enforcement Officer shall have their appointment revoked or agreement/contract terminated.

8. APPEAL PROCEDURES

- 8.1 If either the complainant or the Bylaw Enforcement Officer wishes to appeal the decision of the CAO, a notice of appeal shall be delivered to the CAO within thirty (30) days from the date the CAO provides notification to both parties of the results of the investigation.
- 8.2 The CAO shall review the complaint and investigation report, speak to the persons involved as deemed necessary and review any other related documents associated with the complaint.
- 8.3 The CAO, following consideration of the appeal, shall confirm, reverse, or vary the decision.
- 8.4 The decision of the CAO shall be issued to the complainant and Bylaw Enforcement Officer within thirty (30) days of receiving the notice of appeal. The decision of the CAO regarding the appeal is final with no further right to appeal.

9. GENERAL

- 9.1 Nothing in this Bylaw relieves a person from complying with any federal, provincial, or Municipal law or regulation or any requirement of any lawful permit, order, or licence.
- 9.2 Personal information within a written complaint will be collected in accordance with Part 2 of the Freedom of Information and Protection of Privacy Act, RSA 2000, C F-25 and amendments thereof.

10. SEVERABILITY

- 10.1 If any provisions of this Bylaw are declared invalid for any reason by a Court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable.

11. EFFECTIVE DATE

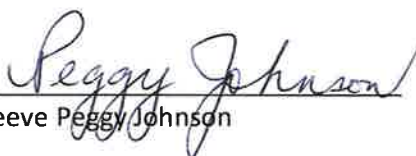
- 11.1 This Bylaw shall come into force and take effect upon the third and final reading.

12. READING DATES


Read a first time this 23 day of February , 2021.

Read a second time this 23 day of February , 2021.

Read a third and final time this 23 day of February, 2021.



Reeve Peggy Johnson



CAO Sandra Fox

Bylaw Enforcement Officer Bylaw

**SCHEDULE A
APPOINTMENT BY CHIEF ADMINISTRATIVE OFFICER**

I, _____, Chief Administrative Officer of the Municipal District of Fairview No. 136, do hereby appoint _____ as a Bylaw Enforcement Officer for the Municipal District of Fairview No. 136, effective on the date indicated below.

Date of Appointment: _____

CAO Signature: _____

Date of Signature: _____

(to be filed in Employee HR file if an employee or file with Service Agreement if service provided by Contract/Agreement)

Bylaw Enforcement Officer Bylaw

SCHEDULE B – Oath of Office

I, _____, solemnly affirm that I will diligently, faithfully and to the best of my ability execute in accordance with the law the office of Bylaw Enforcement Officer as stipulated on my appointment as a Bylaw Enforcement Officer for the Municipal District of Fairview No. 136.

Affirmed before me at the
_____ of _____,
in the Province of Alberta,
this _____ day of _____, 20____.

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Commissioner of Oaths