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**A BYLAW OF THE SUMMER VILLAGE OF NAKAMUN PARK, IN THE PROVINCE OF ALBERTA, FOR THE ESTABLISHMENT AND REVIEW OF THE BYLAW ENFORCEMENT OFFICER POSTION WITHIN THE MUNICIPALITY**

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**WHEREAS, PURSUANT TO** Part 2 of the Municipal Government Act, being Chapter M-26 R.S.A 2000 and amendments thereto, Council may enact a Bylaw;

**AND WHEREAS PURSUANT TO** Part 13 Section 556 of the Municipal Government Act, being Chapter M26 R.S.A 2000 and amendments thereto, the municipality must pass a bylaw relating to the establishment, designation of powers and duties, and review of the position of a Bylaw Enforcement Officer;

**AND WHEREAS** the Council of the Summer Village of Nakamun Park deems it proper and expedient to pass such a Bylaw;

**NOW THEREFORE** the Council of the Summer Village of Nakamun Park, in the Province of Alberta, duly assembled, enacts as follows:

1. **TITLE**

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

2. **DEFINITIONS**

2.1. **"Bad Faith"** means filing the complaint with intentional dishonesty or with the intent to mislead,

2.2. **"Bylaw"** means a Bylaw or any of the Bylaws of the Municipality,

2.3. **"Bylaw Enforcement Officer"** means a person appointed to the position of Bylaw Enforcement Officer For the Summer Village of Nakamun Park and who has taken the oath prescribed by the Oaths of Office Act,

2.4. **"Chief Administrative Officer"** means the Chief Administrative Officer of the municipality or their designate,

2.5. **"Council"** means the municipal council of the Summer Village of Nakamun Park,

2.6. **"Frivolous"** means a complaint made merely to harass or embarrass the responding party,

2.7. **"Misuse of Power" by the Bylaw Enforcement Officer shall mean any one or more of the following:**

2.7.1. Failure to perform or carry out the duties of the office as required by law;

2.7.2. Failure to carry out the duties and responsibilities granted to the position of Bylaw enforcement officer in their appointment to the office.

2.8. **"Municipality"** means the Summer Village of Nakamun Park,

2.9. **"Vexatious"** means a complaint that has no basis in fact or reason, with its purpose to bother, annoy and embarrass the Bylaw Enforcement Officer or Municipality.

### 3. **ESTABLISHMENT OF THE POSITION**

3.1. The Position of Bylaw Enforcement Officer for the Summer Village of Nakamun Park is hereby established.

### 4. **POWERS AND DUTIES OF THE BYLAW ENFORCEMENT OFFICER**

4.1. The Powers and Duties of the Bylaw Enforcement Officer for the Summer Village of Nakamun Park shall be:

4.1.1. To Enforce the municipal bylaws within the boundaries of the municipality;

4.1.2. To follow the directions of the Chief Administrative Officer and report to the Chief Administrative Officer as required;

4.1.3. To respond and investigate to complaints related to animal control; untidy/unsightly and various other municipal bylaws currently existing or as may lawfully arise, whether those complaints originate from the public or from the office of the Chief Administrative Officer;

4.1.4. To conduct routine patrols of the municipality;

4.1.5. To issue notices, tickets or tags;

- 4.1.6. To assist in the prosecution of bylaw contravention, including appearances in court to provide evidence;
- 4.1.7. To perform all other duties as may be assigned, from time to time, by the Chief Administrative Officer;
- 4.1.8. To take the Oath of Office as prescribed by the *Oaths of Office* Act upon being appointed as a Bylaw Enforcement Officer and to carry upon his person at all such times when acting as Bylaw Enforcement Officer evidence in writing of their appointment to this position;
- 4.1.9. The Bylaw Enforcement Officer will be a Designated Officer under this Bylaw for the purpose of enforcement of orders issued under section 545 or 546 of the Municipal Government Act.

## 5. COMPLAINTS

- 5.1. In order to ensure a transparent and accountable bylaw enforcement mechanism within the Municipality, and as required under the Municipal Government Act, the Summer Village of Nakamun Park hereby establishes the following to address complaints:
  - 5.1.1. Any Complaint concerning the misuse of power of a Bylaw Enforcement Officer shall be dealt with in accordance under the provisions set out in this Section and shall be forwarded directly to the Chief Administrative Officer for review and action;
  - 5.1.2. All Complaints shall be in writing and addressed to the Chief Administrative Officer;
  - 5.1.3. Upon receipt of any Complaint, the Complaint shall be immediately forwarded to the Chief Administrative Officer;
  - 5.1.4. The Chief Administrative Officer shall provide to the Complainant within thirty (30) days, and in writing, acknowledgement that the Complaint has been received;
  - 5.1.5. The Chief Administrative Officer shall notify the Bylaw Enforcement Officer involved in the Complaint when appropriate. In situations where such notification

may unduly influence or negatively impact an internal investigation or place the complainant in an unduly unfavourable position the Bylaw Enforcement Officer's notification may be delayed for a period of time at the discretion of the Chief Administrative Officer.

## 6. INVESTIGATIONS

- 6.1. In determining the validity of a Complaint, the Chief Administrative Officer, or their designate, shall conduct an investigation by the following method:
  - 6.1.1. An interview shall be conducted with the complainant, any witness the Bylaw Enforcement Officer(s) involved, if they so consent, and any other person who may have knowledge relevant to the occurrence, and the statements of these people shall be taken for the record;
  - 6.1.2. The Bylaw Enforcement Officer(s) shall be allowed the opportunity to make a full response to the allegations and investigates. The response shall be in writing and directed to the Chief Administrative Officer;
  - 6.1.3. Upon receiving the Bylaw Enforcement Officer's response and any other information the Chief Administrative Officer believes necessary or appropriate in the circumstance to determine the facts, the Chief Administrative Officer shall either dismiss the complaint as unfounded or as unsubstantiated, or find that the Bylaw Enforcement Officer has misused their power;
  - 6.1.4. If the Chief Administrative Officer finds determined a misuse of power occurred, the appropriate corrective disciplinary measures shall be commenced.
  - 6.1.5. Upon conclusion of the investigation, the Chief Administrative Officer shall provide notice in writing within five (5) business days to the Bylaw Enforcement Officer of the allegations made and the finds of the investigation;
  - 6.1.6. The Chief Administrative Officer may choose not to investigate a complaint if it is, in the opinion of the Chief Administrative Officer, that the Complaint falls into one of the noted categories, as defined in this Bylaw:
    - 6.1.6.1. Frivolous
    - 6.1.6.2. Vexatious
    - 6.1.6.3. Bad Faith



6.1.7. Where a Complaint is not investigated for any of the noted reasons under 6.1.6, above, the Chief Administrative Officer shall explain the rationale for this conclusion in writing and provide this to the Complainant, along with the advise that they may appeal this decision directly to Council for further review.

6.1.8. The Chief Administrative Officer may resolve complaints informally, arriving at a solution that is satisfactory to the Complainant and the Bylaw Enforcement Officer against whom the Complaint is directed. Written notice that the Complaint has been so resolved will be provided to the Complainant within five (5) business days.

## **7. DISCIPLINARY ACTION**

7.1. If it has been determined that a misuse of power has been committed by the Bylaw Enforcement Officer, any one of the following measures may be taken by the Chief Administrative Officer:

7.1.1. A Warning;

7.1.2. A Written Reprimand;

7.1.3. Forfeiture of Hours of Work Accumulated Through Overtime, Not Exceeding Ten (10) Hours;

7.1.4. Suspension From Duties Without Pay For A Period Not to Exceed Ten (10) Hours of Work;

7.1.5. Dismissal.

7.2. If the disciplinary action is dismissal, the Chief Administrative Officer may, at their sole discretion, offer the Bylaw Enforcement Officer the opportunity to resign from their office within a specified amount of time determined by the Chief Administrative Officer, rather than being dismissed, if the situation so warrants.

7.3. Where the Bylaw Enforcement Officer is to be dismissed, or permitted to resign:

7.3.1. That Action shall be held in abeyance, and

7.3.2. The Bylaw Enforcement Officer shall be placed under suspension without pay, until a period of appeal to Council has lapsed or until the appeal has been concluded.

7.4. Where a Bylaw Enforcement Officer is found to have misused their power but on appeal is found that they have not misused their power, any disciplinary action imposed on the Bylaw Enforcement Officer shall be rescinded and any pay, benefits, or

time forfeited or lost because of a suspension shall be returned to the Bylaw Enforcement Officer.

7.5. Where requested in writing by the Bylaw Enforcement Officer, the Employer shall provide the Bylaw Enforcement Officer with a copy of the transcript and any document and reports used in the Bylaw Enforcement Officer's hearing.

7.6. When a period of three (3) years has elapsed from the day an official warning or reprimand was issued to a Bylaw Officer, the official warning shall:

7.6.1. Be removed from the Bylaw Enforcement Officer's file and destroyed, and

7.6.2. Not be used or referred to in any future proceedings respecting that Bylaw Enforcement Officer.

7.7. When a period of five (5) years has elapsed from the day the disciplinary action was imposed on a Bylaw Enforcement Officer, any record of the disciplinary proceedings respecting the discipline or contravention shall:

7.7.1. Be removed from the Bylaw Enforcement Officer's file and destroyed, and

7.7.2. Not be used or referred to in any future proceedings respecting the Bylaw Enforcement Officer.

## **8. APPEAL PROCEDURES**

8.1. A Bylaw Enforcement Officer may appeal in writing the decision of the Chief Administrative Officer within thirty (30) days from the day that the final notification is received by the Bylaw Enforcement Officer.

8.2. The Appeal shall be filed with the Mayor, or Chief Elected Official, of the Municipality.

8.3. Council shall hold a hearing into the appeal within forty-five (45) days of the receipt of the appeal by the Mayor.

8.4. Council shall give reasonable notice of the hearing to the appellant, to the Chief Administrative Officer and to such parties as considered to be affected by the hearing.

8.5. Council shall review the complaint and investigation report, and review any other relevant materials or related documents associated with the complaint.

8.6. Council, in considering the appeal, may dismiss the appeal; may allow the appeal and impose or vary the discipline, as outlined in Section 7.

8.7. Within thirty (30) days of concluding the appeal, the Mayor shall send written notice of Council's decision to the Bylaw Enforcement Officer and Complainant.

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

8.9. Council's decision regarding the appeal is final and conclusive with no further right of appeal to the court.

**9. COMING INTO FORCE**

This Bylaw shall become effective when it has received third and final reading and has been signed by the Mayor and Chief Administrative Officer.


**READ** a first time this 17th day of February 2021.

**READ** a second time this 17th day of February 2021.

**UNANIMOUS CONSENT** to proceed to third reading 17th Day of February 2021.

**READ** a third and final time this 17th day of February 2021.

**SIGNED** this 17th day of February 2021.

  
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Mayor, Marge Hanssen

  
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C.A.O., Dwight Moskalyk

