

99-2023 Bylaw Enforcement Officer

A BYLAW OF SUMMER VILLAGE OF PELICAN NARROWS, IN THE PROVINCE OF ALBERTA, TO PROVIDE FOR THE PROVISION OF BYLAW ENFORCEMENT SERVICES AND TO SPECIFY THE POWERS AND DUTIES OF BYLAW ENFORCEMENT OFFICERS.

WHEREAS Section 7(i) of the *Municipal Government Act* provides that a council may pass bylaws respecting the enforcement of bylaws;

AND WHEREAS, Section 555 of the *Municipal Government Act* provides that a person who is appointed as a bylaw enforcement officer is, in the execution of enforcement duties, responsible for the preservation and maintenance of the public peace;

AND 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;

NOW THEREFORE, the Council for the Summer Village of Pelican Narrows, 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 otherwise provided:

"Bylaw Enforcement Officer" means an individual who has been appointed as a bylaw enforcement officer for the Summer Village of Pelican Narrows pursuant to this Bylaw;

"Chief Administrative Officer" or "CAO" means the individual appointed by Council as the Chief Administrative Officer of the Summer Village of Pelican Narrows or their delegate;

"Manager" means the employee of the Summer Village of Pelican Narrows who is responsible for managing the agreement with the Contracted Service Provider or supervising Bylaw Enforcement Officers;

"Misuse of Power" means any failure of a Bylaw Enforcement Officer, by either act or omission: to perform or carry out their duties according to law; or to carry out the duties and responsibilities assigned to them according to the terms and conditions of their appointment as a Bylaw Enforcement Officer.

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

"Summer Village of Pelican Narrows" means the municipal corporation of the **Summer Village of Pelican Narrows**, in the Province of Alberta or, if the context requires, the geographical area within the boundaries of the **Summer Village of Pelican Narrows**

"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 **Summer Village of Pelican Narrows**, 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. is authorized to enter into agreements on behalf of the Summer Village of Pelican Narrows, from time to time, with a Contracted Service Provider, on such terms and conditions as the Chief Administrative Officer deems advisable, subject to the requirements of this Bylaw and the Council- approved budget;
 - b. may appoint one or more individuals as Bylaw Enforcement Officers in accordance with this Bylaw;
 - c. may revoke, suspend, or modify the appointment of a Bylaw Enforcement Officer in accordance with this Bylaw and subject to the terms and conditions of the agreement between the Summer Village of Pelican Narrows] and the Contracted Service Provider;

- d. 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;
- e. may establish the standards of uniform, insignia, and identification for Bylaw Enforcement Officers, which may include adopting the uniform, insignia and identification of the Contracted Service Provider with their consent;
- f. will ensure complaints of Misuse of Power by Bylaw Enforcement Officers are investigated and disposed of in accordance with this Bylaw;
- g. will report on, or ensure the Contracted Service Provider reports on, the status and effectiveness of bylaw enforcement services within the Summer Village of Pelican Narrows], when requested to do so by Council; and
- h. may delegate any of the CAO's powers, duties, or functions contained in this section to any employee of the Summer Village of Pelican Narrows], including the option to further delegate those powers, duties, and functions.

PART 3 - BYLAW ENFORCEMENT OFFICERS

OATH OF OFFICE

- 8. A Bylaw Enforcement Officer must, before starting their duties, take the official oath prescribed by the *Oaths of Office Act*.

POWERS AND DUTIES

- 9. Subject to the terms and conditions of their appointment by the Chief Administrative Officer, and the terms and conditions of the agreement between the **Summer Village of Pelican Narrows** and the Contracted Service Provider, the powers and duties of Bylaw Enforcement Officers are as follows:
 - a. to enforce the bylaws of the **Summer Village of Pelican Narrows**
 - b. to provide public education on the bylaws and enforcement services;
 - c. to conduct routine patrols to ensure compliance with the bylaws;
 - d. to respond to and investigate complaints and alleged breaches of bylaws;
 - e. to 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. to 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. to issue warning notices, Municipal Tags and Violation Tickets for offences under bylaws;
 - h. to 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 in court and providing evidence as required;
 - i. to perform all other duties as may from time to time be assigned by the CAO.
 - j. Bylaw Enforcement Officers must comply with their appointment and exercise their powers and duties in accordance with all applicable Summer Village of Pelican Narrows] bylaws, policies, procedures, and guidelines.

OFFICER IDENTIFICATION

10. 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

11. A Bylaw Enforcement Officer's appointment ceases to be in effect:
 - a. when the Bylaw Enforcement Officer ceases to be engaged by the **Summer Village of Pelican Narrows** 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.
12. 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 any uniforms, equipment, Municipal Tag and Violation Ticket books, appointment certificates, and all other materials or equipment supplied to the Bylaw Enforcement Officer by the **Summer Village of Pelican Narrows**.
13. If the **Summer Village of Pelican Narrows** enters into an agreement with another Alberta **Summer Village of Pelican Narrows** as a Contracted Service Provider, the agreement may provide for complaints of Misuse of Power and discipline of Bylaw Enforcement Officers to be dealt with by the Contracted Service Provider in accordance with the disciplinary procedures adopted by that Summer Village of Pelican Narrows], by bylaw, otherwise the disciplinary procedures set out in this Part shall apply to all complaints regarding complaints of Misuse of Power by Bylaw Enforcement Officers.

PART 4 - DISCIPLINE

COMPLAINTS

14. If a person reasonably believes there has been a Misuse of Power by a Bylaw Enforcement Officer, the person may file a complaint in accordance with this Part.
15. A complaint made under subsection (14) must:
 - a. be made in writing,
 - b. include the full name of the complainant,
 - c. include contact information for the complainant,
 - d. indicate the specific reasons for the complaint and,
 - e. be sent to the **Summer Village of Pelican Narrows**, attention: Chief Administrative Officer.
16. Upon receipt of a complaint, the Chief Administrative Officer shall, as applicable, either:
 - a. ensure the complaint is processed in accordance with the procedures established in this Part.

17. Subject to clause 16(a), the CAO shall acknowledge receipt of a complaint, in writing, to the complainant and to the Bylaw Enforcement Officer against whom the complaint is made.

INVESTIGATIONS

18. the Manager shall proceed to investigate the complaint.
19. In conducting an investigation, the Manager may:
 - a. speak to anyone relevant to the complaint;
 - b. enter any **Summer Village of Pelican Narrows** facility or worksite relevant to the complaint;
 - c. access any records relevant to the complaint, except a record that contains information that is subject to solicitor-client privilege unless privilege has been waived.
20. The Bylaw Enforcement Officer against whom a complaint has been made shall be given the opportunity to make a full response to the complaint allegations and provide supporting evidence in writing to the Manager.
21. After receipt of a complaint, the Manager may refuse to investigate or discontinue the investigation if, in the Manager's opinion,
 - a. the complaint is frivolous, vexatious or made in bad faith; or
 - b. having regard to all of the circumstances, no investigation is necessary.
22. Upon the conclusion of the Manager's investigation the Manager shall issue a written decision summarizing the allegations, the findings and the Manager's conclusion as to whether the complaint is substantiated. A copy of the Manager's written decision will be provided to the complainant and to the Bylaw Enforcement Officer against whom the complaint was made.

APPEALS

23. An appeal from the decision of the Manager may be commenced by the Bylaw Enforcement Officer or the complainant by filing a written notice of the appeal with the Chief Administrative Officer within fourteen (14) days of receipt of the written decision issued by the Manager.
24. Upon receipt of an appeal the Chief Administrative Officer shall:
 - a. obtain from the Manager, a copy of the complaint, the response of the Bylaw Enforcement Officer to the allegations, and all other documents received or prepared in the course of the Manager's investigation, along with the written decision of the Manager;
 - b. provide the appellant with an opportunity to submit their reasons for the appeal, including the basis for concluding that the Manager erred in their written decision;
 - c. provide a copy of the written reasons for the appeal prepared by the appellant to the respondent; and

- d. give the respondent an opportunity to submit a written submission in response to the appellant's submissions, a copy of which will be provided by the CAO to the appellant.
25. The CAO shall conduct a review of all of the materials filed, and thereafter, shall:
- confirm, vary, or set aside the decision of the Manager; and
 - inform the appellant, the respondent, and the Manager of the CAO's decision, in writing, with reasons.
26. The decision of the CAO on an appeal arising from a decision of the Manager shall be final and conclusive with no further right of appeal to Council.

DISCIPLINARY ACTION

27. If it has been determined that a Misuse of Power has been committed by a Bylaw Enforcement Officer, appropriate disciplinary action may be taken including:
- issuing a written reprimand to the Bylaw Enforcement Officer;
 - suspending the Bylaw Enforcement Officer for a specified period of time; or
 - terminating the appointment of the Bylaw Enforcement Officer.

EFFECTIVE DATE

- 1) This Bylaw shall come into force and effect when it receives third reading and is duly signed.

Read a first time this 22 day of June, 2023



Mayor



Chief Administrative Officer

Read a second time this 13 day of September, 2023



Mayor




Chief Administrative Officer

Read a third time this 13 day of September, 2023



Mayor



Chief Administrative Officer