

SUMMER VILLAGE OF JARVIS BAY BYLAW ENFORCEMENT OFFICER BYLAW BYLAW #192-23

A BYLAW OF THE SUMMER VILLAGE OF JARVIS BAY, IN THE PROVINCE OF ALBERTA, RESPECTING THE ENFORCEMENT OF BYLAWS.

WHEREAS pursuant to:

Section 7 (i) of the *Municipal Government Act*, RSA 2000, C M-26, a Council may pass bylaws respecting the enforcement of bylaws;

Section 555 of the *Municipal Government Act*, a person who is appointed as a Bylaw Enforcement Officer is, in the execution of those duties, responsible for the preservation and maintenance of the public peace;

Section 556 of the *Municipal Government Act*, a Council must pass a bylaw specifying the powers and duties of Bylaw Enforcement Officers and establishing disciplinary procedures for misuse of power, including penalties and an appeal process applicable to misuse of power by Bylaw Enforcement Officers;

Part 13, division 4 of the *Municipal Government Act*, the municipality may carry out numerous enforcement powers and duties, which may be exercised by Bylaw Enforcement Officers;

Section 1(k)(vii) of the *Provincial Offences Procedure Act*, RSA 2008, c P-3, a person who is employed or retained by a municipality for the preservation and maintenance of the public peace in the exercise or discharge of their powers and duties will be considered a “peace officer” for the purposes of the Act;

The Council of the Summer Village of Jarvis Bay duly assembled enacts as follows:

PART 1 – TITLE, PURPOSE, DEFINITIONS, AND INTERPRETATION

1.1 This bylaw shall be known as the “*Bylaw Enforcement Officer Bylaw*.”

1.2 The purposes of the bylaw are to:

- a) prescribe the requirements for appointing Bylaw Enforcement Officers;
- b) delegate enforcement related powers, duties, and functions to the Chief Administrative Officer;
- c) specify the powers, duties and functions that may be delegated to Bylaw Enforcement Officers;
- d) establish disciplinary procedures for misuse of power by Bylaw Enforcement Officers; and
- e) deal with other matters respecting the enforcement of bylaws and other enactments.

1.3 In this bylaw, unless the context otherwise requires:

- (a) “*Administrator*” means the person appointed by Council to perform the duties of Administrator for the Municipality;

- (b) “By-Law” means by-laws of the Municipality;
- (c) “By-Law Enforcement Officer” means an employee of the Summer Village, or a person or company contracted by the Summer Village to execute the duties of enforcing Summer Village Bylaws and who has been appointed pursuant to this bylaw;
- (d) “CAO” means the Chief Administrative Officer of the Summer Village and the person who is appointed as such by the Summer Village Council, or anyone who is the acting Chief Administrative Officer;
- (e) “Committee” means the By-Law Enforcement Committee established under this By-Law;
- (f) “Council” means the municipal council of the Summer Village of Jarvis Bay;
- (g) “Municipality” means the Summer Village of Jarvis Bay.
- (h) “Offence Ticket” means any ticket or tag which is authorized under the *Municipal Government Act*, the *Provincial Offences Procedures Act*, and any other enactment, and which is issued or any bylaw offence;
- (i) “Notice” means any notice authorized to be given under any municipal bylaws or enactment.

1.3 The headings in this bylaw are for reference purposes only.

PART 2 – CAO ROLE

2.1 The CAO may:

- a) appoint individuals as Bylaw Enforcement Officers in accordance with this bylaw;
- b) take whatever actions or measures are necessary to eliminate an emergency in accordance with section 551 of the *Municipal Government Act*;
- c) add any amounts owing to the Summer Village to a tax roll in accordance with the *Municipal Government Act* or other enactment;
- d) authorize or require Bylaw Enforcement Officers to carry out any powers, duties, or functions necessary to fulfill their responsibility for the preservation and maintenance of the public peace;
- e) delegate any of the CAO’s powers, duties, or functions contained in this section to any employees of the Summer Village, including the option to further delegate those powers, duties, or functions;
- f) revoke, suspend, or modify appointments of Bylaw Enforcement Officers in accordance with this bylaw; and

- g) monitor and investigate complaints of misuse of power by Bylaw Enforcement Officers.

PART 3 – BYLAW ENFORCEMENT OFFICERS

- 3.1 In accordance with their appointment by the CAO, Bylaw Enforcement Officers may:
 - a) issue municipal tags and/or violation tickets for offences under 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 *Municipal Government Act*;
 - c) exercise all the powers, duties, and functions of a designated officer to issue written orders pursuant to sections 545 and 546 of the *Municipal Government Act*;
 - d) take whatever actions or means are necessary to remedy a contravention or prevent a re-occurrence of a contravention of the *Municipal Government Act*, an enactment that the Summer Village is authorized to enforce, or a bylaw in accordance with section 549 of the *Municipal Government Act*;
 - e) take whatever actions or measures are necessary to eliminate a danger to public safety caused by a structure, excavation, or hole, or to deal with the unsightly condition of property in accordance with section 549 of the *Municipal Government Act*; and
 - f) issue notices not to trespass under the *Trespass to Premises Act*.
- 3.2 The appointment of an individual as a Bylaw Enforcement Officer in accordance with this bylaw is deemed to be written authorization to issue violation tickets for offences under bylaws specified in the appointment as the case may require.
- 3.3 To be eligible for appointment as a Bylaw Enforcement Officer, individuals must provide to the CAO:
 - a) a recent criminal record check acceptable to the CAO;
 - b) demonstrated commitment to good character;
 - c) proof of adequate training necessary for performing the powers, duties, and functions of a Bylaw Enforcement Officer; and
 - d) any other requirement specified by the CAO.
- 3.4 The CAO may impose terms and conditions on a Bylaw Enforcement Officer appointment.
- 3.5 Prior to commencing their duties, all Bylaw Enforcement Officers must take the official oath contained in Schedule A.
- 3.6 Bylaw Enforcement Officers are subject to the supervision of and accountable to the CAO and must comply with their appointment and all Summer Village policies, directives, and procedures.

PART 4 – DISCIPLINE

- 4.1 If, in the opinion of the CAO, based on reasonable grounds, a Bylaw Enforcement Officer has misused a power, contravened their appointment of this bylaw, including any terms or conditions, or acted contrary to the public interest, the CAO may issue a written reprimand, suspend with or without pay for a period not exceeding six months, or revoke or modify the Bylaw Enforcement Officer's appointment.
- a) Prior to issuing a written reprimand, suspending, revoking, or modifying a Bylaw Enforcement Officer appointment, the CAO must provide the affected Bylaw Enforcement Officer with written notice of the proposed reprimand, suspension, revocation, or modification, including reasons.
 - b) The affected Bylaw Enforcement Officer may make written representation to the CAO respecting the proposed reprimand, suspension, revocation, or modification.
 - c) The CAO will provide the Bylaw Enforcement Officer, and the complainant, if any, with a written decision, including reasons, on the proposal to reprimand, suspend, revoke, or modify the Bylaw Enforcement Officer's appointment.
- 4.2 If an individual appointed as a Bylaw Enforcement Officer is no longer employed or retained by the Summer Village, or if the individual's role is modified such that the individual no longer requires appointment as a Bylaw Enforcement Officer or requires a modified appointment, the CAO may modify or revoke the Bylaw Enforcement Officer's appointment.
- 4.3 Where it is alleged that a By-Law Enforcement Officer, in performing his duties as a Peace Officer has committed a disciplinary default as defined by this By-law, the Administrator shall hold a hearing to determine if the By-Law Enforcement Officer has committed a disciplinary default in performing his duties as a Peace Officer.
- 4.4 Where the Administrator intends to conduct a hearing to determine whether a By-Law Enforcement Officer has committed a disciplinary breach, the following procedure shall be followed:
- (a) Adequate notice (a minimum of 2 days) in writing shall be given to the By-Law Enforcement Officer who is alleged to have committed disciplinary breach and to such other parties that the Administrator considers to be affected by the alleged disciplinary breach.
 - (b) At the hearing, the Administrator shall give the By-Law Enforcement Officer a reasonable opportunity of furnishing relevant evidence.
 - (c) The Administrator shall inform the By-Law Enforcement Officer of the facts in his possession, or the allegation made to him in sufficient detail to:
 - i. Permit him to understand the facts or allegations; and
 - ii. Afford him a reasonable opportunity to furnish relevant evidence to contradict or explain the facts or allegations.
 - (d) The Administrator shall give the By-Law Enforcement Officer or his representative an adequate opportunity of making

representations by way of argument to the Administrator.

- 4.5 At the conclusion of a hearing to determine whether there has been a disciplinary breach, the Administrator may, by a decision in writing with reasons, do the following:
- (a) Reprimand in writing to the By-Law Enforcement Officer;
 - (b) Suspend the By-Law Enforcement Officer from acting as a By-Law Enforcement Officer for the Municipality, but such period of suspension shall not exceed 6 months;
 - (c) Recommend to Council that the appointment of the By-Law Enforcement Officer be terminated.

PART 5 – APPEAL PROCESS

- 5.1. An appeal from the decision of the Administrator may be commenced by the By-Law Enforcement Officer who is the subject of the disciplinary hearing by filing a written notice of the appeal with the Chairman of the Committee within 30 days of the receipt by the By-Law Enforcement Officer of the written decision of the Administrator.
- 5.2. The Committee shall hold a hearing into the appeal within 40 days of the receipt of the appeal by the Chairman of the Committee.
- 5.3. The Committee shall give reasonable notice of the hearing to the appellant, the Administrator, and to such other parties as the Committee consider to be affected by the hearing.
- 5.4. In conducting a hearing, the Committee shall follow, with necessary modification being made, the procedure as set out in Clause 7 of this By-Law.
- 5.5. In determining an appeal, the Committee may confirm, revoke, or vary the decision or any conditions attached to a decision by the Administrator and may,
- (a) Reprimand in writing the By-Law Enforcement Officer;
 - (b) Suspend the By-Law Enforcement Officer from acting as By-Law Enforcement Officer for the Municipality but such suspension shall not exceed 6 months;
 - (c) Terminate the appointment of the person as a By-Law Enforcement Officer for the Municipality.
- 5.6 The Committee's decision shall be in writing with reasons and shall be made within 15 days of the conclusion of the hearing.

PART 6 – DISCIPLINARY DEFAULTS

- 6.1. For purposes of this By-Law, the following shall be disciplinary defaults:
- (a) *Discreditable conduct*, where the By-Law Enforcement Officer
 - i. acts in a disorderly or inappropriate manner, or in a manner prejudicial to discipline or likely to bring discredit

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- ii. upon the reputation of By-Law Enforcement Officers;
 - iii. uses oppressive or tyrannical conduct towards an inferior in rank;
 - iv. uses profane, abusive, or insulting language to any member of a police force, special constable, or By-Law Enforcement Officer;
 - v. willfully or negligently makes any false complaint or statement against a peace officer;
 - vi. is guilty of an indictable offense under a federal statute or an offense punishable upon summary conviction under the Criminal Code of Canada;
 - vii. withholds or suppresses a complaint or report against a peace officer; or
 - viii. abets, connives or is knowingly an accessory to a general default described in the By-Law.
- (b) *Insubordination*, where the By-Law Enforcement Officer by way of action, and without lawful excuse, disobeys, omits or neglects to conduct any lawful order.
- (c) *Neglect of duty*, where the By-Law Enforcement Officer,
- i. without lawful excuse neglects or omits promptly and diligently to perform a duty as a By-Law Enforcement Officer;
 - ii. fails to work in accordance with orders, or leave an area, detail, or other place of duty without due permission or sufficient cause;
 - iii. fails, when knowing where an offender is to be found, to report him; or,
 - iv. fails to report a matter that it is his duty to report.
- (d) *Deceit*, where the By-Law Enforcement Officer,
- i. knowingly makes or signs a false statement in an official document or book;
 - ii. willfully or negligently makes a false, misleading, or inaccurate statement pertaining to official duties; or
 - iii. without lawful excuse destroys, mutilates, or conceals an official document or record or alters or erases any entries therein.
- (e) *Breach of confidence*, where the By-Law Enforcement Officer,
- i. divulges any matter which it is his duty to keep secret;
 - ii. gives notice, directly or indirectly, to any person against whom any warrant or summons has been or is about to be issued, except in the lawful execution of such warrant or service of such summons; or
 - iii. without proper authorization from a superior or in contravention of any rules of the Administrator communicates to the news media or to any unauthorized person any law enforcement matter which could be injurious to any person or investigation;
 - iv. without proper authorization from the Administrator shows to any person not a peace officer or any unauthorized member of the By-Law Enforcement Officer group any book or written or printed paper, document or report relating to any law enforcement matter that is the property of or in the custody of the Municipality; or

- v. makes any anonymous communication to the Administrator.
- (f) *Miscellaneous*, where the By-Law Enforcement Officer,
 - i. fails to account for or to make a prompt, true return of money or property received in an official capacity;
 - ii. directly or indirectly solicits or receives a gratuity, present, pass, subscription, or testimonial without the consent of the Administrator;
 - iii. places himself under a pecuniary or other obligation to a person in respect of whose conduct or business operation or employment the member may have to report or give evidence; or
 - iv. improperly uses his position as a By-Law Enforcement Officer for private advantage.
- (g) *Unlawful or unnecessary exercise of authority*, where the By-Law Enforcement Officer is unnecessarily discourteous or uncivil to a member of the public.
- (h) *Consuming intoxicating liquor or drugs in a manner prejudicial to duty*, where the By-Law Enforcement Officer,
 - i. while on duty is unfit for duty through consuming intoxicating liquor or drugs;
 - ii. reports for duty and is unfit for duty through consuming intoxicating liquor or drugs; or
 - iii. demands, persuades, or attempts to persuade another person to give or purchase or obtain for a By-Law Enforcement Officer while on duty, any intoxicating liquor, or drugs.

PART 7 – SEVERABILITY PROVISION

7.1 Should any provision of this Bylaw be invalid, then such invalid provision shall be severed, and the remaining Bylaw shall be maintained.

PART 8 – REPEAL OF BYLAW

8.1 Upon third reading Bylaw #99-99 is hereby rescinded.

PART 9 – EFFECTIVE DATE

9.1 This Bylaw shall come into force and take effect on its passing.

INTRODUCED AND GIVEN FIRST READING this 7th day of February 2023.

GIVEN SECOND READING this 7th day of February 2023.

GIVEN THIRD AND FINAL READING this 7th day of February 2023.

Julie Maplethorpe, Mayor

Tanner Evans, C.A.O.

SCHEDULE "A"

OATH OF OFFICE

CANADA)

PROVINCE OF ALBERTA)

I, **«First Name» «Last Name»**, swear that I will diligently, faithfully and to the best of my ability execute according to law the office of Bylaw Enforcement Officer as stipulated on my appointment as a Bylaw Enforcement Officer. So, help me God.

TAKEN and subscribed before me) At Sylvan Lake, Alberta)

This «Day», day of «Month» (A.D., «Year»)

--- OR ---

CANADA)

PROVINCE OF ALBERTA)

I, **«First Name» «Last Name»**, solemnly and truly declare and affirm that I will diligently, faithfully and to the best of my ability execute according to law the office of Bylaw Enforcement Officer as stipulated on my appointment as a Bylaw Enforcement Officer.

TAKEN and subscribed before me) At Sylvan Lake, Alberta)

This «Day», day of «Month» (A.D., «Year»)