

Summer Village of Silver Beach
BYLAW NO. 2018-05
Bylaw Enforcement Officer Bylaw

A BYLAW OF THE SUMMER VILLAGE OF SILVER BEACH IN THE PROVINCE OF ALBERTA FOR THE PROVISION OF A BYLAW ENFORCEMENT OFFICER AS A DESIGNATED OFFICER AND TO ESTABLISH POWERS, DUTIES, AND DISCIPLINARY PROCEDURES.

WHEREAS Section 7(i) of the *Municipal Government Act*, Revised Statutes of Alberta 2000, c. M-26 provides that a Municipal Council may pass Bylaws respecting the enforcement of Bylaws;

AND WHEREAS Section 203 of the *Municipal Government Act* provides that Council may by Bylaw delegate any of its powers, duties, or functions;

AND WHEREAS Section 209 of the *Municipal Government Act* provides that the Chief Administrative Officer may delegate any of his/her powers, duties, or functions;

AND WHEREAS Section 210 of the *Municipal Government Act* provides for the establishment of a Designated Officer;

AND WHEREAS pursuant to Sections 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;

AND WHEREAS pursuant to Sections 556 of the *Municipal Government Act*, a council must pass a Bylaw specifying the powers and duties of Bylaw enforcement officers, and to provide disciplinary and appeal procedures for misuse of power by Bylaw enforcement officers;

AND WHEREAS pursuant to 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;

AND WHEREAS pursuant Section 1(k)(iv) of the *Provincial Offences Procedures Act*, Revised Statutes of Alberta 2000, c. P-34, a person who is employed or retained by a municipality and provided written authorization to issue violation tickets under the Act will be considered a "peace officer" for the purposes of that Act;

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

Section 1 – Title

This Bylaw may be cited as the “*Bylaw Enforcement Officer Bylaw*”.

Section 2 – Purpose

The purpose of this Bylaw is to provide for the establishment of Bylaw Enforcement Officer positions and to specify the powers, duties, and responsibilities of Bylaw Enforcement Officers.

Section 3 – Definitions

In this Bylaw, the following terms shall mean:

- (a) “Bylaw” means a Bylaw of the Summer Village,
- (b) “Bylaw Enforcement Officer” means a person who:
 - (i) is an employee of the Summer Village or a person or company contracted by the Summer Village to carry on the duties of enforcing Summer Village Bylaws and who has been appointed pursuant to this Bylaw;
 - (ii) takes the official oath prescribed by the *Oaths of Office Act*, RSA 2000, c. O-1 prior to the commencement of his/her duties.
- (c) “CAO” means the Chief Administrative Officer of the Summer Village.
- (d) “Council” means the Council of the Summer Village of Silver Beach.
- (e) “MGA” means the *Municipal Government Act*, RSA 2000, c. M-26, as amended.
- (f) “Municipal tag” means a form alleging an offence of a municipal Bylaw allowing for voluntary payment of the prescribed fine.
- (g) “Notice” means any notice authorized to be given under any municipal Bylaw.
- (h) “Offence ticket” means any ticket or tag which is authorized by the *Municipal Government Act* and is in a form authorized under the *Provincial Offences Procedures Act*, RSA 2000, c. P-34 issued for any offence in which a penalty may be paid out of court in lieu of appearing to answer a summons.
- (i) “Summer Village” means the Summer Village of Silver Beach.
- (j) “Violation ticket” has the same meaning as defined in the *Provincial Offences Procedure Act*, RSA 2000, c. P-34.

Section 4 – Appointment

- 4.1. The position of Bylaw Enforcement Officer is hereby established as a Designated Officer.
- 4.2. The CAO may appoint one or more Bylaw Enforcement Officer(s).
- 4.3. Bylaw Enforcement Officers are under the direct supervision of and report directly to the CAO.
- 4.4. The CAO may delegate any of the CAO's powers, duties, or functions contained in this section to any employee of the Summer Village, including the option to further delegate those powers, duties, or functions.

Section 5 – Powers, Duties, and Responsibilities

- 5.1. In accordance with their appointment by the CAO, Bylaw Enforcement Officers may:
 - (a) issue warnings, municipal tags, notices 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 s. 542 of the *MGA*;
 - (c) exercise all the powers, duties, and functions of a designated officer to issue written orders pursuant to s. 545 and 546(0.1) of the *MGA*;
 - (d) take whatever actions or measures are necessary to remedy a contravention of the *MGA*, an enactment that the Summer Village is authorized to enforce, or a Bylaw in accordance with s. 549 of the *MGA*;
- 5.2. take whatever actions or measures are necessary to eliminate a danger to the public safety caused by a structure, excavation, or hole or to deal with the unsightly condition of a property in accordance with s. 550 of the *MGA*;
- 5.3. Powers and duties of Bylaw Enforcement Officers also include:

- (a) To enforce the Bylaws of the Summer Village;
- (b) To respond to, and investigate complaints;
- (c) To conduct routine patrols of the Summer Village for the purpose of preventing and detecting violations;
- (d) To maintain liaison with the RCMP, Provincial Agencies and neighbouring municipalities;
- (e) To prepare all necessary documentation required for attendance at court proceedings and ensure proper filing of same;
- (f) To report to the CAO monthly of all activity in regards to Bylaw enforcement;
- (g) To report to the CAO or his/her designate whether any Bylaws are difficult to enforce, that a report be provided with recommendations for deletion or revision.
- (h) Any other duties dictated by the CAO as required.

5.4. 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 the offences under Bylaws of the Summer Village.

5.5. A Bylaw Enforcement Officer may enforce the Bylaws of another municipality within the boundaries of that municipality when the Summer Village has entered into an agreement to provide such a service outside the boundaries of the Summer Village.

Section 6 – Disciplinary Policy

6.1 A formal complaint against a Bylaw Enforcement Officer shall be made in writing.

6.2 Any anonymous complaints against a Bylaw Enforcement Officer shall not be investigated.

6.3 When a formal complaint is received by the Summer Village against a Bylaw Enforcement Officer, the CAO shall:

- (a) Advise the complainant of the receipt of the complaint within thirty (30) days;
- (b) Notify the Bylaw Enforcement Officer involved of the complaint if appropriate;

- (c)** Investigate the allegations of the complaint by speaking with the complainant, any witnesses, and the Bylaw Enforcement Officer involved, and any other person who may have knowledge relevant to the occurrence;
- (d)** Review any relevant documents or other information in existence pertaining to the occurrence including, but not limited to:
 - (i)** Occurrence or Incident Reports;
 - (ii)** Dispatch logs;
 - (iii)** Notebooks;
 - (iv)** Court documents;
 - (v)** Legal documents;
 - (vi)** Audio or video recordings.
- (e)** Advise the complainant and the Bylaw Enforcement Officer of the status of the investigation at least once every 45 days;
- (f)** Upon conclusion of the investigation by the CAO shall notify the complainant, and the Bylaw Enforcement Officer involved of the disposition of the complaint as follows:
 - (i)** “the complaint is unfounded” meaning that on the basis of a thorough investigation that no reasonable belief exists that the complaint has merit or basis;
 - (ii)** “the complaint is unsubstantiated” means that on the basis of a thorough investigation there is insufficient evidence to determine the facts of the complaint and that it may or may not have occurred;
 - (iii)** “the complaint is found to have merit in part” means that on the basis of a thorough investigation that a reasonable belief exists that the Bylaw Enforcement Officer engaged in misconduct in regards to portion(s) of the complaint, but not in its entirety;
 - (iv)** “the complaint is found to have merit in whole” means that on the basis of a thorough investigation that a reasonable belief exists that the Bylaw Enforcement Officer engaged in misconduct in regards to the entirety of the complaint;
- (g)** No investigation shall be required if the CAO determines the complaint to be frivolous, vexatious, made in bad faith, or relating to

the interpretation or application of legislation, investigation outcome, or action taken as a result of an investigation.

- 6.4** In the event a complaint is found to have merit in whole or in part, the CAO shall take appropriate disciplinary action.

Section 7 – Severability

- 7.1** Should any section or part of this Bylaw be found to have been improperly enacted, then such section or part shall be regarded as being severable from the rest of this Bylaw and the Bylaw remaining after such severance shall be effective and enforceable as if the section found to be improperly enacted had not been enacted as part of this Bylaw.

Section 9 – Coming into Force

This Bylaw shall come into force and effect upon final passing.

Read a first time this 5th day of November, 2018.

Read a second time this 5th day of November, 2018.

Read a third time, by unanimous consent, and finally passed, this 5th day of November, 2018.

SUMMER VILLAGE OF SILVER BEACH

Mayor

Chief Administrative Officer