

BYLAW 98 - 01

OF THE MUNICIPAL DISTRICT OF OPPORTUNITY NO. 17 In The Province of Alberta

Being a Bylaw of the Municipal District of Opportunity No.17 to allow for the establishment of Bylaw Enforcement Officer positions and specify the powers, duties and responsibilities of a Bylaw Enforcement Officer.

WHEREAS, under provisions of the Municipal Government Act, being Chapter M-26.1, R.S.A. 1994, and amendments thereto, the Council of the Municipal District of Opportunity No.17 may by bylaw, specify the powers and duties of Bylaw Enforcement Officers, and must establish disciplinary procedures for misuse of power, including penalties and an appeal process applicable to misuse of power by Bylaw Enforcement Officers.

NOW THEREFORE, the Council of the Municipal District of Opportunity No. 17, duly assembled, enacts as follows:

1. NAME OF BYLAW

This bylaw shall be known as the Bylaw Enforcement Officer Bylaw.

2. DEFINITIONS

- a) "BYLAW" means all bylaws of the Municipal District of Opportunity duly enacted pursuant to the M.G.A. and/or any other Statutes of the Province of Alberta;
- b) "M.G.A." means the Municipal Government Act, Revised Statutes of the Province of Alberta, 1994, and amendments thereto;
- c) "BYLAW ENFORCEMENT OFFICER" means a employee of the Municipal District of Opportunity No.17 appointed as such and who, in the execution of his or her duties, is responsible for the preservation and maintenance of the public peace. Where reference is required, a Bylaw Enforcement Officer may also be called a Interim Bylaw Enforcement Officer, Protective Services Officer, Peace Officer, or Special Constable if the Bylaw Enforcement Officer is so authorized by the Alberta Department of Justice;
- d) "MANAGER" means the Chief Administrative Officer of the Municipal District of Opportunity No. 17, a person duly appointed pursuant to the M.G.A. and the Municipality's Chief Administrative Bylaw;
- e) "COUNCIL" means the Council of the Municipal District of Opportunity No. 17, elected pursuant to the Local Authorities Election Act;
- f) "CONDITIONAL BYLAW ENFORCEMENT OFFICER" means an employee of the Municipal District of Opportunity No.17 appointed as such and who, in the execution of his or her duties, is only responsible for the enforcement of those bylaws or sections of bylaws as specified in the appointment, under such conditions as specified in the appointment and limited to the powers and duties as specified in the appointment;
- g) "PEACE OFFICER" means a person employed for the purposes of preserving and maintaining the public peace;
- h) "PROPER AUTHORIZATION" means obtaining written authorization from the manager;
- i) "MUNICIPALITY" means the Municipal District of Opportunity No. 17.

APPOINTMENT

3. The manager may establish one or more Bylaw Enforcement Officer positions within the Municipality.
4. The manager may appoint, promote or dismiss individuals, to the position of Bylaw Enforcement Officer or Conditional Bylaw Enforcement Officer, for the purposes of enforcing compliance of the Municipality's bylaws, and enforcement of the Provincial Statutes and Acts as authorized by the Alberta Department of Justice.
5. If the Bylaw Enforcement Officer is absent from his or her position, is off duty, is out of the office or in another area, or requires assistance, the manager may take on any of the duties and powers of a Bylaw Enforcement Officer or appoint an Interim Bylaw Enforcement Officer or Conditional Bylaw Enforcement Officer for the purposes of enforcing compliance of the Municipality's bylaws.

6. Bylaw Enforcement Officer or Conditional Bylaw Enforcement Officer shall take the official oath prescribed by the Oaths of Office Act before starting his or her duties.
7. The powers and duties of a Bylaw Enforcement Officer for the Municipal District of Opportunity shall be as follows:
 - a) ensure that all bylaws of the municipality are enforced;
 - b) respond to and investigate complaints;
 - c) conduct routine patrols;
 - d) issue notices, tickets or tags;
 - e) prosecution of any bylaw contravention including appearances in court to provide evidence;
 - f) service of summonses;
 - g) ensure proper filing of information and documentation of circumstances;
 - h) enforcement of specific Provincial Acts as authorized by the Department of Justice;
 - i) perform all other duties as may from time to time be assigned by the manager.

RULES, COMPLAINTS AND APPEALS

8. The Council may, by resolution, makes rules governing the operation of the Bylaw Enforcement Department, including:
 - a) the conduct, dress, deportment and duties of the department;
 - b) the prevention of neglect or abuse in the discharge of duties;
 - c) the efficient discharge of duties by members of the Bylaw Enforcement Officer Department;
 - d) hearings for an appeal of a Bylaw Enforcement Officer or Conditional Enforcement Officer who feels himself aggrieved by disciplinary action against him or her under this bylaw.
9. The process for the handling of complaints and appeals arising from matters respecting the conduct or performance of duty of a Bylaw Enforcement Officer or Conditional Bylaw Enforcement Officer is established as follows:
 - a) complaints, including those received by Council, respecting the conduct or performance of duty of any member of the Bylaw Enforcement Department shall be directed to the manager for investigation and any action he considers advisable;
 - b) complaints shall be in writing and signed by the complainant;
 - c) the manager shall cause any complaint to be investigated and as soon as possible after receipt of the said complaint, shall inform the complainant in writing as to whether he has found all or any portion of the said complaint to be justified and whether disciplinary action is to be taken, and shall also inform the complainant of his right of appeal to the Council;
 - d) the complainant may, within 15 days after receipt of the information referred to in Section 9 c), file with the Council a notice of appeal setting forth the grounds of which the appeal is based;
 - e) a member of the Bylaw Enforcement Department who feels himself aggrieved by disciplinary action taken against him under this bylaw or regulations or rules of the Council may, within 15 days after being advised of disciplinary action, file with the Council a notice of appeal setting forth the grounds of which the appeal is based;
 - f) when an appeal is filed under this section, any disciplinary action taken as a result of the decision from which the appeal is taken, shall be stayed without any further order until the appeal is decided upon;
 - g) in determining an appeal under Section 9 d) and 9 e), the Council may:
 - i) dismiss the appeal;
 - ii) allow the appeal;
 - iii) revoke or vary any disciplinary action imposed;
 - iv) affirm the disciplinary action imposed;
 - v) refer the matter back to the manager for review.
 - h) the Council shall in writing inform:
 - i) the complainant in the case of an appeal under Section 9 d) or the appellant in the case of an appeal under Section 9 e);
 - ii) the manager;as to the decision of Council.
10. A Bylaw Enforcement Officer or Conditional Bylaw Enforcement Officer, respecting the conduct or performance of duty, may be liable to disciplinary action if the offense includes:
 - a) DISCREDITABLE CONDUCT, an Officer who

- i) acts in a disorderly or inappropriate manner prejudicial to discipline or likely to bring discredit upon the reputation of the Bylaw Enforcement Department, or
 - ii) uses profane, abusive or insulting language to any member of a police force, special constable or Bylaw Enforcement Officer, or
 - iii) willfully or negligently makes any false complaint or lays a false complaint or statement against any person or another peace officer, or
 - iv) is guilty of an indictable offense under a federal statute or an offense punishable upon summary conviction under the Criminal Code of Canada, or
 - v) withholds or suppresses a complaint or report against any person or another peace officer, or
 - vi) abets, connives or is knowingly an accessory to a general default described in this by-law.
- b) INSUBORDINATION, an Officer who
 - i) by work or action, and without lawful excuse, disobeys, omits or neglects to carry out any lawful order, or
 - ii) by word or action is unwilling to submit to the authority of the manager.
- c) NEGLECT OF DUTY, an Officer who
 - i) without lawful excuse neglects or omits promptly and diligently to perform a duty as a Bylaw Enforcement Officer, or
 - ii) fails to work in accordance with orders, or leaves an area, detail or other place of duty without due permission or sufficient cause, or
 - iii) fails to report a matter that it is his duty to report.
- d) DECEIT, an Officer who
 - i) knowingly makes or signs a false statement in an official document or book, or
 - 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 enter therein.
- e) BREACH OF CONFIDENCE, an Officer who
 - i) indulges any matter which it is his duty to keep secret, or
 - 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 policy or procedure of the Municipality communicates to the news media or to any unauthorized person any law enforcement matter which could be injurious to any person or investigation, or
 - iv) without proper authorization 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 employer of the Bylaw Enforcement Officer or the Conditional Bylaw Enforcement Officer, or
- f) CORRUPT PRACTICE, an Officer who
 - i) fails to account for or to make a prompt, true return of money or property received in an official capacity, or
 - ii) directly or indirectly solicits or receives a gratuity, present, pass, subscription or testimonial without the consent of the manager, or
 - iii) places himself under a pecuniary or other obligation to a person in respect of whose conduct or business operation or employment the Officer may likely have to report or give evidence, or
 - iv) improperly uses his position as a Bylaw Enforcement Officer for private advantages.
- g) UNLAWFUL OR UNNECESSARY EXERCISE OF AUTHORITY, an Officer who
 - i) is unnecessarily discourteous or uncivil to a member of the public, or
 - ii) uses excessive force in the execution of his or her duties without just cause as a Peace Officer, or
 - iii) uses excessive authority of his or her position with his co-workers
- h) USE OF INTOXICATING LIQUOR OR DRUGS IN A MANNER PREJUDICED TO DUTY, an Officer who
 - i) while on duty is unfit for duty due to the use of liquor, drugs or intoxicants, or
 - ii) reports for duty and is unfit for duty due to personal use of liquor, drugs, or intoxicants, or

- iii) personally uses, consumes or receives from another person liquor, drugs or intoxicants while on duty, or
- iv) demands, persuades or attempts to persuade another person to give or purchase or obtain for a Bylaw Enforcement Officer while on duty, any liquor, drugs, or intoxicants.

11. Any Bylaw Enforcement Officer or Conditional Bylaw Enforcement Officer who contravenes or disobeys, or refuses, or neglects to obey any provision of this bylaw by

- a) doing any act or thing which he is prohibited from doing herein;
- b) failing to do any act or thing he is required to do herein;

shall be subject to an inquiry by the manager, and upon conclusion of the inquiry, the manager shall in writing with reason, do the following

- i) reprimand the Officer, or
- ii) dismiss the claim, or
- iii) suspend the Officer from acting as a Bylaw Enforcement Officer or Conditional Bylaw Enforcement Officer for the Municipal District of Opportunity, but such period of suspension shall not exceed one (1) month, or
- iv) terminate the appointment of the Officer.

COMMENCEMENT


12. This bylaw comes into full force and effect upon receiving third and final reading.

READ a first time this 8 day of April, 1998.

READ a second time this 8 day of April, 1998.

READ a third time and finally passed this 8 day of April, 1998.


CHAIRMAN


MANAGER