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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**

- 1.1 "Bad Faith" means filing the complaint with intentional dishonesty or with the intent to mislead,
- 1.2 "Bylaw" means a Bylaw or any of the Bylaws of the Municipality,
- 1.3 "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,
- 1.4 "Chief Administrative Officer" means the Chief Administrative Officer of the municipality or their designate,

- 1.5 "Council" means the municipal council of the Summer Village of NAKAMUN PARK,
- 1.6 "Frivolous" means a complaint made merely to harass or embarrass the responding party,
- 1.7 "Misuse of Power" of the Bylaw Enforcement Officer shall mean any one or more of the following:
- i. Failure to perform the duties of the office are required by law;
  - ii. Failure to carry out the duties and responsibilities granted to the position of Bylaw Enforcement Officer in their appointment to the office,
- 1.8 "Municipality" shall mean the Summer Village of Nakamun Park,
- 1.9 "Vexatious" means a complaint that has no basis in fact or reason, with its purpose to bother, annoy, and or embarrass the Bylaw Enforcement Officer or the Municipality.

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

- 1.1 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**

- 1.1 The Powers and Duties of the Bylaw Enforcement Officer for the Summer Village of Nakamun Park shall be:
- 1.2 To enforce the municipal bylaws with the boundaries of the municipality;
- 1.3 To follow the direction of the Chief Administrative Officer and to report the Chief Administrative Officer as required;
- 1.4 To response and investigate complaints related to animal control/dangerous animals, invasive animals, untidy/unsightly , noise, parking, traffic and various other municipal bylaws currently existing or as may lawfully arise, whether those complaints arise from the public or the municipality through

the Chief Administrative Officer, or designate;

- 1.5 To conduct routine patrols of the municipality;
- 1.6 To issue notices, tickets, and/or tags, as may be appropriate;
- 1.7 To assist in the prosecution of bylaw contravention, including appearing in court to provide evidence as may be required;
- 1.8 To perform all other duties as may be assigned by the Chief Administrative Officer from time to time;
- 1.9 To take the Oath of Office as prescribed by the Oaths of Office Act upon being appointed to the office of Bylaw Enforcement Officer and to carry about their person at all such times when acting as Bylaw Enforcement Officer evidence in writing of their appointment and authorities;
- 1.10 The Bylaw Enforcement Officer will be a Designated Officer of the municipality for the purpose of enforcement of orders under section 545 and 546 of the Municipal government Act.

## **5. COMPLAINTS**

- 1.1 In order to ensure a transparent and accountable bylaw enforcement mechanism within the municipality, as is required under the Municipal Government Act, the Summer Village of Nakamun Park hereby established the follow to receive, review and process complaints:
  - i. Any complaint pertaining to the misuse of power by the Bylaw Enforcement Officer shall be dealt with in accordance with the provisions set out in this section and shall be forwarded directly to the Chief Administrative Officer for review and action;
  - ii. All complaints shall be in writing and addressed to the Chief Administrative Officer;
  - iii. Upon receipt of any complaint, the complaint shall be immediately forwarded to the Chief Administrative Officer;

- iv. The Chief Administrative Officer shall provide to the complainant within thirty (30) days, in writing, acknowledgement that the complaint has been received;
- v. 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**

- 1.1 In determining the validity of a Complaint, the Chief Administrative Officer, or their designate, shall conduct an investigation by the following method:
  - i. 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;
  - ii. 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;
  - iii. 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;
  - iv. If the Chief Administrative Officer finds determined a misuse of power occurred, the appropriate corrective disciplinary measures shall be commenced.
  - v. 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;

- vi. 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:
  - a. Frivolous,
  - b. Vexatious
  - c. Bad Faith
- vii. Where a Complaint is not investigated for any of the noted reasons under 6.1.1(vi.), 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;
- viii. 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**

- 1.1 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:
  - i. A Warning;
  - ii. A Written Reprimand;
  - iii. Forfeiture of Hours of Work Accumulated Through Overtime, Not Exceeding Ten (10) Hours;
  - iv. Suspension From Duties Without Pay for A Period Not to Exceed Ten (10) Hours of Work;
  - v. Dismissal.
- 1.2 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.

- 1.3 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.
- 1.4 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.
- 1.5 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:
  - i. Be removed from the Bylaw Enforcement Officer's file and destroyed, and
  - ii. Not be used or referred to in any future proceedings respecting that Bylaw Enforcement Officer.
- 1.6 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:
  - i. Be removed from the Bylaw Enforcement Officer's file and destroyed, and
  - ii. Not be used or referred to in any future proceedings respecting the Bylaw Enforcement Officer.

## **8. APPEAL PROCEDURES**

- 1.1 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.

- 1.2 Where it is alleged that a Bylaw Enforcement Officer, in carrying out his/her duties, is guilty of misconduct as set out in this Bylaw, and wishes to appeal, the Chief Administrative Officer shall appoint an investigator to investigate such allegations, with such investigation to include:
- i. acknowledging receipt of any complaint received to the complainant, if the allegation stems from a complaint;
  - ii. meeting with the Bylaw Enforcement Officer alleged to have committed such misconduct and (if applicable) the complainant or other persons the investigator in his or her sole discretion considers to have information necessary to assess the allegations;
  - iii. informing the Bylaw Enforcement Officer of the facts in the investigator's possession or of the allegations received in sufficient detail to:
    - a) permit him/her to understand the facts or allegations;
    - b) afford him/her a reasonable opportunity to respond to the allegations, including to furnish relevant evidence and to contradict or explain the facts or allegations; and
    - c) to provide the Bylaw Enforcement Officer or his/her representative an adequate opportunity to make representations in writing to the investigator if they elect to do so.

## 9. DECISION

- 1.1 At the conclusion of the investigation, the investigator shall issue a decision in writing, with reasons, either dismissing the allegation, or confirming that the Bylaw Enforcement Officer has committed misconduct in carrying out his/her duties. If there is a finding of misconduct, the investigator shall also set out whether disciplinary action, including any of the following, shall apply:

- i. reprimand in writing the Bylaw Enforcement Officer
- ii. suspend without pay the Bylaw Enforcement Officer from acting as a Bylaw Enforcement Officer for the Summer Village for a term not exceed six months; or
- iii. terminate the appointment of the Bylaw Enforcement Officer.

**10. COMING INTO FORCE**

This Bylaw repeals Bylaw 2021-3 and comes into full force and effect upon the third and final reading and signing of this Bylaw.

**READ** a first time this 20 day of August, 2024.

**READ** a second time this 20 day of August, 2024.

**UNANIMOUS CONSENT** to proceed to third reading 20 day of August, 2024.

**READ** a third and final time this 20 day of August, 2024.

**SIGNED** this 20 day of August, 2024.

  
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Mayor, Keith Pederson

  
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Chief Administrative Officer, Dwight Moskalyk