

## YELLOWHEAD COUNTY

### BYLAW NO. 10.05

*Being a Bylaw of Yellowhead County in the Province of Alberta, for the purpose of establishing the powers and duties and disciplinary procedures relating to Bylaw Enforcement Officers in their capacity as preservers and maintainers of the public peace.*

**WHEREAS**, Section 7 of the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended, (hereafter the "*Municipal Government Act*") provides that Council may pass bylaws for municipal purposes;

**AND WHEREAS**, Section 5 of the *Municipal Government Act* provides that a municipality has the powers, duties and functions given to it under the *Municipal Government Act* and other enactments;

**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 powers, duties or functions;

**AND WHEREAS**, Section 556 of the *Municipal Government Act* provides that the powers and duties of bylaw enforcement officer, and the disciplinary procedures applicable to bylaw enforcement officers, must be specified by Council of the municipality;

**AND WHEREAS**, all references to legislation are Alberta statutes unless otherwise stated;

**AND WHEREAS**, Yellowhead County deems it necessary to have bylaw enforcement for peace and order within the community;

**NOW THEREFORE**, the Council of Yellowhead County, in Council duly assembled, hereby enacts as follows:

1. This bylaw shall be cited as the "Bylaw Enforcement Officer Bylaw."
2. In this bylaw, including this section:
  - a. "Bylaw" means a bylaw of the County;
  - b. "Bylaw Enforcement Officer" means an employee of the County who has been appointed pursuant to this Bylaw;
  - c. "County" means Yellowhead County;
  - d. "Chief Administrative Officer" means the chief administrative officer of the County and the person who is appointed as such by the County Council, or anyone who is the acting chief administrative officer of the County;
  - e. "Council" means Council of the County;
  - f. "Director of Emergency Services" means a person appointed as such by the County of his delegate;

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- g. "Offence Ticket" means any ticket of tag which is authorized under the *Municipal Government Act*, the *Provincial Offences Procedures Act*, and any other enactment, and which is issued for any bylaw offence;
  - h. "Notice" is any notice authorized to be given under any County bylaw or enactment.

### **Director of Emergency Services**

- 3. The position of Director of Emergency Services is established. The County Administrator is responsible for appointing a person to the position of Director of Emergency Services. The appointment of the Director of Emergency Services may be terminated by the County Administrator with or without just cause or by operation of law, or by the Director of Emergency Services resigning.
- 4. The person appointed as the Director of Emergency Services may perform other duties for the County in addition to those required of that person as the Director of Emergency Services.
- 5. The Director of Emergency Services shall report to, and be accountable to the County Administrator. The Director of Emergency Services is the supervisor of Bylaw Enforcement and of Bylaw Enforcement Officers for the County.
- 6. The powers and duties of the Director of Emergency Services are to be determined by the County Administrator, and include:
  - a. Enforcement of bylaws within the County;
  - b. Enforcement of enactments applicable within the responsibility of the County including any protocol agreements which give expanded authority;
  - c. To provide for the supervision of the performance and conduct of Bylaw Enforcement Officers;
  - d. To assist in the prosecution of breaches of municipal by-laws and other applicable enactments within the responsibility of the County, including the gathering of evidence, the attendance of witnesses and any appearances in court that may be required;
  - e. The Director of Emergency Services shall appoint Bylaw Enforcement Officers;
  - f. To set rules, policies and regulations for the conduct of Bylaw Enforcement Officers with respect to their powers and duties as peace officers;
  - g. To carry out investigation of the enforcement of bylaws as Council or the County Administrator may from time to time request, and to make a written report to Council or the County Administrator of the results of such investigation;
  - h. To carry out any further duties assigned by the County Administrator or Council;
  - i. To take the official oath prescribed by the *Oaths of Office Act*; and

- j. To carry identification identifying him as Director of Emergency Services of the Municipality when acting in that capacity.

### **Bylaw Enforcement Officers**

- 7. Bylaw Enforcement Officers are employees of the County. Bylaw Enforcement Officers are peace officers responsible for the preservation and maintenance of the public peace as outlined in this Bylaw.
- 8. The powers and duties of Bylaw Enforcement Officers include:
  - a. To enforce the bylaws of the County which the Bylaw Enforcement Officer is authorized to enforce within the geographical boundaries of the County;
  - b. To follow the directions of the Director of Protective Services or his designate and to report to the Director of Protective Services or his designate;
  - c. To respond to and investigate complaints;
  - d. To issue notices or offence Tickets;
  - e. To obey all rules and regulations established by the Director of Emergency Services, follow the directions of the Director of Emergency Services, the County Administrator and Council;
  - f. To assist in the prosecution of by-law contraventions including appearances in court to provide evidence;
  - g. To perform all duties as may from time to time be assigned by the Director of Emergency Services;
  - h. To take the official oath prescribed by the *Oaths of Office Act* upon being appointed as a Bylaw Enforcement officer;
  - i. To carry identification identifying him as a Bylaw Enforcement Officer when performing work in that capacity for the County;
  - j. To perform all other duties as assigned by the Director of Emergency Services, the County Administrator or Council.
- 9. The employment of a Bylaw Enforcement Officer with the County is terminated when the County terminates it with or without just cause or by operation of law, or the Bylaw Enforcement Officer terminates employment by resigning.
- 10. The authority of a Bylaw Enforcement Officer terminates when the Bylaw Enforcement Officer is no longer an employee of the County. The authority of a Bylaw Enforcement Officer is suspended when the Bylaw Enforcement Officer is suspended for disciplinary reasons.

11. The appointment of a Bylaw Enforcement Officer is revoked when the employment of the Bylaw Enforcement Officer with the County is terminated.

**Bylaw Enforcement Officers – Authority to Enforce**

12. The Bylaw Enforcement Officers are authorized to enforce all Yellowhead County Bylaws and enter at all reasonable times on to any property or premises to ascertain whether the regulations and provisions of the said bylaws are being or have been complied with.

**Disciplinary Procedures, Penalties & Appeals**

13. Misconduct for which a Bylaw Enforcement Officer may be disciplined shall include, but not be limited to, the following:
  - a. Poor performance;
  - b. Absenteeism;
  - c. Discreditable conduct including conduct while off duty;
  - d. Neglect of duty;
  - e. Insubordination;
  - f. Dishonesty or deceit;
  - g. Breach of confidentiality;
  - h. Corrupt practice;
  - i. Unsafe practices;
  - j. Theft;
  - k. Falsification of records;
  - l. Attending work while under the influence of alcohol, illicit drugs or other substances;
  - m. Consuming alcohol or illicit drugs or other intoxicating substances while performing duties;
  - n. Unlawful or unnecessary exercise of authority; and
  - o. Conviction of a criminal offence.
14. An allegation of misconduct of a Bylaw Enforcement Officer may be made by any person, including the Director of Emergency Services.

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15. Where it is alleged that a Bylaw Enforcement Officer, in carrying out duties as a peace officer, has engaged in misconduct, the Director of Emergency Services shall conduct an investigation into the allegations of misconduct, or cause an investigation into the allegations of misconduct to be conducted.
  16. During the investigation into the allegations of misconduct, the Bylaw Enforcement Officer will be informed of the nature of the allegations in sufficient detail to permit the Bylaw Enforcement Officer a reasonable opportunity to provide relevant facts or explanation related to the allegations of misconduct.
  17. The duties of a Bylaw Enforcement Officer may be suspended with or without pay while an investigation is conducted into allegations of misconduct.
  18. When the investigation into an allegation of misconduct of a Bylaw Enforcement Officer has been completed and misconduct has been found, the Director of Emergency Services shall decide what disciplinary action will be taken. Disciplinary action may include, but is not limited to, a written warning, suspension with or without pay for up to 6 months, or termination of employment for just cause. The Director of Emergency Services shall provide the Bylaw Enforcement Office with the disciplinary action in writing with reasons. The written disciplinary action may be presented to the Bylaw Enforcement Officer in person, or mailed to the last known address of the Bylaw Enforcement Officer.
  19. When the investigation into an allegation of misconduct of a Bylaw Enforcement Officer has been completed and misconduct is not found, the Director of Emergency Services shall dismiss the allegations of misconduct and the Bylaw Enforcement Officer shall be notified in writing that the allegations of misconduct have been dismissed.
  20. A Bylaw Enforcement Officer may appeal the disciplinary action taken by the Director of Emergency Services, to the County Administrator, by giving written notice of appeal, with reasons, within 10 days from the time the disciplinary action of the Director of Emergency Services was provided to the Bylaw Enforcement Officer in person or within thirty days of the disciplinary action being mailed to the last known address of the Bylaw Enforcement Officer, whichever first occurs.
  21. Upon receiving a notice of appeal, the County Administrator shall hold a hearing into the matter within 15 days after receiving the notice of appeal from the Bylaw Enforcement Officer, or such longer time as may be determined by the County Administrator. The following applies to such a hearing:
    - a. The Bylaw Enforcement Officer shall be provided with reasonable notice, in writing, of at least two days of the hearing.
    - b. The Director of Emergency Services and any other party the County Administrator considers to be affected by the appeal shall be provided with reasonable notice of the hearing, in writing, of at least two days.
    - c. The County Administrator will determine the procedures to be followed at the hearing.

- d. Any oral or written evidence may be accepted at the hearing as determined by the County Administrator in his sole discretion, whether such evidence is admissible in a court of law or not. The County Administrator is not bound by the law of evidence applicable to judicial proceedings.
  - e. At the hearing the Bylaw Enforcement Officer, or the designated representative of the Bylaw Enforcement Officer, will be given a reasonable opportunity to present relevant evidence and make representations by way of argument.
  - f. The hearing before the County Administrator is not a public hearing.
22. The decision of the County Administrator, in writing and with reasons, will be provided to the Bylaw Enforcement Officer and the Director of Emergency Services within 30 days of the hearing, or such longer time as may be required and determined by the County Administrator. The decision of County Administrator shall be final and binding.

**General**

- 23. Should any part of this Bylaw be found to have been improperly enacted, for any reason, then such part shall be severable from the remainder of this Bylaw and this 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.

**Effective Date**

- 24. This Bylaw comes into force upon the date of final passing.

**Repeal**

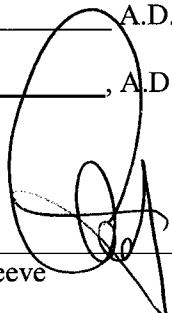
- 25. That Bylaw No. 8.04 is hereby repealed.

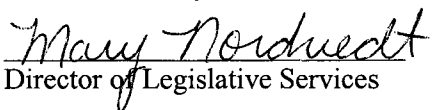
READ a first time this 26 day of APRIL A.D. 2005.

READ a second time this 26 day of APRIL A.D. 2005.

READ a third time this 26 day of APRIL A.D. 2005.

SIGNED this 26 day of APRIL, A.D., 2005

  
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 Reeve

  
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 Director of Legislative Services