

BYLAW # 2023-07
VILLAGE OF BEISEKER
BYLAW ENFORCEMENT OFFICER BYLAW

A BYLAW OF THE VILLAGE OF BEISEKER, IN THE PROVINCE OF ALBERTA, OT PROVIDE FOR THE ESTABLISHMENT AND SPECIFY THE DUTIES AND POWERS OF BYLAW ENFORCEMENT OFFICERS.

WHEREAS the *Municipal Government Act, R.S.A. 2000, as amended, provides that a Council may pass bylaws respecting the enforcement of bylaws;*

AND WHEREAS, Section 555 of the *Municipal Government Act* provides that a Council may appoint Bylaw Enforcement Officers,

AND WHEREAS, Section 556 of the *Municipal Government Act* provides that if a Council appoints Bylaw Enforcement Officers, the Council shall establish a bylaw specifying the powers and duties of such Bylaw Enforcement Officers as well as disciplinary procedures for the misuse of power, including penalties and an appeal process applicable to misuse of power by Bylaw Enforcement Officers.

NOW THEREFORE, the Council of the Village of Beiseker, duly assembled, enacts the following:

SECTION 1 – SHORT TITLE

1.1 This Bylaw will be referred to as the **BYLAW ENFORCEMENT OFFICER BYLAW** of the Village of Beiseker.

SECTION 2 – DEFINITIONS

In this Bylaw

- 2.1 “Bylaw Enforcement Officer” shall mean any person appointed as a Bylaw Enforcement Officer for the Village of Beiseker and this shall include any Peace Officer hired by the Village of Beiseker that performs Bylaw Enforcement duties;
- 2.2 “CAO” shall mean the Chief Administrative Officer for the Village of Beiseker, or their designate;
- 2.3 “Council” shall mean the duly elected Council of the Village of Beiseker;
- 2.4 “Investigator” shall mean the CAO, if the Sergeant of the Enforcement Department is being investigated or if the CAO investigates a Bylaw Enforcement Officer, or the Sergeant of the Enforcement department if they are investigating a Bylaw Enforcement Officer;
- 2.5 “Village” shall mean the Village of Beiseker;
- 2.6 “Misuse of Power” by a Bylaw Enforcement Officer shall mean any one or more of the following:
 - 2.6.1 Failure to perform or carry out the duties of the Bylaw Enforcement Officer according to the law; and/or
 - 2.6.2 Failure to carry out the duties and responsibilities given to the Bylaw Enforcement Officer within the terms of their appointment as a Bylaw Enforcement Officer.
- 2.7 “Sergeant” shall mean the supervisor of Enforcement Services

SECTION 3 – POWERS AND DUTIES

- 3.1 The CAO may:
 - 3.1.1 appoint a Bylaw Enforcement Officer(s) for the purpose of enforcing compliance with Village bylaws;
 - 3.1.2 revoke, suspend or modify the appointment of Bylaw Enforcement Officer in accordance with this Bylaw;
 - 3.1.3 monitor and investigate complaints of misuse of power by a Bylaw Enforcement Officer;

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- 3.1.4 take whatever actions and measures are necessary to eliminate an emergency in accordance with Section 551 of the *Municipal Government Act*;
 - 3.1.5 exercise all powers, duties, and functions under the *Provincial Offences Procedures Act*;
 - 3.1.6 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 public peace; and
 - 3.1.7 delegate any other CAO powers, duties or functions contained in this section to any employee of the Village, including the option to further delegate those powers, duties and functions.
 - 3.1.8 If a complaint is received regarding the Sergeant of Enforcement Services, the CAO will investigate the complaint, typically complaints implicating a Bylaw Enforcement Officer will be investigated by the Sergeant of Enforcement Services.
 - 3.1.9 The CAO or Sergeant of Enforcement Services shall investigate a complaint in accordance with the provisions set out in Part 4 of this bylaw.
- 3.2 The Bylaw Enforcement Officer shall:
- 3.2.1 be responsible for the enforcement of all the bylaws of the Village, unless otherwise specified in a bylaw, or by resolution of Council;
 - 3.2.2 issue municipal notices/violation tags and or Provincial Violation Tickets for offences under the bylaws of the Village;
 - 3.2.3 exercise all powers, duties, and functions as a designated Bylaw Enforcement 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*; and
 - 3.2.4 ensure compliance with all regulations and policies including all municipal policies and bylaws and if appointed as a Peace Officer, adhere to the policies and procedures under the Alberta Government Public Security Peace Officer Program.

SECTION 4 – COMPLAINTS

- 4.1 Receipt of Complaints
- 4.1.1 Any complaint concerning the misuse of power of a Bylaw Enforcement Officer shall be handled in accordance with the provisions set out in Part 4 of the Bylaw and shall be directed to the CAO;
 - 4.1.2 All complaints shall be in writing. If complaints are received verbally, the Investigator shall request that it be provided in writing prior to starting investigation. The Investigator reserves the right to determine if a matter will be investigated if a written complaint is not received.
 - 4.1.3 Where possible and reasonable, the identity of the Complainant will be protected and the Complainant will be advised accordingly. Any complaints received verbally shall be confirmed in writing by the complainant prior to being proceeded with.
 - 4.1.3 Upon receipt of a complaint, it shall be immediately forwarded to the Sergeant of Enforcement Services or the CAO, depending on the person implicated.
 - 4.1.4 The Investigator shall provide written acknowledgement of the complaint within 30 days to the Complainant, and to the person to whom the complaint was made about (if appropriate).

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- 4.1.5 If the Bylaw Enforcement Officer who is implicated in a complaint holds a Peace Officer Appointment, the Peace Officer Program will be advised using the Incident Report Form (PS3535) and the process in Section 4 of this bylaw will be followed.
- 4.1.6 Complaints will not be investigated if the CAO deems the complaint to be:
- **FRIVOLOUS.** a complaint intended merely to harass or embarrass.
 - **VEXATIOUS.** the complaint that has no basis in fact or reason, with its purpose to bother, annoy and embarrass the Peace Officer or authorized employer.
 - **BAD FAITH.** filing the complaint with intentional dishonesty or with intent to mislead.

4.2 Investigation

- 4.2.1 The Investigator shall investigate the complaint and may;
- interview the complainant, any witnesses, the Bylaw Enforcement Officer involved if they so consent, and any other person who may have knowledge relevant to the occurrence;
 - review any relevant documents pertaining to the occurrence including but not limited to; legal documents, Officer notebook(s), in-car video, body camera recordings, etc.
- 4.2.2 Notify the Complainant, the Bylaw Enforcement Officer involved (if appropriate) and the Peace Officer Program (if applicable) as to the status of the investigation at least once every 45 days.
- 4.2.3. Upon conclusion of the investigation, the Investigator shall provide a Disposition to the Complainant, the Bylaw Enforcement Officer, and the Peace Officer Program(if applicable) using wording which reads as follows:
- **‘the complaint is unfounded.’** This means that on the basis of a thorough investigation no reasonable belief exists that the complaint has merit or basis.
 - **‘the complaint is unsubstantiated.’** This 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.
 - **‘the complaint is found to have merit in whole or in part.’** This means that on the basis of a thorough investigation that ‘in whole’ a reasonable belief exists that the Peace Officer has engaged in misconduct in regard to the entirety of the complaint; or
 - **‘in part’** a reasonable belief exists that the Peace Officer has engaged in misconduct in regard to a portion(s) of the complaint, but not in its entirety.
 - **‘the complaint is frivolous, vexatious or made in bad faith.’** This disposition will be used when an authorized employer chooses not to investigate a complaint as per 4.1.2 which allows no investigation to occur when the complaint is deemed to be frivolous, vexatious, or made in bad faith.
- 4.2.4 In the event a complaint is found to have merit in whole or in part, the CAO will determine any disciplinary action that is to be taken. A record of the disciplinary action will be filed in the Bylaw Enforcement Officer’s file and will be forwarded to the Peace Officer Program (if applicable). Investigator will state that disciplinary action has been taken. (and if applicable filed with the Peace Officer Program.) The Disposition that is provided to the Complainant will not include the disciplinary action information.

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4.2.5 Depending on the nature of the complaint, the Investigator may resolve complaints informally, arriving at a solution that is satisfactory to the Complainant and the Bylaw Enforcement Officer against whom the complaint was directed.

4.3 Disciplinary Action

4.3.1 If it has been determined that a misuse of power has been committed by a Bylaw Enforcement Officer, disciplinary action will be as ordered by the CAO. A disciplinary action may, but not limited to one of the following actions taken by the CAO, depending on the severity of the misuse of power:

- a) a verbal reprimand that may or may not be recorded on the Bylaw Enforcement Officer employment file, as determined by the CAO.
- b) a written reprimand of the Bylaw Enforcement Officer that will be placed in the employment file of the Bylaw Enforcement Officer; or
- a) a suspension of the Bylaw Enforcement Officer; without pay for a period not to exceed 7 working days); or
- b) dismissal of the Bylaw Enforcement Officer.

4.3.2 Other than 4.3.1. a), all disciplinary measures will be formally written and placed on the employment file of the Bylaw Enforcement Officer and reported to the Peace Officer Program (if applicable).

4.4 Disposition

4.4.1 The Investigator shall provide the Disposition in accordance with 4.2.3 to the Complainant, the Bylaw Enforcement Officer, (and if applicable the Peace Officer Program), initiate any disciplinary action and record information as required no more than thirty (30) days from the date of completion of the investigation.

4.5 Appeal Procedures

4.5.1 If either the Complainant or the Bylaw Enforcement Officer wishes to appeal the decision of the Investigator, the appeal shall be delivered to the CAO within thirty (30) days of the date of the receipt of the notice of the results of the investigation.

4.5.2 The appeal must be in writing, include the reasons for the appeal and suggestions for another course of action.

4.5.4 The CAO, in considering the appeal, may dismiss the appeal or allow the appeal, and impose or vary the discipline

4.5.5 The CAO shall, within thirty (30) days, notify the Complainant and the Bylaw Enforcement Officer, in writing as to the results of the appeal. The decision of the CAO with regard to the appeal is final.

SECTION 5 – OATH OF OFFICE

5.5.1 Prior to commencing their duties, all Bylaw Enforcement Officers must take the official oath of office.

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SECTION 7 – SEVERABILITY

7.1.1 If any provisions of this Bylaw are declared invalid because of any word, phrase, clause, sentence, paragraph, or section of this Bylaw, or any documents which form part of this bylaw, or an application to any person or circumstance is declared invalid, the remaining provisions shall not be affected thereby, but shall remain in force.

SECTION 8 – EFFECTIVE DATE

8.1.1 Bylaw 2023-08 RESCINDS BYLAW 2008-10 APPOINT A BYLAW ENFORCEMENT OFFICER and shall come into effect following the third reading of this bylaw.

Read a first time this 27th day of November, 2023
Read a second time this 27th day day of November, 2023
Read a third and final time this 27th day of November, 2023

Mayor, David Ledoyen

CAO, Heather Leslie