

BYLAW NO. 345-10

BEING A BYLAW OF THE TOWN OF COALHURST, IN THE PROVINCE OF ALBERTA, RESPECTING THE APPOINTMENT OF BYLAW ENFORCEMENT OFFICERS AND ESTABLISHING THE POWERS AND DUTIES OF BYLAW ENFORCEMENT OFFICERS AND ESTABLISHING DISCIPLINARY PROCEDURES OF BYLAW ENFORCEMENT OFFICERS;

WHEREAS, Sections 555 (1), (2) and 556 of the Municipal Government Act being Chapter M-26 of the Revised Statutes of Alberta 2000 and amendments thereto, empowers Town Council to appoint Bylaw Enforcement Officers for the purpose of enforcing compliance with Bylaws;

AND WHEREAS, the Town Council shall, by Bylaw, specify the powers and duties of Bylaw Enforcement Officers;

AND WHEREAS, the Town Council shall, by Bylaw, 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 Town of Coalhurst, in the Province of Alberta, duly assembled, **HEREBY ENACTS AS FOLLOWS:**

1. This Bylaw may be cited as the Bylaw Enforcement Officers Bylaw.
2. Definitions:
 - (a) "**BYLAW**" - means Bylaw of the Town of Coalhurst.
 - (b) "**BYLAW ENFORCEMENT OFFICER**" - means an employee of the Town appointed by the Chief Administrative Officer and, in the execution of his or her duties, is a person employed for the preservation and maintenance of the public peace, or, a company appointed by Council for the same purpose.
 - (c) "**CAO**" - means the Chief Administrative Officer as appointed by Council.
 - (d) "**COMMITTEE**" or "**COMMITTEE OF TOWN COUNCIL**" - means a committee of the whole Town Council.
 - (e) "**COUNCIL**" - means the Municipal Council of the Town of Coalhurst duly assembled and acting as such.
 - (f) "**TOWN**" - means the Town of Coalhurst.
 - (g) "**WORKING DAYS**" - means Monday to Friday.
3. The CAO may appoint one or more Bylaw Enforcement Officers for the purpose of enforcing compliance with the Town's Bylaws.

4. The power of the Bylaw Enforcement Officer(s) is as follows:
 - (a) To preserve and maintain the public peace.
 - (b) To enforce the Bylaw(s) which Council has authorized the Bylaw Enforcement Officer to enforce within the boundaries of the Town.
 - (c) To respond to and investigate complaints, conduct routine patrols and issue notices, orders, tickets or tags.
 - (d) To perform all other related duties as may from time to time be assigned by the CAO, and to report to the CAO, as required.
 - (e) To assist in the prosecution of breaches of municipal Bylaws and related offenses including the issuance of violation tickets, the swearing of complaints, the service of summons, the gathering of evidence, ensuring the attendance of witnesses and making any appearances in court that may be required.
 - (f) To take the official oath prescribed by the Oaths of Office Act upon being appointed as a Bylaw Enforcement Officer, and to carry upon his or her person at all such times as he or she is acting as a Bylaw Enforcement Officer, evidence in writing of his or her appointment as a Bylaw Enforcement Officer of the Town.
5. Where the Bylaw Enforcement Officer is employed for services through contract to another municipality and it is alleged, by a written complaint signed by the complainant, that a Bylaw Enforcement Officer in carrying out his or her power has committed a disciplinary default as defined by this Bylaw, the CAO of the contracted municipality shall inform the CAO of the Town of Coalhurst and the Bylaw Enforcement Officer of the alleged disciplinary default. The CAO and Council of the municipality that is providing the Bylaw Enforcement services shall be solely responsible for any and all disciplinary procedures that may follow from the allegations in accordance with the Bylaw Enforcement Officers Bylaw of that municipality.
6. Where the Bylaw Enforcement Officer is directly employed by the Town of Coalhurst and it is alleged, by a written complaint signed by the complainant, that a Bylaw Enforcement Officer, in carrying out his or her duties, has committed a disciplinary default as defined by this bylaw, the CAO shall:
 - (a) advise the Bylaw Enforcement Officer of the allegation of disciplinary default;
 - (b) give the Bylaw Enforcement Officer an opportunity to respond to the allegation in writing, orally or at a hearing, as, in the discretion of the CAO, as the case requires;
 - (c) determine whether there has been a disciplinary default;

- (d) if it is determined that the Bylaw Enforcement Officer has committed a disciplinary default, determine the appropriate action to be taken;
 - (e) advise the Bylaw Enforcement Officer in writing of the CAO's decision.
7. Where the CAO intends to carry out a hearing to determine whether a Bylaw Enforcement Officer has committed a disciplinary breach, the following procedure shall be followed:
- (a) A minimum of two (2) working days notice, in writing, shall be hand delivered to all parties the CAO considers to be affected by the alleged disciplinary breach.
 - i The notice will inform the Bylaw Enforcement Officer of his or her right to have a witness/representative, of his or her choosing, present throughout the hearing.
 - (b) At the hearing, the CAO shall give the Bylaw Enforcement Officer a reasonable opportunity of furnishing relevant evidence.
 - (c) The CAO shall inform the Bylaw Enforcement Officer of the facts and/or allegations in sufficient detail to:
 - i permit understanding of the facts and/or allegations, and
 - ii afford a reasonable opportunity to furnish relevant evidence or contradict or explain the facts and/or allegations.
 - (d) The CAO shall give the Bylaw Enforcement Officer or representative an adequate opportunity of making representation by way of argument.
8. The CAO shall, within two (2) working days of the hearing, render a decision, in writing, incorporating one of the following:
- (a) a ruling that the Bylaw Enforcement Officer has not committed a disciplinary breach and the file shall be closed; or
 - (b) if it is determined that the Bylaw Enforcement Officer has committed a disciplinary default, determine the appropriate action to be taken
9. When it is determined that the Bylaw Enforcement Officer has committed a disciplinary default the CAO may,
- (a) reprimand, in writing the Bylaw Enforcement Officer, and retain a copy in his or her file for a period of one (1) year;

- (b) suspend the Bylaw Enforcement Officer from acting as a Bylaw Enforcement Officer for the Town, with or without pay, for such period as the CAO may determine but such period of suspension shall not exceed six (6) months; and
 - (c) recommend to Council that the appointment of the Bylaw Enforcement Officer be terminated.
10. An appeal of the decision of the CAO may be commenced by the Bylaw Enforcement Officer, who is the subject of the disciplinary proceedings, by filing a written notice of the appeal with the CAO within thirty (30) days of the receipt by the Bylaw Enforcement Officer of the written notice of the CAO.
11. The Committee of the Town Council shall hold a hearing into the appeal within thirty (30) days of the appeal to the CAO.

The Committee shall give reasonable notice of the hearing to the appellant, to the CAO and to such other parties as the Committee considers to be affected by the hearing.

In conducting a hearing, the Committee shall follow the procedures as set out in Clause 7.(a) of this Bylaw. The Committee shall:

- (a) obtain from the CAO a report outlining the allegation of disciplinary default, the response to the allegations made by the Bylaw Enforcement Officer, and the decision of the CAO;
- (b) provide the Bylaw Enforcement Officer with a copy of the report stated in (a);
- (c) give the Bylaw Enforcement Officer an opportunity to respond to the report, and to respond further to the allegations, in writing or orally, as, in the discretion of the Committee the case requires;
- (d) confirm, vary or set aside the decision of the CAO;
- (e) advise the Bylaw Enforcement Officer, in writing, of the Committee's decision.

The decision of the Committee shall be final and conclusive. There shall be no further right of appeal. The decisions of the Committee shall not be subject to judicial review.

12. For purposes of this Bylaw, the following shall be disciplinary defaults:
- (a) **Discreditable conduct**: where the Bylaw Enforcement Officer:
 - i acts in a disorderly or inappropriate manner, or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Town of Coalhurst; and Bylaw Enforcement Officers;

- ii. uses inappropriate or oppressive conduct towards members of the public;
 - iii. uses profane, abusive or insulting language;
 - iv. wilfully or negligently makes any false complaints or statements;
 - v. is convicted of an indictable offence under a federal statute or an offence punishable upon summary conviction under the Criminal Code (Canada);
 - vi. withholds or suppresses a complaint or report;
 - vii. abets, connives or is knowingly an accessory to a general default described by this Bylaw.
- (b) **Insubordination**: where the Bylaw Enforcement Officer, by word or action, and without lawful excuse, disobeys, omits or neglects to carry out any lawful order given to him or her by Council or by the CAO.
- (c) **Neglect of duty**: where the Bylaw Enforcement Officer,
- i. without lawful excuse neglects or omits promptly and diligently to perform a duty as a Bylaw Enforcement Officer;
 - ii. fails to work in accordance with orders, or leaves an area, detail or other place of duty without due permission or sufficient cause;
 - iii. fails, when knowing where an offender is to be found, to report him or her; or
 - iv. fails to report a matter that it is his or her duty to report.
- (d) **Deceit**: where the Bylaw Enforcement Officer
- i. knowingly makes or signs a false statement in an official document or book;
 - ii. wilfully 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 entry therein.
- (e) **Breach of confidence**: where the Bylaw Enforcement Officer
- i. divulges any matter which is his or her duty to keep secret;

- 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;
 - iii without proper authorization from a superior or in contravention of any rule of the Town communicates to the news media or to any unauthorized person any law enforcement matter which could be injurious to any person or investigation;
 - iv without proper authorization from the CAO shows to any person not a Bylaw Enforcement Officer or any unauthorized member of the Town Staff any book or printed paper, document or report relating to any law enforcement matter that is the property of, or in the custody of the Town.
 - v. makes any anonymous communication to the CAO.
- (f) **Corrupt practice:** where the Bylaw Enforcement Officer
- i. fails to account for or to make a prompt, true return of money or property received in an official capacity;
 - ii. fails to adhere to the Code of Ethics as adopted by Council describing the conduct of Town employees;
 - iii. places himself/herself under a pecuniary or other obligation to a person, in respect of whose conduct or business operation or employment, the member may likely have to report or give evidence; or
 - iv. improperly uses his or her position as a Bylaw Enforcement Officer for private advantage.
- (g) **Unlawful or unnecessary exercise of authority:** where the Bylaw Enforcement Officer is unnecessarily discourteous or uncivil to a member of the public.
- (h) **Consuming intoxicating liquor or drugs in a manner prejudicial to duty:** where the Bylaw Enforcement Officer
- i. while on duty is unfit for duty due to consuming intoxicating liquor or drugs;
 - ii. reports for duty and is unfit for duty due to consuming intoxicating liquor or drugs;
 - iii. demands, persuades or attempts to persuade another person to give or purchase or obtain for a Bylaw Enforcement Officer while on duty any intoxicating liquor or drugs.

- (i) **Absenteeism**: where the Bylaw Enforcement Office is, without permission, warning or sufficient reason, absent from work.
- (j) **Physical Assault**: where the Bylaw Enforcement Officer, without lawful excuse assaults the CAO, fellow employee or member of the public.

13. Bylaw No. 312-06 is hereby rescinded.

14. This Bylaw comes into force upon the date of the passing of the third and final reading thereof.

READ A FIRST TIME THIS 15TH DAY OF JUNE, A.D. 2010

READ A SECOND TIME THIS 15TH DAY OF JUNE, A.D. 2010

READ A THIRD TIME AND FINALLY PASSED THIS 15TH DAY OF JUNE, A.D. 2010

MAYOR

CHIEF ADMINISTRATIVE OFFICER