

**ALBERTA BEACH  
BYLAW # 275-20**

**A BYLAW OF ALBERTA BEACH, IN THE PROVINCE OF ALBERTA, TO ESTABLISH THE POSITION OF A BYLAW ENFORCEMENT OFFICER.**

**WHEREAS**, under the Authority of the *Municipal Government Act*, being Chapter M-26 Statutes of Alberta, 2000 and amendments thereto, Council may, by bylaw, authorize an Enforcement Officer to enforce the bylaws established by the Council of Alberta Beach;

**WHEREAS**, Section 556 of the *Municipal Government Act*, being Chapter M-26 Statutes of Alberta, 2000, and amendments thereto, requires a municipality to adopt a bylaw that establishes disciplinary procedures for misuse of power, including penalties and an appeal process applicable to misuse of power by bylaw enforcement officers.

**THEREFORE**, the Municipal Council of Alberta Beach, duly assembled, enacts as follows:

1. **TITLE:**  
This bylaw may be cited as the Bylaw Enforcement Officer Bylaw.
2. **DEFINITIONS:**
  - a) "Bad Faith" filing the complaint with intentional dishonesty or with intent to mislead;
  - b) "Bylaw" means Bylaws of the municipality;
  - c) "Bylaw Enforcement Officer" means a person appointed to the position of Bylaw Enforcement Officer and has taken the official oath prescribed by the Oaths of Office Act;
  - d) "Chief Administrative Officer" means the Chief Administrative Officer of the municipality or their designate;
  - e) "Council" means Council of the Municipality;
  - f) "Frivolous" a complaint merely to harass or embarrass;
  - g) "Misuse of Power" by a Bylaw Enforcement Officer shall mean any one or more of the following:
    - a) Failure to perform or carry out his duties according to law;
    - b) Failure to carry out the duties and responsibilities given to him within the terms of his appointment as a Bylaw Enforcement Officer;
  - h) "Municipality" means the corporation of Alberta Beach.
  - i) "Vexatious" complaint that has no basis in fact or reason, with its purpose to bother, annoy, and embarrass the Bylaw Enforcement Officer or Employer.
3. **The Powers and Duties of a Bylaw Enforcement Officer:**
  - a) To enforce the municipal bylaws within the boundaries of the municipality;
  - b) To follow the directions of the Chief Administrative Officer and to report to the Chief Administrative Officer as required;
  - c) To respond and investigate complaints related to animal control, untidy \unsightly's, and various other municipal bylaws. To respond and investigate contravention of other bylaws of the Municipality, when specifically directed to by the Chief Administrative Officer.
  - d) To conduct routine patrols;
  - e) To issue notices, tickets or tags;
  - f) To assist in the prosecution of bylaw contravention, including appearances in court to provide evidence,
  - g) To perform all other duties as may from time to time be assigned by the Chief Administrative Officer;
  - h) Take the official oath prescribed by the *Oaths of Office Act* upon being appointed as a Bylaw Enforcement Officer and to carry upon his person at all such times as he\she is acting as a Bylaw Enforcement Officer evidence in writing of his appointment as a Bylaw Enforcement Officer of the Municipality;
  - i) The Bylaw Enforcement Officer will be appointed as a Designated Officer under this Bylaw for the purpose of enforcement of orders issued under section 545 or 546 of the *Municipal Government Act*;
4. **Complaints:**
  - a) Any complaint concerning the misuse of power of a Bylaw Enforcement Officer shall be dealt with in accordance under the provisions set out in this Part and shall be forwarded directly to the Chief Administrative Officer.
  - b) All complaints shall be in writing and forwarded to the Chief Administrative Officer.
  - c) Upon receipt of any complaint, it shall be immediately forwarded to the Chief Administrative Officer.
  - d) The Chief Administrative Officer shall provide within thirty (30) days and in writing, acknowledging receipt of the complainant's complaint.
  - e) The Chief Administrative Officer shall notify the Bylaw Enforcement Officer involved in the complaint if appropriate. In circumstances where such notification may unduly have a negative impact on an internal investigation or place the complainant in an unfavorable position, the Bylaw Enforcement Officer's notification may be delayed for a period of time

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**5. Investigation:**

- a) The Chief Administrative Officer or their designate shall investigate the complaint by interviewing, the complainant, any witnesses, the Bylaw Enforcement Officer(s) involved if they so consent, and any other person who may have knowledge relevant to the occurrence and take statements.
- b) The Bylaw Enforcement Officer shall be allowed the opportunity to make a full response to the allegations and investigations. The response shall be in writing and directed to the Chief Administrative Officer.
- c) Upon reviewing the Bylaw Enforcement Officer's response and any other information the Chief Administrative Officer believes appropriate in the circumstances 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.
- d) If the Chief Administrative Officer determines that a misuse of power has occurred, corrective disciplinary procedures shall be commenced.
- e) 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 findings of the investigation.
- f) The Chief Administrative Officer may choose not to investigate a complaint if it is the opinion of the Chief Administrative Officer that the complaint falls into one of the noted categories:
  - i. Frivolous: a complaint merely to harass or embarrass;
  - ii. Vexatious: complaint that has no basis in fact or reason, with its purpose to bother, annoy, and embarrass the Bylaw Enforcement Officer or Employer,
  - iii. Bad Faith: filing the complaint with intentional dishonesty or with intent to mislead.

Reasons for not investigating complaints must be explained in written format to the complainant and advise them of the ability to appeal to Council.

- g) 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 was directed. Written notice that the complaint has been resolved will be provided to the complainant within five (5) business days.

**6. Disciplinary Action:**

- a) 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 to exceed 10 hours;
  - iv. suspension from duty without pay for a period not to exceed 10 hours of work;
  - v. dismissal
- b) Where the discipline to be imposed on the Bylaw Enforcement Officer is dismissal, the Chief Administrative Officer may warrant the Bylaw Enforcement Officer to resign from the Municipality within the specified time by the Chief Administrative Officer instead of being dismissed if, in their opinion and circumstances warrant it.
- c) Where the Bylaw Enforcement Officer is to be dismissed or permitted to resign from the Municipality under section 6(b),
  - i. that action shall be held in abeyance, and
  - ii. the Bylaw Enforcement Officer shall be placed under suspension without pay, until a period of appeal to Council has lapsed or until the appeal has been concluded.
- d) Where a Bylaw Enforcement Officer is found to have misused their powers but on appeal is found that they have not misused their powers, 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.
- (e) 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.
- (f) When a period of three (3) years has elapsed from the day an official warning or reprimand was issued to a Bylaw Enforcement 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.
- (g) 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 that Bylaw Enforcement Officer.

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**7. Appeal Procedures:**

- a) 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.
- b) The appeal shall be filed with the Mayor;
- c) Council shall hold a hearing into the appeal within 45 days of the receipt of the appeal by the Mayor.
- c) Council shall give reasonable notice of the hearing to the appellant, to the Chief Administrative Officer, and to such other parties as considered to be affected by the hearing.
- d) Council shall review the complaint, investigation report, and review any other related documents associated with the complaint.
- f) Council, in considering the appeal, may dismiss the appeal; may allow the appeal and impose or vary the discipline, as outlined in section 6.
- g) Within 30 days of concluding the appeal, the Mayor shall send written notice of Council's decision to the Bylaw Enforcement and complainant.
- h) The written notice of decision must include reasons for Council's decision.
- i) Council's decision regarding an appeal is final and conclusive with no further right of appeal to the court.

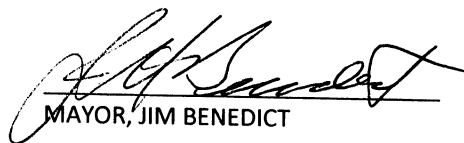
**THIS BYLAW SHALL COME INTO FULL FORCE AND EFFECT UPON THIRD AND FINAL READING THEREOF.**

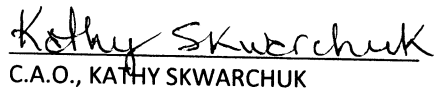
**READ A FIRST TIME THIS 20<sup>TH</sup> DAY OF OCTOBER, A.D. 2020.**

**READ A SECOND TIME THIS 20<sup>TH</sup> DAY OF OCTOBER, A.D. 2020.**

**READ A THIRD TIME THIS 20<sup>TH</sup> DAY OF OCTOBER, A.D. 2020.**

**SIGNED BY THE MAYOR AND CHIEF ADMINISTRATIVE OFFICER THIS 21<sup>ST</sup> DAY OF OCTOBER, A.D. 2020.**

  
MAYOR, JIM BENEDICT

  
C.A.O., KATHY SKWARCHUK