

MUNICIPALITY OF JASPER
BYLAW #045

BEING A BYLAW OF THE MUNICIPALITY OF JASPER PROVIDING FOR THE APPOINTMENT AND EMPOWERMENT OF BYLAW ENFORCEMENT OFFICERS.

WHEREAS the *Municipal Government Act* (Alberta) provides for Alberta Municipalities to enact and enforce Bylaws; and

WHEREAS the Agreement for the Establishment of Local Government in Jasper dated June 13th, 2001 provides authorities and responsibilities to the Municipality of Jasper and the Municipality of Jasper will exercise those authorities and discharge those responsibilities in part through the enactment and enforcement of Bylaws;

NOW BE IT RESOLVED that the Council of the Municipality of Jasper, duly assembled, enacts as follows:

1. CITATION

- 1.1 This Bylaw may be cited as the “Jasper Municipal Enforcement Officer Bylaw 2004”.
- 1.2 Municipality of Jasper Bylaw #006, the Jasper Municipal Enforcement Officer Bylaw, is hereby repealed.

2. DEFINITIONS

- 2.1 In this Bylaw:
 - 2.1.1 “Appeal Chairman” shall mean the Municipal Manager, appointed by Council at its annual organizational meeting;
 - 2.1.2 “Bylaw” shall mean a Bylaw of the Municipality of Jasper;
 - 2.1.3 “Bylaw Enforcement Officer” shall mean a person appointed by the Municipal Manager as a Bylaw Enforcement Officer or as a Domestic Animal and Parking Compliance Officer pursuant to the provisions of this Bylaw;
 - 2.1.4 “Chief Bylaw Enforcement Officer” shall mean a person appointed by the Municipal Manager as a Chief Bylaw Enforcement Officer pursuant to the provisions of this Bylaw;
 - 2.1.5 “Corporate Services Director” shall mean the person who holds the position of Corporate Services Director for the Municipality of Jasper;
 - 2.1.6 “Council” shall mean the Council of the Municipality of Jasper;
 - 2.1.7 “Municipal Manager” shall mean the person duly appointed as Municipal Manager by the Council of the Municipality of Jasper;
 - 2.1.8 “Municipality” shall mean the Municipality of Jasper in Jasper National Park in the Province of Alberta;
 - 2.1.9 “Town” shall mean the Town of Jasper as defined in the Agreement for the Establishment of Local Government in Jasper dated June 13th, 2001;
 - 2.1.10 Words importing the masculine gender only include the feminine gender whenever the context so requires and vice versa; and

2.1.11 Words importing the singular shall include the plural or vice versa whenever the context so requires.

3. APPOINTMENT

3.1 The Municipal Manager may from time to time appoint, designate and engage a person as Chief Bylaw Enforcement Officer for the Municipality of Jasper.

3.2 The Municipal Manager may from time to time appoint, designate and engage one or more persons as Bylaw Enforcement Officers or for the Municipality of Jasper.

4. AUTHORITIES AND RESPONSIBILITIES

4.1 A Chief Bylaw Enforcement Officer appointed, designated and engaged pursuant to this Bylaw is, in the execution of his duties, a person engaged for the preservation and maintenance of the public peace and has all the powers necessary for the enforcement of the Bylaws of the Municipality.

4.2 A Bylaw Enforcement Officer appointed, designated and engaged pursuant to this Bylaw is, in the execution of his duties, a person engaged for the preservation and maintenance of the public peace and has all the powers necessary for the enforcement of the Bylaws or sections thereof he has been authorized by the Chief Bylaw Enforcement Officer to enforce.

4.3 Notwithstanding Section 3.1 herein, a Chief Bylaw Enforcement Officer and a Bylaw Enforcement Officer appointed, designated and engaged pursuant to this Bylaw shall not have the power to apprehend, search or detain any person unless otherwise expressly stated in any Bylaw.

4.4 Upon a person being appointed, designated and engaged as a Chief Bylaw Enforcement Officer or Bylaw Enforcement Officer, he shall take the official oath prescribed by the *Oaths of Office Act* (Alberta) before entering upon his duties.

4.5 Upon a person being appointed, designated and engaged as a Chief Bylaw Enforcement Officer or a Bylaw Enforcement Officer, he shall be issued with a means of identification by the Municipal Manager which he shall carry on his person at all times when he is on duty or performing functions as a Chief Bylaw Enforcement Officer or a Bylaw Enforcement Officer.

4.6 The powers and duties of a Chief Bylaw Enforcement Officer shall include the following:

4.6.1 ensuring that the Bylaws of the Municipality are enforced within the boundaries of the Town and of the Municipality as appropriate;

4.6.2 supervising the performance and conduct of the Bylaw Enforcement Officers of the Municipality;

4.6.3 reporting to and carrying out the directions of the Corporate Services Director or, in his absence, the Municipal Manager;

4.6.4 establishing standards of uniform, insignia and identification for Bylaw Enforcement Officers, subject always to the direction of Council;

4.6.5 responding to and investigating complaints;

4.6.6 conducting routine patrols;

4.6.7 issuing and serving notices, tickets, tags, and summonses when required;

- 4.6.8. prosecuting or assisting in the prosecution of breaches of Bylaws including obtaining evidence, preservation of evidence, securing the attendance of witnesses, attending court and providing evidence as required;
 - 4.6.9. the enforcement of such other regulations or laws as may, by contract, become the obligation of the Municipality to enforce; and
 - 4.6.10. other duties as may be assigned by the Corporate Services Director, or in his absence, by the Municipal Manager.
- 4.7. The powers and duties of a Bylaw Enforcement Officer shall, subject to the provisions of Section 3.2 herein, include the following:
- 4.7.1. enforcing the Bylaws of the Municipality of Jasper within the boundaries of the Town and of the Municipality as appropriate, subject always to the direction of the Chief Bylaw Enforcement Officer;
 - 4.7.2. reporting to and carrying out the directions of the Chief Bylaw Enforcement Officer or, in his absence, the Corporate Services Director;
 - 4.7.3. responding to and investigating complaints;
 - 4.7.4. conducting routine patrols;
 - 4.7.5. issuing and serving notices, tickets, tags, and summonses when required;
 - 4.7.6. assisting in the prosecution of breaches of Bylaws including obtaining evidence, preservation of evidence, securing the attendance of witnesses, attending court and providing evidence as required;
 - 4.7.7. the enforcement of such other regulations or laws as may, by contract, become the obligation of the Municipality to enforce; and
 - 4.7.8. performing other duties as may from time to time be assigned by the Chief Bylaw Enforcement Officer.
- 4.8. Where it is alleged that a Bylaw Enforcement Officer, in carrying out his duties is guilty of misconduct as set out in this bylaw, the Chief Bylaw Enforcement Officer shall:
- 4.8.1. investigate such allegations, such investigation to include a meeting with the Corporate Services Director and the Bylaw Enforcement Officer alleged to have committed such misconduct, and
 - 4.8.2. where such investigation indicates in the sole discretion of the Chief Bylaw Enforcement Officer that evidence exists to substantiate such allegations, hold a hearing to determine if the Bylaw Enforcement Officer has committed a misconduct in carrying out his duties.
- 4.9. Where the Chief Bylaw Enforcement Officer intends to carry out a hearing to determine whether a Bylaw Enforcement Officer has committed a misconduct, the Chief Bylaw Enforcement Officer shall:
- 4.9.1. acknowledge receipt of any complaint received to the complainant;

- 4.9.2. provide adequate notice (a minimum of two (2) days) in writing to the Bylaw Enforcement Officer who is alleged to have committed a misconduct and to such other parties as the Chief Bylaw Enforcement Officer considers to be affected by the alleged misconduct;
- 4.9.3. provide the Bylaw Enforcement Officer a reasonable opportunity of furnishing relevant evidence at the hearing;
- 4.9.4. inform the Bylaw Enforcement Officer of the facts in his possession or of the allegations made to him in sufficient detail to:
 - 4.9.4.1 permit him to understand the facts or allegations;
 - 4.9.4.2 afford him a reasonable opportunity to furnish relevant evidence to contradict or explain the facts or allegations; and
 - 4.9.4.3 provide the Bylaw Enforcement Officer or his representative an adequate opportunity to make representations by way of argument at the hearing.
- 4.10. At the conclusion of a hearing to determine whether there has been a misconduct or within seventy-two (72) hours thereafter, the Chief Bylaw Enforcement Officer may, by a decision in writing with reasons:
 - 4.10.1. reprimand in writing the Bylaw Enforcement Officer;
 - 4.10.2. suspend without pay the Bylaw Enforcement Officer from acting as a Bylaw Enforcement Officer for the Municipality for a term not to exceed six (6) months; or
 - 4.10.3. recommend to Council that the appointment of the Bylaw Enforcement Officer be terminated.
- 4.11. An appeal from the decision of the Chief Bylaw Enforcement Officer may be commenced by the Bylaw Enforcement Officer who is the subject of the disciplinary hearing by filing a notice in writing of the appeal with the Appeal Chairman within thirty (30) days of the receipt by the Bylaw Enforcement Officer of the decision.
- 4.12. The Appeal Chairman shall hold an appeal hearing within forty-five (45) days of the receipt of the appeal.
- 4.13. The Appeal Chairman shall give reasonable notice of the hearing to the appellant, to the Chief Bylaw Enforcement Officer, to the Corporate Services Director and to such other parties as the Appeal Chairman considers to be affected by the hearing including any complainant.
- 4.14. In conducting a hearing, the Appeal Chairman shall follow, with necessary modifications being made, the procedure set out in Section 4.8 of this Bylaw.
- 4.15. In determining an appeal, the Appeal Chairman may confirm, revoke or vary the decision or any conditions attached to a decision by the Chief Bylaw Enforcement Officer and may:
 - 4.15.1. reprimand in writing the Bylaw Enforcement Officer;
 - 4.15.2. suspend, without pay, the Bylaw Enforcement Officer from acting as a Bylaw Enforcement Officer for the Municipality but such suspension shall not exceed six (6) months;

- 4.15.3. recommend to Council that the appointment of the person as a Bylaw Enforcement Officer be terminated;
- 4.16. The decision of the Appeal Chairman shall be in writing with reasons and shall be rendered within fifteen (15) days of the conclusion of the hearing.
- 4.17. Where it is alleged that the Chief Bylaw Enforcement Officer, in carrying out his duties, is guilty of misconduct as set out in this bylaw the Corporate Services Director shall hold a hearing to determine if the Chief Bylaw Enforcement Officer has committed a misconduct in carrying out his duties.
 - 4.17.1. in conducting such a hearing the Corporate Services Director shall follow with necessary modifications being made, the procedure set out in Section 4.8 of this bylaw.
 - 4.17.2. at the conclusion of a hearing to determine whether there has been a misconduct or within seventy-two (72) hours thereafter, the Corporate Services Director may, by a decision in writing with reasons:
 - 4.17.2.1 reprimand in writing the Chief Bylaw Enforcement Officer;
 - 4.17.2.2 suspend, without pay, the Chief Bylaw Enforcement Officer from acting as a Chief Bylaw Enforcement Officer for the Municipality for a term not to exceed six (6) months;
 - 4.17.2.3 recommend to Council that the appointment of the Chief Bylaw Enforcement Officer be terminated.
- 4.18. An appeal from the decision of the Corporate Services Director may be commenced by the Chief Bylaw Enforcement Officer who is the subject of the disciplinary hearing by filing a notice in writing of the appeal with the Appeal Chairman within thirty (30) days of the receipt by the Chief Bylaw Enforcement Officer of the decision.
- 4.19. In conducting a hearing, Appeal Chairman shall follow the procedure set out in Sections 4.8, 4.12, 4.14 and 4.15 of this Bylaw.
- 4.20. For the purposes of this bylaw, the following shall constitute misconduct by a Bylaw Enforcement Officer:
 - 4.20.1. discreditable conduct, where the Bylaw Enforcement Officer:
 - 4.20.1.1 acts in a disorderly or inappropriate manner, or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of law enforcement;
 - 4.20.1.2 contravenes:
 - (i) an Act of the Parliament of Canada;
 - (ii) an Act of the Legislature of Alberta;
 - (iii) any regulation made under an Act of either the Parliament of Canada or the Legislature of Alberta; or

- (iv) any provision of his appointment, if such appointment has been made, as a Special Constable;

where the contravention is of such a character that it would be prejudicial to discipline or likely to bring discredit on the reputation of law enforcement;

- 4.20.1.3 withholds or suppresses a complaint or report made in respect of a Bylaw Enforcement Officer or Peace Officer;

- 4.20.1.4 differentially applies the law or the exercise of his authority on the basis of race, colour, religion, sex, physical disability, marital status, age, ancestry or place of origin;

- 4.20.2. neglect of duty, where the Bylaw Enforcement Officer:

- 4.20.2.1 neglects, without lawful excuse, to promptly or diligently perform his duties as a Bylaw Enforcement Officer.

- 4.20.3. deceit, where the Bylaw Enforcement Officer:

- 4.20.3.1 wilfully or negligently makes or signs a false, misleading or inaccurate statement or entry in any official document or record;

- 4.20.3.2 without lawful excuse destroys, mutilates or conceals an official document or record or alters or erases any entry therein;

- 4.20.4 breach of confidence, where the Bylaw Enforcement Officer:

- 4.20.4.1 divulges any matter which it is his duty to keep in confidence.

- 4.20.5 corrupt practice, where the Bylaw Enforcement Officer:

- 4.20.5.1 fails to account for or to make a prompt and true return of money or property received in an official capacity;

- 4.20.5.2 directly or indirectly solicits or receives a payment, gratuity, present, pass, subscription or testimonial without the consent of the Chief Bylaw Enforcement Officer;

- 4.20.5.3 places himself under a financial, contractual or other obligation to a person in respect of whom he could reasonably expect he may be required to report or give evidence;

- 4.20.5.4 without lawful excuse, uses his position as a Bylaw Enforcement Officer for his or another person's personal advantage.

- 4.20.6 exercise of his authority as Special Constable when it is unlawful or unnecessary to do so;

- 4.20.7 consumption of liquor while on duty.

5. SEVERANCE

- 5.1. If any provision herein is adjudged by a Court of competent jurisdiction to be invalid for any reason, then that provision shall be severed from the remainder of this Bylaw and all other provisions of this Bylaw shall remain valid and enforceable.

6. COMING INTO EFFECT

- 6.1. This Bylaw shall come into effect upon the date of the third reading thereof.
- 6.2. If any provision herein is adjudged to be repugnant to any federal regulation or legislation, this Bylaw shall continue in full force and effect but any such repugnant provision shall be of no force or effect until such time as the repugnancy is removed by repeal or amendment of the federal legislation or regulation.

GIVEN FIRST READING THIS 16th DAY OF MARCH A.D., 2004

GIVEN SECOND READING THIS 6th DAY OF APRIL A.D., 2004

GIVEN THIRD AND FINAL READING THIS 4th DAY OF MAY A.D., 2004

Mayor

Municipal Manager