

COUNTY OF BARRHEAD NO. 11

PROVINCE OF ALBERTA

BY-LAW NO. 15-95

BY-LAW ENFORCEMENT OFFICER BY-LAW

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(Rescinding By-Law No. 11-95)

A BY-LAW OF THE COUNTY OF BARRHEAD NO. 11, in the Province of Alberta, rescinding By-Law No. 11-95 and replacing it as follows:

PURSUANT to the provisions of the Municipal Government Act, Chapter M-26.1, R.S.A. 1994, and amendments thereto, the Council of the County of Barrhead No. 11, in the Province of Alberta, duly assembled HEREBY ENACTS AS FOLLOWS:

1. Definition: In this by-law
 - (a) "by-law" means by-laws of the municipality;
 - (b) "by-law enforcement officer" means a special constable appointed as such by Council and Alberta Justice, Public Security Division;
 - (c) "chief by-law enforcement officer" means a person appointed as such by council;
 - (d) "committee" means the by-law enforcement committee established by this by-law;
 - (e) "council" means council of the municipality;
 - (f) "municipality" means the County of Barrhead No. 11
2. The powers and duties of the chief by-law enforcement officer are as follows;
 - (a) To ensure that by-laws of the municipality and assigned provincial statutes are enforced;
 - (b) To provide for the supervision of the performance and conduct of the by-law enforcement officers of the municipality;
 - (c) To discipline by-law enforcement officers as authorized by this by-law;
 - (d) To report to council and carry out the directions of council;
 - (e) To establish standards of uniform, insignia and identification for by-law enforcement officers;
 - (f) To assist in the prosecution of breaches of municipal by-laws including the gathering of evidence, the attendance of witnesses and any appearances in court that may be required;
3. The powers and duties of a by-law enforcement officer are as follows:
 - (a) To enforce the by-laws of the municipality and assigned provincial statutes within the boundaries of the municipality;
 - (b) To follow the directions of the chief by-law enforcement officer and to report to the chief by-law enforcement officer as required by him;
 - (c) To respond to and investigate complaints;
 - (d) To conduct routine patrols;
 - (e) To issue notices, tickets or tags;
 - (f) To assist in the prosecution of by-law and assigned provincial statute contraventions including appearances in court to provide evidence;
 - (g) To perform all other duties as may from time to time be assigned by the chief by-law enforcement officer;
 - (h) To take the official oath prescribed by the Oaths of Office Act and Alberta Justice, Public Security Division upon being appointed as a by-law officer and to carry upon his person at all such times as he is acting as a by-law enforcement officer evidence in writing of his appointment as a by-law enforcement officer of the municipality.
4. Council hereby establishes a by-law enforcement committee to be composed of those persons appointed by resolution of council from time to time, one of which member shall be designated as chairman.
5. The duties and responsibilities of the by-law enforcement committee are as follows;
 - (a) To hear appeals from any decision of the chief by-law enforcement officer made regarding the disciplining of by-law enforcement officers pursuant to the by-law;

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- (b) To carry out such investigation of the enforcement of by-laws of the municipality and assigned provincial statutes as council may from time to time request and to make a report in writing to council of the results of the investigation of the committee;
 - (c) To carry out any further duties and responsibilities assigned to the committee by council.
- 6. Where it is alleged that a by-law enforcement officer, in carrying his duties as a peace officer has committed a disciplinary default as defined by the by-law, the chief by-law enforcement officer shall hold a hearing to determine if the by-law enforcement officer has committed a disciplinary default in carrying out his duties as a peace officer.
- 7. Where the chief by-law enforcement officer intends to carry out a hearing to determine whether a by-law enforcement officer has committed a disciplinary breach, the following procedure shall be followed:
 - (a) Adequate notice (a minimum of 2 days) in writing shall be given to the by-law enforcement officer who is alleged to have committed a disciplinary breach and to such other parties the chief by-law enforcement officer considers to be affected by the alleged disciplinary breach;
 - (b) At the hearing, the chief by-law enforcement officer shall give the by-law enforcement officer a reasonable opportunity of furnishing relevant evidence;
 - (c) The chief by-law enforcement officer shall inform the by-law enforcement officer of the facts in his possession of the allegations made to him in sufficient detail to :
 - (i) Permit him to understand the facts or allegations; and,
 - (ii) Afford him a reasonable opportunity to furnish relevant evidence to contradict or explain the facts or allegations;
 - (d) The chief by-law enforcement officer shall give the by-law enforcement officer or his representative an adequate opportunity of making representations by way of argument to the chief by-law enforcement officer.
- 8. At the conclusion of a hearing to determine whether there has been a disciplinary breach, the chief by-law enforcement officer may, by a decision in writing with reasons, do the following:
 - (a) Reprimand in writing the by-law enforcement officer;
 - (b) Suspend the by-law enforcement officer from acting as a by-law enforcement officer for the municipality, but such period of suspension shall not exceed six (6) months;
 - (c) Recommend to council that the appointment of the by-law enforcement officer be terminated.
- 9. An appeal from the decision of the chief by-law enforcement officer may be commenced by the by-law enforcement officer who is the subject of the disciplinary hearing by filing a written notice of the appeal with the chairman of the committee within thirty (30) days of the receipt by the by-law enforcement officer of the written decision of the chief by-law enforcement officer.
- 10. The committee shall hold a hearing into the appeal within forty-five (45) days of the receipt of the appeal by the chairman of the committee.
- 11. The committee shall give reasonable notice of the hearing to the appellant, to the chief by-law enforcement officer, to the County Manager and to such other parties as the committee considers to be affected by the hearing.
- 12. In conducting a hearing, a committee shall follow, with necessary modifications being made, the procedure set out in Clause 7 of the by-law.
- 13. In determining an appeal, the committee may confirm, revoke or vary the decision or any conditions attached to a decision by the chief by-law enforcement officer and may:
 - (a) Reprimand in writing the by-law enforcement officer;
 - (b) Suspend the by-law enforcement officer from acting as a by-law enforcement officer for the municipality but such suspension shall not exceed six (6) months;

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- (c) Recommend to council that the appointment of the person as a by-law enforcement officer be terminated.
- 14. The committee's decision shall be in writing with reasons and shall be made within fifteen (15) days of the conclusion of the hearing.
- 15. For purposes of this by-law, the following shall be disciplinary defaults:
 - (a) Discreditable conduct, where the by-law 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 by-law enforcement officers.
 - (ii) uses oppressive or tyrannical conduct towards an inferior in rank,
 - (iii) uses profane, abusive or insulting language to any member of a police force, special constable or by-law enforcement officer,
 - (iv) wilfully or negligently makes any false complaint or statement against a peace officer,
 - (v) is guilty 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 against a peace officer, or,
 - (vii) abets, connives or is knowingly an accessory to a general default described in
 - (b) Insubordination, where the by-law enforcement officer by word or action, and without lawful excuse, disobeys, omits or neglects to carry out any lawful order;
 - (c) Neglect of duty, where the by-law enforcement,
 - (i) without lawful excuse neglects or omits promptly and diligently to perform a duty as a by-law 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,
 - (iv) fails to report a matter that it is his duty to report.
 - (d) Deceit, where the by-law 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 by-law enforcement officer
 - (i) divulges any matter which it is his 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, or,
 - (iii) without proper authorization from a superior or in contravention of any rules of the chief by-law enforcement officer 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 chief by-law enforcement officer shows to any person not a peace officer or any unauthorized member of the by-law enforcement officer group any book or written or printed paper, document or report relating to any law enforcement matter that is the property of or in the custody of the by-law enforcement officer, or,
 - (v) makes any anonymous communication to the chief by-law enforcement officer.

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- (f) Corrupt practice, where the by-law enforcement officer
- (i) fails to account for or to make a prompt, true return to money or property received in an official capacity,
 - (ii) directly or indirectly solicits or receives a gratuity, present, pass, subscription or testimonial without the consent of the chief by-law enforcement officer,
 - (iii) places himself 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 position as a by-law enforcement officer for private advantage;
- (g) Unlawful or unnecessary exercise of authority, where the by-law 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 by-law enforcement officer:
- (i) while on duty is unfit for duty through consuming intoxicating liquor or drugs,
 - (ii) reports for duty and is unfit for duty through consuming intoxication liquor or drugs,
 - (iii) except with the consent of a superior or in the discharge of duty, consumes or receives from any other person intoxicating liquor or drugs while on duty, or
 - (iv) demands, persuades or attempts to persuade another person to give or purchase or obtain for a by-law enforcement officer while on duty, any intoxicating liquor or drugs.

16. By-Law No. 11-95 is hereby repealed.

THIS BY-LAW comes into force upon the date of final passing.

FIRST READING GIVEN THIS 6th day of September, 1995 - Tupper

SECOND READING GIVEN THIS 6th day of September, 1995 - White

THIRD AND FINAL READING GIVEN THIS 6th day of September, 1995 - Fluet


REEVE


COUNTY MANAGER

SEAL