

BYLAW NO. 1373/22

A BYLAW OF LACOMBE COUNTY, IN THE PROVINCE OF ALBERTA, RESPECTING THE ENFORCEMENT OF BYLAWS.

WHEREAS pursuant to:

Section 7 (i) of the *Municipal Government Act*, RSA 2000, C M-26, a Council may pass bylaws respecting the enforcement of bylaws;

Section 555 of the *Municipal Government Act*, a person who is appointed as a Bylaw Enforcement Officer is, in the execution of those duties, responsible for the preservation and maintenance of the public peace;

Section 556 of the *Municipal Government Act*, a Council must pass a bylaw specifying the powers and duties of Bylaw Enforcement Officers and establishing disciplinary procedures for misuse of power, including penalties and an appeal process applicable to misuse of power by Bylaw Enforcement Officers;

Part 13, division 4 of the *Municipal Government Act*, the municipality may carry out numerous enforcement powers and duties, which may be exercised by Bylaw Enforcement Officers;

Section 1(k)(vii) of the *Provincial Offences Procedure Act*, RSA 2008, c P-34, a person who is employed or retained by a municipality for the preservation and maintenance of the public peace in the exercise or discharge of their powers and duties will be considered a "peace officer" for the purposes of that Act;

The Council of Lacombe County duly assembled enacts:

PART 1 – TITLE, PURPOSE, DEFINITIONS, AND INTERPRETATION

1.1 This Bylaw shall be known as the "Enforcement of Bylaws".

1.2 The purposes of the bylaw are to:

- (a) prescribe the requirements for appointing Bylaw Enforcement Officers;
- (b) delegate enforcement related powers, duties and function to the County Manager;
- (c) specify the powers, duties and function that may be delegated to Bylaw Enforcement Officers;
- (d) establish disciplinary procedures for misuse of power by Bylaw Enforcement Officers; and
- (e) deal with other matters respecting the enforcement of bylaws and other enactments.

1.3 In this bylaw, unless the context otherwise requires:

- (a) "Bylaw Enforcement Officer" means an individual appointed by the County Manager to carry out enforcement duties pursuant to this bylaw;
- (b) "County" means Lacombe County
- (c) "Contractor" means a person or business with whom the County has entered into a written agreement with for the provision of services relating to the enforcement of Bylaws.
- (d) "County Manager" means the Chief Administrative Officer of the County or delegate;

- (e) "Director of Community Services" means the individual appointed to this position for the County;
- (f) "Municipal Government Act" means the *Municipal Government Act*, RSA 2000, c M-26, as amended;
- (g) "Municipal tag" means a form alleging an offence of a County bylaw allowing for voluntary payment of the prescribed fine;
- (h) "Provincial Offences Procedure Act" means the *Provincial Offences Procedures Act*, RSA 2000, c P-34, as amended;
- (i) "Trespass to Premises Act" means the *Trespass to Premises Act*, RSA 2000, c T-7, as amended;
- (j) "Violation Ticket" has the same meaning as defined in the *Provincial Offences Procedure Act*;

1.4 The headings in this bylaw are for reference purposes only.

PART 2 – COUNTY MANAGER ROLE

2.1 The County Manager may:

- (a) appoint individuals as Bylaw Enforcement Officers in accordance with this bylaw;
- (b) further delegate the authority to appoint Bylaw Enforcement Officers, including specified duties and authorities, to a Contractor, and ensure the Contractor:
 - i. establishes a disciplinary procedure for misuse of power, including penalties and an appeal process applicable to misuse of power by bylaw enforcement officers.
- (c) take whatever actions or measures are necessary to eliminate an emergency in accordance with section 551 of the *Municipal Government Act*;
- (d) add any amounts owing to the County to a tax roll in accordance with the *Municipal Government Act* or other enactment;
- (e) 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 the public peace; and
- (f) delegate any of the County Manager's powers, duties or functions contained in this section to any employees of the County, including the option to further delegate those powers, duties or functions.

PART 3 – DIRECTOR OF COMMUNITY SERVICES

3.1 The Director of Community Services may:

- (a) revoke, suspend, or modify the appointments of Bylaw Enforcement Officers in accordance with this bylaw; and
- (b) monitor and investigate complaints of misuse of power by Bylaw Enforcement Officers.

PART 4 - BYLAW ENFORCEMENT OFFICERS

4.1 In accordance with their appointment by the County Manager, Bylaw Enforcement Officers may:

- (a) issue municipal tags and/or violation tickets for offences under bylaws;
- (b) exercise all the powers, duties, and functions of a designated 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*;

- (c) exercise all the powers, duties, and functions of a designated officer to issue written orders pursuant to sections 545 and 546 of the *Municipal Government Act*;
 - (d) take whatever actions or measures are necessary to remedy a contravention or prevent a re-occurrence of a contravention of the *Municipal Government Act*, an enactment that the County is authorized to enforce, or a bylaw in accordance with section 549 of the *Municipal Government Act*;
 - (e) take whatever actions or measures are necessary to eliminate a danger to public safety caused by a structure, excavation or hole or to deal with the unsightly condition of property in accordance with section 550 of the *Municipal Government Act*; and
 - (f) issue notices not to trespass under the *Trespass to Premises Act*.
- 4.2 The appointment of an individual as a Bylaw Enforcement Officer in accordance with this bylaw is deemed to be written authorization to issue violations tickets for offences under bylaws specified in the appointment; as the case may require.
- 4.3 To be eligible for appointment as a Bylaw Enforcement Officer, individuals must provide to the County Manager:
- (a) a recent criminal record check acceptable to the County Manager;
 - (b) demonstrated commitment to good character;
 - (c) proof of adequate training necessary for performing the powers, duties and function of a Bylaw Enforcement Officer; and
 - (d) any other requirement specified by the County Manager.
- 4.4 The County Manager may impose terms and conditions on a Bylaw Enforcement Officer appointment.
- 4.5 Prior to commencing their duties, all Bylaw Enforcement Officers must take the official oath contained in Schedule A.
- 4.6 Bylaw Enforcement Officers are subject to the supervision of and accountable to the Director of Community Services and must comply with their appointment and all County policies, directives, and procedures.
- 4.7 If, in the opinion of the Director of Community Services based on reasonable grounds, a Bylaw Enforcement Officer has misused a power, contravened their appointment, or this bylaw, including any terms or conditions, or acted contrary to the public interest, the Director of Community Services may issue a written reprimand, suspend with or without pay for a period not exceeding six months, or revoke or modify the Bylaw Enforcement Officer's appointment.
- (a) Prior to issuing a written reprimand, suspending, revoking, or modifying a Bylaw Enforcement Officer appointment, the Director of Community Services must provide the affected Bylaw Enforcement Officer with written notice of the proposed reprimand, suspension, revocation or modification, including reasons.
 - (b) The affected Bylaw Enforcement Officer may make written representations to the Director of Community Services respecting the proposed reprimand, suspension, revocation, or modification.
 - (c) The Director of Community Services will provide the Bylaw Enforcement Officer, and the complainant, if any, with a written decision, including reasons, on the proposal to reprimand, suspend, revoke, or modify the Bylaw Enforcement Officer's appointment.
- 4.8 If an individual appointed as a Bylaw Enforcement Officer is no longer employed or retained by the County, or if the individual's role is modified such that the individual no longer requires appointment as a Bylaw Enforcement Officer or requires a

modified appointment, the Director of Community Services may modify or revoke the Bylaw Enforcement Officer's appointment.

PART 5 - APPEAL PROCESS

- 5.1 If either the complainant or the Bylaw Enforcement Officer wishes to appeal the decision of the Director of Community Services, the appeal shall be delivered to the County Manager within sixty (60) days of the date of receipt of the written decision of the Director of Community Services.
- 5.2 Within sixty (60) days from the date of the receipt of the notice of appeal as provided for in section 5.1, the County Manager shall review the complaint, and written decision of the Director of Community Services, speak to person(s) involved as deemed necessary and review any other related documents associated with the matter.
- 5.3 The County Manager, in considering the appeal, may dismiss the appeal or allow the appeal and impose or vary discipline as outlined in section 4.7.
- 5.4 The County Manager shall, within sixty (60) days of receiving a notice of appeal notify the complainant, if any, and the Bylaw Enforcement Officer, in writing as to the results of the appeal. The decision of the County Manager with regard to the appeal is final.

PART 6 - OFFENCES

- 6.1 Any person who contravenes a bylaw is guilty of an offence.
- 6.2 Unless otherwise specified, a municipal tag may be issued for any offence under a bylaw.
- 6.3 If a municipal tag is issued for an offence, the municipal tag must specify the fine amount established by the bylaw for the offence.
- 6.4 A person who commits an offence may, if a municipal tag is issued for the offence, pay the fine amount established by the bylaw for the offence and if the amount paid on or before the required date, the person will not be prosecuted for the offence.
- 6.5 If a violation ticket is issued in respect of an offence under a bylaw the violation ticket may:
 - (a) specify the fine amount established by the bylaw for the offence; or
 - (b) require a person to appear in court without the alternative of making a voluntary payment.
- 6.6 A person who commits an offence may, if a violation ticket is issued specifying the fine amount established by bylaw for the offence, make a voluntary payment equal to the specified fine amount.
- 6.7 A person found guilty of an offence under a bylaw is liable to a fine in an amount not less than that specified in the bylaw, and in any event not exceeding \$ 10,000 or imprisonment for not more than one year for non-payment of the fine.
- 6.8 In the case of an offence under a bylaw that is of a continuing nature, a contravention constitutes a separate offence in respect of each day, or part of a day, on which it continues and a person guilty of such an offence is liable to a fine in an amount not less than that established by the bylaw for each such day.

PART 7 – GENERAL

7.1 This bylaw applies to every bylaw of the County.

7.2 (1) An order, notice, municipal tag, violation ticket, or other document required or authorized to be issued by a Bylaw Enforcement Officer or by the Director of Community Services or by the County Manager pursuant to this bylaw may be served by:

- (a) Sending the order, notice, municipal tag, violation ticket, or other document by regular mail, or by electronic mail, to the mailing address or electronic mail address, of the person named in the order, notice, or document;
- (b) Posting the order, notice, municipal tag, violation ticket, or other document in a conspicuous location at the property, or on a vehicle subject to the order, notice, or other document;
- (c) Personally serving the order, notice, municipal tag, violation ticket or document on the person named in the order, notice, municipal tag, violation ticket, or document.

(2) Unless otherwise specified in a bylaw or enactment, service of an order, notice, municipal tag, violation ticket, or other document in accordance with section 7.2 is presumed to be effected:

- (a) Immediately upon the date issued, if the order, notice, municipal tag, violation ticket, or other document is sent by means of electronic mail;
- (b) 7 days from the date of mailing if the order, notice, municipal tag, violation ticket, or other document is mailed to an address in Alberta; or
- (c) 14 days from the date of mailing if the order, notice, municipal tag, violation ticket, or other document is mailed to an address outside of Alberta but within Canada.

(3) Unless otherwise specified in a bylaw or enactment; service of an order, notice, municipal tag, violation ticket, or other document in accordance with section 7.2 is in effect on the date of delivery.

PART 8 - SEVERABILITY PROVISION

8.1 Should any provision of this Bylaw be invalid, then such invalid provision shall be severed, and the remaining Bylaw shall be maintained.

PART 9 – REPEAL OF BYLAW

9.1 Lacombe County Bylaw No. 1234/17 is hereby repealed.

PART 10 – EFFECTIVE DATE

10.1 This Bylaw shall come into force and take effect on its passing.

Received first and second readings, and by unanimous consent of the Councillors present, a third reading and finally passed this ___ day of _____, 20__.

Reeve

County Manager

SCHEDULE "A"

OATH OF OFFICE

CANADA)
PROVINCE OF ALBERTA)

I, «First_Name» «Last_Name», swear that I will diligently, faithfully and to the best of my ability execute according to law the office of Bylaw Enforcement Officer as stipulated on my appointment as a Bylaw Enforcement Officer. So help me God.

TAKEN and subscribed before me)
At Lacombe, Alberta)
This «Day», day of «Month» (A.D., «Year»)

Officer

Commissioner for Oaths in and for the Province of Alberta

Expiry

--- OR ---

CANADA)
PROVINCE OF ALBERTA)

I, «First_Name» «Last_Name», solemnly and truly declare and affirm that I will diligently, faithfully and to the best of my ability execute according to law the office of Bylaw Enforcement Officer as stipulated on my appointment as a Bylaw Enforcement Officer.

TAKEN and subscribed before me)
At Lacombe, Alberta)
This «Day», day of «Month» (A.D., «Year»)

Officer

Commissioner for Oaths in and for the Province of Alberta

Expiry