

BYLAW NO. 397/03

**BEING A BYLAW OF THE
MUNICIPAL DISTRICT OF MACKENZIE NO. 23
IN THE PROVINCE OF ALBERTA**

**TO ALLOW FOR THE ESTABLISHMENT OF SPECIAL CONSTABLES OR
BYLAW ENFORCEMENT OFFICER POSITIONS AND SPECIFY THE
POWERS, DUTIES AND RESPONSIBILITIES OF A
SPECIAL CONSTABLE OR BYLAW
ENFORCEMENT OFFICER.**

WHEREAS, under the provisions of the Municipal Government Act, being Chapter M-26.1 of the Revised Statutes of Alberta, 1994 and amendments thereto, the Council of the Municipal District of Mackenzie No. 23 may by bylaw, specify the powers and duties of Bylaw Enforcement Officers, and must establish disciplinary procedures for misuse of power, including penalties and an appeal process applicable to misuse of power by Special Constables or Bylaw Enforcement Officers.

NOW THEREFORE, the Council of the Municipal District of Mackenzie No. 23 in the Province of Alberta, duly assembled, enacts as follows:

Short Title

This bylaw may be cited as the “**ENFORCEMENT SERVICES BYLAW**”.

Definitions

2. In this bylaw, unless the context otherwise requires,
 - a) “**M.G.A**” means the Municipal Government Act, Revised Statutes of the Province of Alberta, 1994, and amendments thereto;
 - b) “**BYLAW**” means all bylaws of the Municipal District of Mackenzie No. 23, duly enacted pursuant to the M.G.A. and/or any other Statutes of the Province of Alberta;

- c) **“BYLAW ENFORCEMENT OFFICER”** means an employee of the Municipality appointed as such and who, in the execution of his or her duties, is only responsible for the enforcement of those bylaws or sections of bylaws as specified in the appointment. Where a reference is required, a Bylaw Enforcement Officer may also be called an, interim Bylaw Enforcement Officer, Auxiliary Bylaw Officer or Protective Services Officer;
- d) **“CAO”** means the Chief Administrative Officer of the Municipal District of Mackenzie No. 23, a person duly appointed pursuant to the MGA and the Municipalities Chief Administrative Officer Bylaw;
- e) **“COUNCIL”** means the Council of the Municipal District of Mackenzie No. 23, elected pursuant to the Local Authorities Election Act, Revised Statutes of Alberta;
- f) **“CONDITIONAL BYLAW ENFORCEMENT OFFICER”** means an employee of the Municipality appointed as such and who, in the execution of his or her duties, is only responsible for the enforcement of those bylaws or sections of bylaws as specified in the appointment, under such conditions as specified in the appointment, and limited to the powers and duties as specified in the appointment;
- g) **“MUNICIPALITY”** means the Municipal District of Mackenzie No. 23, an incorporated body in the Province of Alberta;
- h) **“PEACE OFFICER”** means a person employed for the purposes of preserving and maintaining the public peace;
- i) **“PROPER AUTHORIZATION”** means obtaining written authorization from the Director of Enforcement Service;
- j) **“DIRECTOR of ENFORCEMENT SERVICES”** means an employee of the Municipality who is responsible for the direction and guidance of the Enforcement Services Department;

- k) **“SPECIAL CONSTABLE”** means an employee of the municipality appointed as such by the Alberta Solicitor General, and who, in the execution of his or her duties, is only responsible for the enforcement of Criminal Code and Provincial legislation as specified under his Provincial Appointment. Where a reference is required, a special Constable may also be called a Peace Officer, Municipal Constable or Auxiliary Special Constable.

Appointment

3. The CAO may establish one or more Special Constable or Bylaw Enforcement Officer positions within the Municipality.
4. The Director of Enforcement Services may appoint, promote or dismiss individuals, to the position of Special Constable or Bylaw Enforcement Officer or Conditional Bylaw Enforcement Officer for the purpose of enforcing compliance of the Municipalities bylaws and Ministerial Orders, and enforcement of Provincial Statutes and Acts as authorized by the Alberta Department of Justice.
5. If the Special Constable or Bylaw Enforcement Officer is absent from his or her position, is off duty, or is out of the office, the Director of Enforcement Services may take on any of the duties and powers of a Bylaw Enforcement Officer or appoint an Interim Bylaw Enforcement Officer for the purpose of enforcing compliance of the Municipalities bylaws.
6. A Special Constable or Bylaw Enforcement Officer or Conditional Bylaw Enforcement Officer shall take the official oath prescribed by the Oaths of Office Act before starting his or her duties.
7. The powers and duties of a Special Constable or Bylaw Enforcement Officer for the Municipal District of Mackenzie No. 23 shall be as follows:
 - a) Ensure that all bylaws and/or Ministerial Orders of the Municipality are enforced.

- b) Respond to and investigate complaints.
- c) Conduct routine patrols.
- d) Issue notices, tickets or tags.
- e) Prosecution of any bylaw contravention including appearances in court to provide evidence.
- f) Service of summonses.
- g) Ensure proper filing of information and documentation of circumstances.
- h) Act as an agent for collecting of delinquent accounts.
- i) Enforcement of specific Criminal Code and Provincial Acts as authorized by the Alberta Solicitor General.
- j) Perform all other duties as may be assigned by the Director of Enforcement Services.

Rules, Complaints, and Appeals

- 8. The Council may, by resolution, make rules governing the operation of the Enforcement Services Department, including:
 - a) The conduct, dress, deportment and duties of the department.
 - b) The prevention of neglect or abuse in the discharge of duties.
 - c) The efficient discharge of duties by members of the Enforcement Services Department.
 - d) Hearings for an appeal of a Special Constable or Bylaw Enforcement Officer or Conditional Bylaw Enforcement Officer who feels himself aggrieved by disciplinary action taken against him or her under this bylaw.

9. The process for the handling of complaints and appeals arising from matter respecting the conduct or performance of duty of a Special Constable or Bylaw Enforcement Officer or Conditional Bylaw Enforcement Officer is established as follows:
 - a) Complaints, including those received by the Council, respecting the conduct or performance of duty of any member of the Enforcement Services Department shall be directed to the Director of Enforcement Services for investigation and any action he considers advisable.
 - b) A complaint shall be in writing and signed by the complainant.
 - c) The Director of Enforcement Services shall cause the complaint to be investigated and as soon as possible after the receipt of the said complaint, shall inform the complainant in writing as to whether he has found all or any portion of the said complaint to be justified and whether disciplinary action is to be taken, and shall inform the complainant of his right of appeal to the Council.
 - d) The complainant may, within 15 days after the receipt of the information referred to in Section 9 c), file with the Council a notice of appeal setting forth the grounds of which the appeal is based.
 - e) A member of the Enforcement Services Department who feels himself aggrieved by disciplinary action taken against him under this bylaw or the regulations or rules of the Council may, within 15 days after being advised of disciplinary action, file with the Council a notice of appeal setting forth the grounds of which the appeal is based.
 - f) When an appeal is filed under this section, any disciplinary action taken as a result of the decision from which the appeal is taken, shall be stayed without any further order until the appeal is decided upon.

- g) In determining an appeal under Section 9 d) and 9 c), the Council may:
 - i) dismiss the appeal;
 - ii) allow the appeal;
 - iii) revoke or vary disciplinary action imposed;
 - iv) affirm the disciplinary action imposed;
 - v) refer the matter back to the Director of Enforcement Services for a review;
 - h) The Council shall in writing inform:
 - i) the complainant in the case of an appeal under Section 9 d) or the appellant in the case of an appeal under Section 9 e);
 - ii) the Director of Enforcement Services;as to the decision of Council.
10. A Special Constable or Bylaw Enforcement Officer or Conditional Bylaw Enforcement Officer, respecting the conduct or performance of duty, may be liable to disciplinary action if the offence includes:
- a) **DISCREDITABLE CONDUCT**, an Officer who
 - 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 Enforcement Services Department, or
 - ii) willfully or negligently makes a false complaint or lays a false complaint or statement against any person or another peace officer, or
 - iii) withholds or suppresses a complaint or report against any person or another peace officer, or
 - iv) is guilty of an indictable offence under a federal statute or an offence punishable upon summary conviction under the Criminal Code of Canada, or

- v) abets, connives or is knowingly an accessory to a general default described in this bylaw.
- b) **INSUBORDINATION**, an Officer who
 - i) by work or action, and without lawful excuse, disobeys, omits, or neglects to carry out any lawful order, or
 - ii) by word or action is unwilling to submit to the authority of the Director of Enforcement Services.
- c) **NEGLECT OF DUTY**, an Officer who
 - i) without lawful excuse, neglects or omits promptly and diligently to perform a duty as a Special Constable or Bylaw Enforcement Officer or Conditional Bylaw Enforcement Officer, or
 - ii) fails to work in accordance with orders, or leaves an area, detail or other place of duty without due permission or sufficient cause, or
 - iii) fails to report a matter that is his duty to report.
- d) **DECEIT**, an Officer who
 - i) knowingly makes or signs a false statement in an official document or book, or
 - ii) willingly 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**, an Officer who
 - i) divulges any matter which it is his duty to keep secret, or

- ii) without proper authorization or in contravention of any rules of the department communicates to the news media or to any authorized person any law enforcement matter which could be injurious to any person or investigation, or
 - iii) without proper authorization shows to any person not a Peace Officer or any unauthorized person, 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 employer of the Special Constable or Bylaw Enforcement Officer or Conditional Bylaw Enforcement Officer.
- f) **CORRUPT PRACTICE**, an Officer who
- i) fails to account for or make a prompt, true return of money or property received in an official capacity, or
 - ii) directly or indirectly solicits or receives a gratuity, present, pass, subscription or testimonial without the consent of the Director of Enforcement Services, or
 - iii) places himself under a pecuniary or obligation to a person of respect, whose conduct or business operation or employment the Officer may likely have to report or give evidence, or
 - iv) improperly uses his position as a Special Constable or Bylaw Enforcement Officer or Conditional Bylaw Enforcement Officer for private advantage.
- g) **UNLAWFUL OR UNNECESSARY EXERCISE OF AUTHORITY**, an Officer who
- i) is unnecessarily discourteous or uncivil to a member of the public, or
 - ii) uses excessive force in the execution of his duties without just cause as a Peace Officer, or

- iii) uses excessive authority of his position with his co-workers.
- h) **USE OF INTOXICATING LIQUOR OR DRUGS IN A MANNER PREJUDICED TO DUTY**, an Officer who
 - i) while on shift is unfit for duty due to the personal use of liquor, drugs or intoxicants, or
 - ii) reports for a shift and is unfit for duty due to the personal use of liquor, drugs or intoxicants prior to reporting for work, or
 - iii) personally uses, consumes or receives from other persons liquor, drugs or intoxicants while on duty.
- 11. Any Special Constable or Bylaw Enforcement Officer or Conditional Bylaw Enforcement Officer who contravenes or disobeys, or refuses, or neglects to obey any provision of this bylaw by
 - a) doing any act or thing which he is prohibited from doing herein;
 - b) failing to do any act or thing he is required to do herein;shall be subject to an inquiry by the Director of Enforcement Services , and upon conclusion of the inquiry, the Director of Enforcement Services shall, in writing with reason, do the following
 - i) reprimand the Officer, or
 - ii) dismiss the claim, or
 - iii) suspend the Officer from acting as a Special Constable or Bylaw Enforcement Officer or Conditional Bylaw Enforcement Officer for the Municipality, but such period of suspension shall not exceed one (1) month, or
 - iv) terminate the appointment of the Officer.

Repeal

12. This bylaw shall replace bylaw 138/98.

Commencement

13. This bylaw shall come into full force and effect upon receiving third and final reading.

First Reading given on the 9th day of November, 2004.

"B. Neufeld" (signed)
Bill Neufeld, Reeve

"B. Spurgeon" (signed)
Barbara Spurgeon, Executive Assistant

Second Reading given on the 9th day of November, 2004.

"B. Neufeld" (signed)
Bill Neufeld, Reeve

"B. Spurgeon" (signed)
Barbara Spurgeon, Executive Assistant

Third Reading and Assent given on the 9th day of November, 2004.

"B. Neufeld" (signed)
Bill Neufeld, Reeve

"B. Spurgeon" (signed)
Barbara Spurgeon, Executive Assistant