

## **BYLAW No. 1091/GEN/2024**

### **A BYLAW FOR THE TOWN OF FAIRVIEW IN THE PROVINCE OF ALBERTA, FOR THE PURPOSE OF BYLAW ENFORCEMENT OFFICER APPOINTMENT**

#### **Whereas pursuant to:**

Section 7 (i) of the *Municipal Government Act*, RSA 2000, c M26, 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 officer(s).

**And whereas**, Council deems it desirable to appoint a bylaw enforcement officer(s);

**NOW THEREFORE**, Council of the Town of Fairview, duly assembled, enacts as follows:

- 1 This bylaw shall be cited as the *Bylaw Enforcement Officer Appointment Bylaw*.
- 2 In this Bylaw (and the attached Schedule) the following definitions apply:
  - 2.1 Bylaw Enforcement Officer means the designated officer(s) appointed for the enforcement of Town of Fairview bylaws;
  - 2.2 CAO (Chief Administrative Officer) is the person appointed by the Council into the position of Chief Administrative Officer for the Town of Fairview in accordance with the *Municipal Government Act* (or his / her designate);
  - 2.3 Council means the duly elected Council of the Town of Fairview;
  - 2.4 MGA means the *Municipal Government Act*, RSA2000, Chapter M-26 (as amended over time);
  - 2.5 Municipality means the Town of Fairview.
- 3 Appointed Bylaw Enforcement Officer(s) report directly to the Chief Administrative Officer

3.1 The Chief Administrative Officer may,

- i. appoint individuals as Bylaw Enforcement Officers in accordance with this Bylaw;
- ii. retain the services of a corporation to fulfill the role of Bylaw Enforcement Officer(s), whose individual employees shall be appointed as Bylaw Enforcement Officers in accordance with this Bylaw;
- iii. in the absence of a Bylaw Enforcement Officer, the Chief Administrative Officer may take on any of the duties and powers of a Bylaw Enforcement Officer or may appoint an Interim Bylaw Enforcement Officer for the purpose of enforcing Town of Fairview bylaws;
- iv. revoke (with or without cause) suspend, or modify the appointment of a Bylaw Enforcement Officer;
- v. monitor and investigate complaints of misuse of power by Bylaw Enforcement Officers;
- vi. exercise all powers, duties and functions under the *Municipal Government Act*;
- vii. grant written authorization to issue violation tickets under the *Municipal Government Act*;
- viii. 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 public peace;
- ix. delegate any of the CAO's powers, duties, or functions to a designated officer or an employee of the Town (Section 209 of the MGA applies).

3.2 The Bylaw Enforcement Officer(s) shall take the official oath prescribed by the *Oath of Office Act* before commencement of duties.

3.3 Should the Chief Administrative Officer retain a corporation to fulfill the role of Bylaw Enforcement Officer(s), no individual may be employed by that corporation to appointed as a Bylaw Enforcement Officer unless they have first been vetted by the Municipality to the satisfaction of the Chief Administrative Officer, and such individual shall not commence their duties until such individual has taken the official oath prescribed by the *Oath of Office Act*.

#### 4 Powers and Duties of a Bylaw Enforcement Officer

##### 4.1 A Bylaw Enforcement Officer

- i. is responsible for the enforcement of all regulatory bylaws of the Town or otherwise as specified by resolution of Council under the authority of section 555 and 556 of the *Municipal Government Act*;
- ii. can exercise all 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 Part 13, Division 4 (Enforcement of Municipal Law) of the *Municipal Government Act*;

*iii.* can exercise all powers, duties afforded by Part 13, Division 5 (Offences & Penalties) of the *Municipal Government Act*.

#### 4.2 Specific responsibilities of a Bylaw Enforcement Officer include:

- i.* responding to and investigating bylaw related complaints;
- ii.* acting as a resource to residents for enquiries regarding Town bylaws & policies;
- iii.* working with residents to resolve issues through education to achieve bylaw compliance;
- iv.* enforcement of bylaws through issuing warnings, notices, compliance agreements and violation tickets;
- v.* development of community information to assist in bylaw compliance;
- vi.* liaison, collaboration and providing assistance to other agencies (RCMP, SPCA, etc.) in the fulfillment of duties;
- vii.* maintaining written reports that may be required as legal evidence;
- viii.* conducting routine patrols;
- ix.* other related duties specific to bylaw enforcement or community engagement as directed by the CAO.

### 5 Misuse of Power

- i.* The Town of Fairview prefers to work with residents for voluntary compliance of municipal bylaws before enacting enforcement actions, such as issuing tickets or other stronger solutions;
- ii.* Any questions regarding bylaw definitions, applicability or enforcement should be addressed to the Town of Fairview by contacting either the CAO, Legislative Coordinator or the Bylaw Enforcement Officer.

#### 5.1 Complaints

- i.* A complaint made against a Bylaw Enforcement Officer must be made in writing and submitted to the CAO

##### 5.1.1 Acknowledgement of complaints

- i.* On receipt of a complaint the CAO will acknowledge to the complainant receipt of the complaint in writing within 10 working days of the receipt date;
- ii.* The CAO will regularly update the complainant of the status of the complaint;

- iii.* The CAO will also notify the Bylaw Enforcement Officer concerned that a complaint has been made against them.

#### 5.1.2 Investigations of complaints

- i.* When an investigation is carried out in respect of a complaint the CAO will, where deemed appropriate, provide the Bylaw Enforcement Officer with details of the complaint;
- ii.* The investigation will be carried out in accordance with the procedures provided in the Town of Fairview Human Resource Policy Manual (as amended over time).

#### 5.1.3 The CAO will dispose of a complaint by making one of the following decisions and by giving reasons for the decision:

- i.* the complaint is unfounded (no basis in fact);
- ii.* the complaint is unsubstantiated (not supported or proven by evidence);
- iii.* having regard to all of the circumstances of the complaint, no investigation is necessary;
- iv.* the complaint is found to have merit in whole or in part;
- v.* the complaint is frivolous, or made in bad faith;
- vi.* If a complaint about a Bylaw Enforcement Officer is found to have merit or is founded in part, the CAO will take action in accordance with the disciplinary procedures provided in the Town of Fairview Human Resource Policy Manual (as amended over time).

The CAO will update the complainant on any decision or action taken.

## 5.2 Confidentiality

Personal information within a written complaint will be collected in accordance with Part 2, Protection of Privacy of the Freedom of Information and Protection of Privacy Act (as amended over time).

Personal information gathered will be used to process the complaint but will not be made available to the public.

## 6 Appeal Process

6.1 Any person who considers themselves to be aggrieved by a decision of the CAO made under this Bylaw may appeal the decision to Council, in accordance with the procedures outlined in the Council Procedural Bylaw providing that an appeal is made in writing within 30 days of receiving the CAO's decision.

- i.* Council will make a decision on any appeal within 30 days of its receipt;
- ii.* The Council's decision in respect of an appeal will be final and binding;

## 7 Severability

- i. Every provision of this Bylaw is independent of all other provisions. If any provision of this Bylaw is declared invalid for any reason by a Court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable;
- ii. Nothing in this Bylaw relieves a person from complying with any provision of any federal, provincial or municipal law or regulation or any requirement of any lawful permit, order or licence.

8 This Bylaw supersedes and takes precedence over all previously passed Bylaws that establishes the position of a Bylaw Enforcement Officer, or which make reference to the powers, duties and functions of a Bylaw Enforcement Officer.

8.1 Bylaw 1016/APP/2014, 1015/GEN/2014, 902/APP/2006, and 834/AC/2000 and all amendments thereto are hereby repealed.

## 9 Schedule(s) attached to this Bylaw

9.1 Schedule A Oath of Office

### **Effective Date of Amendment**

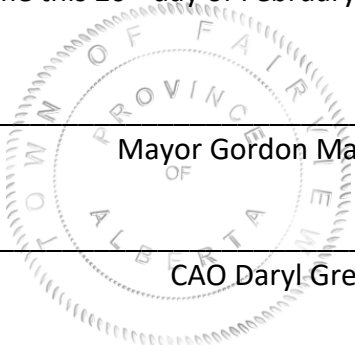
This bylaw shall come into force and effect upon the third and final reading.

Read a first time this 20<sup>th</sup> day of February 2024

Read a second time this 20<sup>th</sup> day of February 2024

COUNCIL UNANIMOUSLY MOVED TO PROCEED WITH A THIRD READING

Read a third time this 20<sup>th</sup> day of February 2024



\_\_\_\_\_  
Mayor Gordon Macleod  
\_\_\_\_\_  
CAO Daryl Greenhill

**SCHEDULE A Oath of Office**

**A1**

**Applicable Legislation**

Section 555(2) *Municipal Government Act* RSA2000, Chapter M-26 (as amended)

Section 2 *Oaths of Office Act*, RSA2000 Chapter O-1 (as amended)

Section 555(2) states that,

*“bylaw enforcement officers must take the official oath prescribed by the Oaths of Office Act before starting their duties”.*

**A2**

**Oath of Office**

I, \_\_\_\_\_, swear that I will diligently, faithfully and to the best of my ability execute according to law the office of Bylaw Enforcement Officer.

So help me God.

**or alternatively;**

**A3**

**Solemn Affirmation**

I, \_\_\_\_\_, solemnly affirm that I will diligently, faithfully and to the best of my ability execute according to law the office of Bylaw Enforcement Officer.

**A4**

The Oath of Office or the Solemn Affirmation is to be sworn before a Commissioner for Oaths and recorded as follows; Sworn before me in the Province of Alberta this [month] day of, [day], [year]

\_\_\_\_\_ **(name)** Commissioner for Oaths

\_\_\_\_\_ **(signature)** in and for the Province of Alberta