

A Bylaw of Birch Hills County, in the Province of Alberta for the purpose of providing for the appointment of a Bylaw Enforcement Officer.

WHEREAS: the Municipal Government Act, Chapter M-26 of the Revised Statutes of Alberta, as amended from time to time, notes that Council may pass a bylaw for municipal purposes, including the enforcement of local bylaws;

WHEREAS: Section 556 of the Municipal Government Act notes that a Council must by bylaw specify the powers and duties of bylaw enforcement officers and establish disciplinary procedures for misuse of power, including penalties and an appeal process applicable to misuse of power by a Bylaw Enforcement Officer;

WHEREAS: The Council of Birch Hills County has determined that it is in the best interest of Birch Hills County to pass a bylaw providing for the appointment of Bylaw Enforcement Officers;

NOW THEREFORE, be it resolved that the Council of Birch Hills County, in the Province of Alberta, duly assembled hereby enacts as follows:

1. TITLE

1.1 The title of this Bylaw shall be the "Bylaw Enforcement Officer Bylaw".

2. DEFINITIONS

2.1 That definitions, for the purpose of this bylaw, include:

2.2 "Bylaw" means the bylaws of Birch Hills County.

2.3 "Bylaw Enforcement Officer" means a person appointed, designated and/or engaged as such pursuant to the provisions of this Bylaw;

2.4 "Chief Administrative Officer" or "CAO" means the person appointed to the position of Chief Administrative Officer by Council.

2.5 "Chief Bylaw Enforcement Officer" means:

2.5.1 A person appointed, designated and/or engaged as such pursuant to the provisions of the Bylaw or

2.5.2 In the event no person is designated, the Chief Administrative Officer;

2.6 "Control Officer" means the Chief Administrative Officer or such other person as may be appointed or designated as a Control Officer by the Chief Administrative Officer;

2.7 "County" or "Municipality" means Birch Hills County.

3. CONDITIONS

- 3.1 The Chief Administrative Officer may from time to time appoint, designate, and/or engage one or more persons who are either employees of Birch Hills County, or who are engaged under contract with the County as a Chief Bylaw Enforcement Officer.
- 3.2 The Chief Administrative Officer may from time to time appoint, designate and/or engage one or more persons who are either employees of Birch Hills County or who are engaged under contract with Birch Hills County as Bylaw Enforcement Officers.
- 3.3 A Chief Bylaw Enforcement Officer, and a Bylaw Enforcement Officer appointed, designated and/or engaged pursuant to this Bylaw and engaged by Birch Hills County either as an employee or as a contractor either independently or through agreement with another municipalities, in the execution of his/her duties, a person engaged for the preservation and maintenance of the public peace and has all the powers of a Peace Officer with respect to the enforcement of the bylaws of Birch Hills County. Such persons shall not have the power to apprehend, search or take custody of any persons unless otherwise expressly stated in any bylaw or permitted in any bylaw.
- 3.4 Upon a person being appointed, designated and/or engaged as a Chief Bylaw Enforcement Officer or Bylaw Enforcement Officer, he/she shall take the official oath prescribed by the Oaths of Office Act before entering upon his/her duties; and further, he/she shall carry on his/her person when he/she is on duty or performing functions as a Bylaw Enforcement Officer.
- 3.5 The powers and duties of a Chief Bylaw Enforcement Officer shall include the following:
 - 3.5.1 Ensuring that the Bylaws of Birch Hills County are enforced within its boundaries;
 - 3.5.2 Supervising the performance and conduct of the Bylaw Enforcement Officers under their control;
 - 3.5.3 Ensuring the due performance of the provisions of the contract of Bylaw Enforcement Officers engaged by Birch Hills County as independent contractors or through agreement with any adjacent municipality;
 - 3.5.4 Reporting to his/her control officer and carrying out his/her control officer' directions
 - 3.5.5 Establishing standards of uniform, insignia and identification for Bylaw Enforcement Officers;

- 3.5.6 Assisting in the prosecution of breaches of Birch Hills County including gathering evidence, attendance of witnesses and court appearances.
- 3.6 The powers and duties of a Bylaw Enforcement Officer shall include the following:
 - 3.6.1 Enforcing the bylaws of Birch Hills County within its boundaries;
 - 3.6.2 Reporting to and carrying out the directions of his/her control officer;
 - 3.6.3 Responding to and investigating complaints;
 - 3.6.4 Conducting routine patrols for the purpose of preventing and detecting violations;
 - 3.6.5 Carrying out inspections of overload moves within Birch Hills County;
 - 3.6.6 Issuing and serving notices, tickets, tags, summons, and laying information when required;
 - 3.6.7 Assisting in the prosecution of breaches of bylaws including gathering evidence, assisting witnesses, attending court and providing evidence required;
 - 3.6.8 Performing all duties as may from time to time be assigned by his/her control officer or designated in his/her contract.
- 3.7 The Chief Bylaw Enforcement Officer and any designated Bylaw Enforcement Officers who are employees of Birch Hills County are subject to discipline procedures and penalties contained in the Policies of Birch Hills County or any amendments thereto.
- 3.8 The contract of persons who are engaged by Birch Hills County to perform the duties of a Chief Bylaw Enforcement Officer or a Bylaw Enforcement Officer, and who breach either the terms of such contract or the Bylaw, are subject to termination without notice and without prejudice to the County's right to seek damages for such a breach of contract.
- 3.9 Misuse of Power:
 - 3.9.1 When the Chief Administrative Officer receives a written allegation claiming that a Bylaw Enforcement Officer has misused his/her power the Chief Administrative Officer shall determine if an investigation is required.

- 3.9.2 If the Chief Administrative Officer determines that an investigation into a written allegation of misuse of power is required, a Review Committee shall undertake the investigation within 30 days of receiving the written allegation.
- 3.9.3 The review committee membership shall be composed of the following: Chief Administrative Officer; Member of the local RCMP detachment; and a member of Birch Hills County Senior Leadership Team.
 - 3.9.3.1 Establishment: that the following Committee is established:
 - i. the Review Committee.
- 3.9.4 The investigation procedure shall ensure that:
 - 3.9.4.1 The Bylaw Enforcement Officer is advised of the allegation and of the investigation;
 - 3.9.4.2 The Bylaw Enforcement Officer has the opportunity to respond to the allegation;
 - 3.9.4.3 Such other parties as the Chief Administrative Officer considers to be affected have the opportunity to respond to the allegation.
- 3.9.5 The Review Committee shall meet to review all evidence and determine whether or not there was a misuse of power by the Bylaw Enforcement Officer.
- 3.9.6 The review committee shall render a written decision, with reasons, within 14 days of the meeting to review evidence.
- 3.9.7 If the review committee determines that a Bylaw Enforcement Officer has misused their power as a Bylaw Enforcement Officer or Special Constable, disciplinary procedures shall be implemented in accordance with the County personnel policy.
- 3.9.8 The Chief Administrative Officer shall maintain a record of the investigation procedure and decision of the Review Committee.
- 3.9.9 The Chief Administrative Officer shall advise the Bylaw Enforcement Officer of the results of the investigation in writing.
- 3.9.10 If the Chief Administrative Officer deems it necessary, other parties involved in the investigation may be advised, in writing, of the review committee's decision.

3.10 Appeal:

3.10.1 Within 14 days of receipt of the Review Committee's written decision, a Bylaw Enforcement Officer may appeal the decision to the Council.

3.10.2 In considering the appeal, the Council shall review the following:

3.10.2.1 Record of the allegation of misuse of power;

3.10.2.2 Record of the investigation procedure and results;

3.10.2.3 Submission of the Bylaw Enforcement Officer and other parties involved; and

3.10.2.4 Any other information the Council deems important to the appeal.

3.10.2 The Council may confirm, revoke or vary the decision of the review committee. The Council's decision shall be in writing and provided to the Chief Administrative Officer and the Bylaw Enforcement Officer. Other parties involved in the investigation may be provided with the appeal decision if the Council deems it necessary.

3.10.3 All documents relating to the allegation, review committee, review committee decision, appeal, appeal decision and any resulting disciplinary action shall be filed in the personnel files of the County.

3.11 This bylaw shall come into effect on the day that it is finally passed by Council by giving it third and final reading and it is signed in accordance with the Municipal Government Act.

READ a first time this 25th day of May, 2021.

READ a second time this 25th day of May, 2021.

READ a third and final time this 25th day of May, 2021.

Original to be signed

Reeve
Gerald Manzulenko

Original to be signed

Chief Administrative Officer
Rick Bastow