

BYLAW 995
OF THE MUNICIPAL DISTRICT OF STARLAND NO. 47
IN THE PROVINCE OF ALBERTA, CANADA

A Bylaw of the Municipal District of
Starland No. 47 to establish a Bylaw
Enforcement Officer.

WHEREAS pursuant to the provisions of the Municipal Government Act, Chapter M-26.1, 1994 and amendments thereto, a Council may pass bylaws for municipal purposes, including the safety, health and welfare of people and the protection of people and property;

AND WHEREAS, Section 556 of the Municipal Government Act, Chapter M-26.1, 1994 and amendments thereto requires that 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 the bylaw enforcement officer;

AND WHEREAS, the Council of the Municipal District of Starland No. 47 and the Council of the Municipal District of Badlands No. 7 have agreed to the terms of an agreement for the sharing of a Bylaw Enforcement Officer as established pursuant to the terms of the Special Constable Regulation (357/90) pursuant to the Police Act, Chapter P-12.01.

NOW THEREFORE, the Council of the Municipal District of Starland NO. 47, in the Province of Alberta, duly assembled, hereby enacts as follows:

1. Definitions: In this Bylaw:
 - (a) "Bylaw" means Bylaws of the Municipal District of Starland;
 - (b) "Bylaw Enforcement Officer" means a person appointed as such by Council;
 - (c) "Council" means the Council of the Municipal District of Starland No. 47
 - (d) "Municipal Administrator" means the Municipal Administrator appointed by the Council of the Municipal District of Starland No. 47.
2. The Powers and duties of the Bylaw Enforcement Officer are as follows:
 - (a) To enforce the Bylaws which Council have authorized the Bylaw Enforcement Officer to enforce within the boundaries of the Municipality;
 - (b) To follow the directions of the Municipal Administrator and to report to the Municipal Administrator 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 Bylaw contraventions including appearances in Court to provide evidence;
 - (g) To perform all other duties as may from time to time be assigned by the Municipal Administrator;

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- (h) To take the official oath prescribed by the Oaths of Office Act upon being appointed as a Bylaw Enforcement Officer and to carry upon his person at all such time as he is acting as a Bylaw Enforcement Officer, evidence in writing of his appointment as a Bylaw Enforcement Officer of the Municipality.
- 3. Where it is alleged that a Bylaw Enforcement Officer, in carrying out his duties as a peace officer has committed a disciplinary default as defined by the bylaw, the Municipal Administrator may suspend the Bylaw Enforcement Officer, with or without pay, pending a hearing which the Municipal Administrator shall hold to determine if the Enforcement Officer has committed a disciplinary default in carrying out his duties as a peace officer.
- 4. Where the Municipal Administrator intends to carry out a hearing to determine whether a Bylaw Enforcement Officer has committed a disciplinary default, the following procedures shall be followed:
 - (a) Ten (10) day notice in writing shall be given to the Bylaw Enforcement Officer who is alleged to have committed a disciplinary breach and to such other parties the Municipal Administrator considers to be affected by the alleged disciplinary breach;
 - (b) At the hearing the Municipal Administrator shall give the Bylaw Enforcement Officer an opportunity of furnishing relevant evidence;
 - (c) The Municipal Administrator shall inform the Bylaw Enforcement Officer of the facts in his possession or the allegations made to him in sufficient detail to:
 - (i) permit him to understand the facts or allegations; and
 - (ii) afford him an opportunity to furnish relevant evidence to contradict or explain the facts or allegations;
 - (d) The Municipal Administrator shall give the Bylaw Enforcement Officer or his representative an opportunity of making representations by way of argument to the Municipal Administrator.
- 5. At the conclusion of a hearing to determine whether there has been a disciplinary default, the Municipal Administrator may, by a decision in writing with reasons, do the following:
 - (a) Reprimand in writing the Bylaw Enforcement Officer;
 - (b) Suspend the Bylaw Enforcement Officer, without pay, from acting as a Bylaw Enforcement Officer for the Municipality, but such period of suspension shall no exceed Six (6) months;
 - (c) Recommend to Council that the appointment of the Bylaw Enforcement Officer be terminated.
- 6. An appeal from the decision of the Municipal Administrator may be commenced by the Bylaw Enforcement Officer who is the subject of the disciplinary hearing by filing a written notice of the appeal with the Council within Thirty (30) days of the receipt of the Bylaw Enforcement Officer of the written decision of the Municipal Administrator.

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7. Council shall hold a hearing into the appeal within Forty-five (45) days of the receipt of the appeal to Council.
8. Council shall give Ten (10) day notice of the hearing to the appellant, to the Municipal Administrator, and to such other parties as Council considers to be affected by the hearing.
9. In conducting a hearing, Council shall follow, with necessary modifications being made, the procedures set out in clause 4 of this Bylaw.
10. In determining an appeal, Council may confirm, revoke or vary the decision or any conditions attached to a decision by the Municipal Administrator, and may:
 - (a) Reprimand in writing the Bylaw Enforcement Officer;
 - (b) Suspend the Bylaw Enforcement Officer, without pay, from acting as a Bylaw Enforcement Officer for the municipality but such suspension shall not exceed Six (6) months;
 - (c) Terminate the person as a Bylaw Enforcement Officer.
11. Council's decision shall be in writing with the reasons and shall be made within fifteen (15) days of the conclusion of the hearing.
12. For purposed of this Bylaw, the following shall be disciplinary defaults:
 - (a) Discreditable Conduct, where the Bylaw 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 Bylaw Enforcement Officer,
 - (ii) uses oppressive or tyrannical conduct towards an inferior in rank or status,
 - (iii) uses profane, abusive or insulting language to any member of a police force, special constable, Bylaw Enforcement Officer or any member of the public,
 - (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 of Canada,
 - (vi) withholds or suppresses a complaint or report against a peace officer, or,
 - (vii) abets, connives or is knowingly an accessory to a default described in this Bylaw.
 - (b) Insubordination, where the Bylaw 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 Bylaw Enforcement Officer:

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- (i) without lawful excuse neglects or omits promptly and diligently to perform a duty as a Bylaw 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 Bylaw 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 Bylaw 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 a contravention of any orders of the Municipal Administrator communicates to the news media or to any unauthorized person any law enforcement matter which could be injurious to any person or investigation, or;
 - (iv) without proper authorization from the Municipal Administrator shows to any person not a peace officer or any unauthorized member of the Bylaw 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 employer of the Bylaw Enforcement Officer.
- (f) Corrupt Practice, where the Bylaw 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 Municipal Administrator;
 - (iii) places himself under a pecuniary or other obligation to a

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person in respect to whose conduct or business operation or employment the Bylaw Enforcement Officer may likely have to report or give evidence, or;

- (iv) improperly uses his position as a Bylaw Enforcement Officer for private advantage.
- (g) Unlawful or unnecessary exercise of authority, where the Bylaw 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 Bylaw 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 intoxicating liquor or drugs;
 - (iii) demands, persuades or attempts to persuade another person to give or purchase or obtain for a Bylaw Enforcement Officer while on duty, any intoxicating liquor or drugs.

This Bylaw comes into force upon the date of the final reading thereof.

First reading on motion of Councillor Wilson this 27th day of June, 1995.

Second reading on motion of Deputy Reeve Thompson, this 27th day of June, 1995.

Third and final reading done in Council of the Municipal District of Starland No. 47 duly assembled, this 11th day of July, 1995.



Deputy Reeve: Donald B. Thompson



Municipal Administrator:
Ross D. Rawlusyk