

**TOWN OF FOX CREEK
BYLAW NO. 658-2006**

**“Bylaw to Appoint Bylaw Enforcement Officers/and or
Special Constables”**

Being a Bylaw of the Town of Fox Creek, in the Province of Alberta, to Appoint Bylaw Enforcement Officers/and or Special Constables” and setting out the powers and duties and establishing disciplinary procedures of Bylaw Enforcement Officers/and or Special Constables.

WHEREAS under the authority and subject to the provisions of the Municipal Government Act, Revised Statutes of Alberta, 2000, Chapter M-26 and amendments thereto, a municipality may appoint Bylaw Enforcement Officers for the preservation and maintenance of the public peace; and

WHEREAS 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 Bylaw Enforcement Officers;

NOW THEREFORE the Municipal Council of the Town of FOX CREEK in Council duty assembled hereby enacts as follows:

1. This Bylaw may be cited as the Bylaw Enforcement Officers Bylaw.

2. Definitions:

(a) “Bylaw Enforcement Officer” shall mean a person appointed as such and who, in the execution of his duties, is responsible for the preservation and maintenance of the public peace;

(b) “Special Constable” shall mean a Special Constable appointed by the Solicitor General under Section 42 of the *Police Act*;

(c) “Town” shall mean the “Town of FOX CREEK”; and

(d) “Supervisor” shall mean the person appointed by the Town Manager who shall govern the operation of the Bylaw Enforcement Officers’ department.

3. The Town Manager may appoint one or more Bylaw Enforcement Officers for the purpose of enforcing compliance with Town Bylaws.

4. Notwithstanding anything herein contained, all Bylaw Enforcement Officers hold office at the pleasure of the Town Manager.

5. The powers and duties of the Bylaw Enforcement Officers are as follows:

(a) To preserve and maintain the public peace;

(b) To enforce the bylaws that Council has authorized the Bylaw Enforcement Officers to enforce within the boundaries of the Town;

(c) To respond to and investigate complaints, conduct routine patrols and issue notices, tickets or tags;

(d) To carry out the directions of Council;

(e) To perform all other related duties as may from time to time be assigned by the Supervisor;

(f) To assist in the prosecution of breaches of municipal bylaws and related offences including the issuance of violation tickets, the swearing of complaints,

the service of summons, the gathering of evidence, ensuring the attendance of witnesses and making any appearances in court that may be required;

(g) To perform such duties as authorized as a Special Constable appointed by the Provincial Solicitor General's department; and

(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 times as he is acting as a Bylaw Enforcement Officer evidence in writing of his appointment as a Bylaw Enforcement Officer of the Town.

6. 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 this Bylaw, the Supervisor shall:

(a) Advise the Bylaw Enforcement Officer of the allegation of the disciplinary default;

(b) Give the Bylaw Enforcement Officer an opportunity to respond to the allegation in writing or orally as, in the discretion of the Supervisor, the case requires;

(c) Determine whether there has been a disciplinary default;

(d) If it is determined that the Bylaw Enforcement Officer has committed a disciplinary default, determine the appropriate action to be taken; and

(e) Advise the Bylaw Enforcement Officer in writing of the Supervisor's decision.

7. When it is determined that the Bylaw Enforcement Officer has committed a disciplinary default, the Supervisor may:

(a) Reprimand in writing the Bylaw Enforcement Officer;

(b) Suspend the Bylaw Enforcement Officer from acting as a Bylaw Enforcement Officer for the Town, with or without pay, for such period as the Supervisor may determine but such period suspension shall not exceed six (6) months; and

(c) Recommend to the Town Manager that the appointment of the Bylaw Enforcement Officer be terminated.

8. An appeal from the decision of the Supervisor may be commenced by the Bylaw Enforcement Officer who is the subject of the disciplinary proceedings by filing a written notice of the appeal with the Town Manager within fifteen (15) days of the receipt by the Bylaw Enforcement Officer of the written decision of the Supervisor.

9. The Town Manager shall:

(a) Hear the appeal within thirty (30) days from the day of the receipt of the notice of appeal;

(b) Obtain from the Supervisor a report outlining the allegation of disciplinary default, the response to the allegations made by the Bylaw Enforcement Officer and the decision of the Supervisor;

(c) Provide the Bylaw Enforcement Officer with a copy of the report;

(d) Give the Bylaw Enforcement Officer an opportunity to respond to the report and to respond further to the allegations in writing or orally as, in the discretion of the Town Manager, the case requires;

(e) Confirm, vary or set aside the decision of the Supervisor; and

(f) Advise the Bylaw Enforcement Officer in writing of the Town Manager's decision.

10. The decision of the Town Manager shall be final and conclusive. There shall be no further right of appeal. The decision of the Town Manager shall not be subject to judicial review.

11. For the purposes 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 likely to bring discredit upon the reputation of Bylaw Enforcement Officers;

(ii) uses inappropriate or oppressive conduct towards members of the public;

(iii) uses profane, abusive or insulting language to any Bylaw Enforcement Officer or member of the public;

(iv) willfully or negligently makes any false complaint or statement against a member of the public;

(v) is convicted of an indictable offence under a federal statute or an offence punishable upon summary conviction under the Criminal Code (Canada);

(vi) withholds or suppresses a complaint or report against a Bylaw Enforcement Officer or member of the public; or

(vii) abets, connives or is knowingly an accessory to a general default described by this Bylaw.

(b) Insubordination where the Bylaw Enforcement Officer by word or actions and without lawful excuse disobeys, omits, or neglects to carry out any direction or duty given to him by Council, the Town Manager, or by the Supervisor;

(c) Neglect of duty where the Bylaw Enforcement Officer:

(i) without lawful excuse neglects or omits promptly and diligently to perform a duty of a Bylaw Enforcement Officer;

(ii) fails to work in accordance with directions 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) willfully 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 records 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 notices, 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;

(iii) without proper authorization from a superior or in contravention of any rules of the Town communicates to the news media or to any unauthorized person any law enforcement matter which could be injurious to any person or investigation;

(iv) without proper authorization from the Town shows to any person who is not a peace officer or any unauthorized member of the Town staff any book or printed paper, document or report relating to any law enforcement matter that is the property of or in the custody of the Town; or

(v) makes any anonymous communication to the Town Manager.

(f) Corrupt practice where the Bylaw Enforcement Officer:

(i) fails to account for or to make a prompt, true return of money or property received in an official capacity;

(ii) fails to adhere to the Code of Ethics as adopted by Council describing the conduct of Town employees;

(iii) places himself under a pecuniary or other obligation to a person in respect of whose conduct or business operation or employment the member may likely have to report or give evidence; or

(iv) improperly use his position as a Bylaw Enforcement Officer for private advantage.

(g) Unlawful or unnecessary exercise of authority where the Bylaw Enforcement Officer for private advantage;

(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 due to consuming intoxicating liquor or drugs;

(ii) reports for duty and is unfit for duty due to intoxicating liquor or drugs;

(iii) except with the consent of a superior or in the discharge of duty, consumes or receives from any other person intoxicating liquor or drugs while on duty; or

(iv) 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.

(i) Absenteeism where the Bylaw Enforcement Officer is without permission, warning or sufficient reason absent from work; or


(j) Physical assault where the Bylaw Enforcement Officer without lawful excuse assaults a supervisor, fellow employee or member of the public.

FIRST READING of Bylaw 658-2006 granted this 12th day of June, 2006 by Councillor Keith Cook.

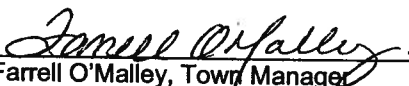
SECOND READING of Bylaw 658-2006 granted this 26th day of June, 2006 by Councillor Bernie Hornby.

THIRD READING of Bylaw 658-2006 granted this 26th day of June, 2006 by Councillor Leora MacKinnon.





Merv Zadderey, Mayor



Farrell O'Malley, Town Manager