

CITY OF ST. ALBERT

BYLAW 21/2003

Being a Bylaw specifying the powers and duties of Bylaw Enforcement Officers.

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WHEREAS Section 556 of the *Municipal Government Act*, R.S.A. 2000, c. M-26, requires that Council specify, by bylaw, the powers and duties of bylaw enforcement officers and establish disciplinary procedures to address the misuse of power by bylaw enforcement officers, including penalties and an appeal process.

The Council of the City of St. Albert, duly assembled, hereby ENACTS AS FOLLOWS:

**Title**

1. This Bylaw may be referred to as the "Bylaw Enforcement Officer Bylaw".

**Definitions**

2. In this Bylaw:
  - (a) "Appellant" means, in accordance with Section 15, the Party appealing the decision of the General Manager;
  - (b) "Bylaw" means a bylaw of the City of St. Albert;
  - (c) "Bylaw Enforcement Officer" means an individual who:
    - (i) is appointed as such by the City Manager, and
    - (ii) takes the official oath prescribed by the *Oaths of Office Act* prior to the commencement of his/her duties as a Bylaw Enforcement Officer;
  - (d) "City" means the municipal corporation of the City of St. Albert or, where the context so requires, the area contained within the boundaries of the City;
  - (e) "City Manager" means the chief administrative officer of the City of St. Albert;
  - (f) "Complainant" means an individual who makes a complaint in accordance with Section 8;
  - (g) "Council" means the municipal council of the City of St. Albert;
  - (h) "Firearms" means any barrelled weapons from which any shot, bullet or other missile can be discharged and that is capable of causing serious bodily injury or death to a person, and includes any frame or receiver of such barrelled weapons and anything that can be adapted for use as a firearm;
  - (i) "General Manager" means the individual appointed as the City's General Manager of Community and Protective Services;
  - (j) "Parties" means both the Complainant and the Bylaw Enforcement Officer;

- (k) "Party" means, where the context allows, either the Complainant or the Bylaw Enforcement Officer; and
- (l) "Respondent" means the Party responding to the Appellant's appeal.

#### **Delegation**

- 3. The General Manager and the City Manager may delegate any of their respective duties and functions assigned under this Bylaw, except:
  - (a) in the case of the General Manager, those duties and functions referenced under Sections 9 and 13 of this Bylaw; and
  - (b) in the case of the City Manager, those duties and functions referenced under Sections 16 and 20 of this Bylaw.

#### **Appointment**

- 4. The City Manager may appoint one (1) or more Bylaw Enforcement Officers.

#### **Powers and Duties of Bylaw Enforcement Officers**

- 5. While carrying out his or her duties under this Bylaw, a Bylaw Enforcement Officer shall wear such uniform and carry such identification as the City Manager requires.
- 6. A Bylaw Enforcement Officer shall:
  - (a) enforce such Bylaws and resolutions of Council as required under appointment; and
  - (b) act in accordance with any authority granted to Bylaw Enforcement Officers under provincial or federal law.
- 7. While acting in accordance with Section 6, a Bylaw Enforcement Officer shall:
  - (a) conduct routine patrols within City boundaries;
  - (b) investigate complaints relating to alleged violations of Bylaws;
  - (c) issue and serve notices, tickets, tags, summonses and any similar instrument as authorized;
  - (d) conduct, or assist in the conduct of, Bylaw prosecutions;
  - (e) report to and carry out the general directions of the City Manager; and
  - (f) not bear Firearms.

#### **Complaints**

- 8. (1) An individual may file a complaint in the prescribed manner if the individual feels that a Bylaw Enforcement Officer has misused the power granted to the Bylaw Enforcement Officer under this Bylaw.

- (2) A complaint made under subsection (1) shall:
    - (a) be in writing;
    - (b) be sent to the office of the General Manager of Community and Protective Services;
    - (c) include the address of the Complainant; and
    - (d) indicate the reasons for the complaint.
9.
  - (1) The General Manager may summarily dismiss a complaint that, in the General Manager's opinion:
    - (a) does not comply with Section 8(2);
    - (b) is made more than one hundred and eighty (180) days after the alleged misuse of power;
    - (c) does not raise an issue of misuse of power by a Bylaw Enforcement Officer; or
    - (d) is frivolous or vexatious.
  - (2) If the General Manager dismisses a complaint under subsection (1), the General Manager shall send a notice to the Complainant:
    - (a) specifying the reasons for the dismissal; and
    - (b) advising of the right of appeal to the City Manager.
10. Unless Section 9 applies, the General Manager shall, within sixty (60) days of having received a complaint:
  - (a) send written acknowledgement of receipt of the complaint to the Complainant;
  - (b) advise the Bylaw Enforcement Officer of the allegations in the complaint and provide the Bylaw Enforcement Officer with a reasonable opportunity to respond to the allegations; and
  - (c) commence an investigation into the complaint.
11.
  - (1) The General Manager may conduct the investigation under Section 10(c) in the manner that the General Manager considers appropriate and may, but is not required to, hold a hearing into the matter.
  - (2) If the General Manager decides to hold a hearing into a matter of complaint, the General Manager shall specify the procedure and send the Parties a notice of the procedure that will be used.
12.
  - (1) Despite no complaint having been received, if the General Manager has reason to believe that a Bylaw Enforcement Officer has misused the power granted to the Bylaw Enforcement Officer under this Bylaw, the General Manager may conduct an investigation.

- (2) In the case of an investigation under subsection (1), the General Manager shall give the Bylaw Enforcement Officer notice of the matter being investigated and an opportunity to respond to the matter of concern.
13. (1) Upon concluding an investigation, the General Manager shall decide that either:
- (a) the Bylaw Enforcement Officer did not misuse the power granted to the Bylaw Enforcement Officer under this Bylaw; or
  - (b) the Bylaw Enforcement Officer misused the power granted to the Bylaw Enforcement Officer under this Bylaw.
- (2) If the General Manager decides in accordance with subsection (1)(b), the General Manager shall:
- (a) warn the Bylaw Enforcement Officer;
  - (b) reprimand the Bylaw Enforcement Officer;
  - (c) suspend the Bylaw Enforcement Officer from duty, with or without pay, for an appropriate period of time;
  - (d) dismiss the Bylaw Enforcement Officer; or
  - (e) sanction or penalize the Bylaw Enforcement Officer in any other appropriate manner.
- (3) Any measure taken under subsection (2) shall be noted in the Bylaw Enforcement Officer's personnel file.
14. Within thirty (30) days of concluding an investigation, the General Manager shall send written notice of the following to the Parties or, if the investigation is conducted in accordance with Section 12, to the Bylaw Enforcement Officer:
- (a) the General Manager's decision under Section 13(1) and, if applicable, the sanction levied under Section 13(2);
  - (b) reasons for the General Manager's decision;
  - (c) where applicable, notice that Section 13(3) has been invoked; and
  - (d) notice advising of the right of appeal to the City Manager.

#### **Appeal**

15. (1) An Appellant may appeal a decision of the General Manager made under either Section 9 or 13.
- (2) An appeal under subsection (1) shall:
- (a) be in writing, setting out the grounds for the appeal;
  - (b) be sent to the office of the City Manager;
  - (c) include the address of the Appellant;

- (d) be made within fifteen (15) days of the date that the decision was issued by the General Manager; and
  - (e) where the Appellant is the Complainant, be accompanied by an appeal fee of One Hundred (\$100.00) Dollars, payable to the City of St. Albert.
- 16.
  - (1) The City Manager may summarily dismiss an appeal that, in the City Manager's opinion, does not comply with Section 15(2).
  - (2) If the City Manager dismisses an appeal under subsection (1), the City Manager shall send a notice to the Appellant specifying the grounds and giving the reasons for the dismissal.
- 17. Within fifteen (15) days of receiving a notice of appeal that complies with Section 15(2), the City Manager shall:
  - (a) send the General Manager a notice requiring the General Manager to, within five (5) days, forward all documents relating to the original complaint (if any), as well as the subsequent investigation and decision; and
  - (b) send the Respondent (if any) a copy of the notice of appeal.
- 18. Subject to Section 19, the City Manager may conduct the appeal as the City Manager considers appropriate, and although not required to do so, may conduct a new investigation and hold a new hearing.
- 19. In conducting the appeal the City Manager shall:
  - (a) send the Appellant and Respondent (if any) a notice setting out the procedure and the timelines that the City Manager intends to follow in conducting the appeal;
  - (b) permit the Appellant and Respondent (if any) to review the materials provided by the General Manager, unless the City Manager has reason to believe that disclosure of those materials will:
    - (i) detrimentally affect an ongoing investigation into an alleged violation of a Bylaw,
    - (ii) place any person at risk of harm, or
    - (iii) violate any provision of the *Freedom of Information and Protection of Privacy Act*;
  - (c) provide the Appellant and Respondent (if any) with an opportunity to make submissions to the City Manager; and
  - (d) consider the materials gathered by the General Manager during the General Manager's investigation.
- 20.
  - (1) In concluding the appeal, the City Manager shall dismiss or allow the appeal in whole or in part.
  - (2) If the City Manager allows the appeal in whole or in part, the City Manager shall make an order that, in addition to setting out the City Manager's decision to allow the appeal:

- (a) sets aside the decision of the General Manager;
  - (b) authorizes the return of the appeal fee referred to under Section 15(2);  
and
  - (c) authorizes that the appropriate amendments be made to the Bylaw Enforcement Officer's personnel file.
- (3) If, in allowing the appeal in whole or in part, the City Manager finds that the Bylaw Enforcement Officer has misused the power granted to him or her under this Bylaw, the City Manager may exercise any of the powers of the General Manager as set out under Section 13(2).
21. Within thirty (30) days of concluding a review of the appeal, the City Manager shall send written notice of the following to the Appellant and Respondent (if any):
- (a) the City Manager's decision under Section 20(1);
  - (b) the City Manager's order under Section 20(2); and
  - (c) reasons for the City Manager's decision and order.
22. The City Manager's decision regarding an appeal is final.

#### Notice of Proceedings

23. Any notice, decision or document sent in accordance with this Bylaw is deemed to be received by the addressee:
- (a) when it is personally delivered to the addressee; or
  - (b) five (5) days after the notice, decision or document is posted by certified mail to the last known address of the addressee.

#### Repeal of By-law No. 20/76

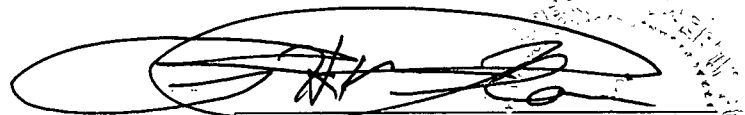
24. By-law No. 20/76 is hereby repealed.

READ a first time this 17th day of November 2003.

READ a second time this 1st day of December 2003.

READ a third time this 1st day of December 2003.

SIGNED AND PASSED this 4<sup>th</sup> day of December 2003.



MAYOR



CHIEF LEGISLATIVE OFFICER