

**MUNICIPAL DISTRICT OF PINCHER CREEK NO. 9  
BYLAW 1353-25**

BEING A BYLAW OF THE MUNICIPAL DISTRICT OF PINCHER CREEK NO. 9, IN THE PROVINCE OF ALBERTA, RESPECTING THE POWERS, DUTIES AND DISCIPLINARY PROCEDURES FOR BYLAW ENFORCEMENT OFFICERS

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**WHEREAS** pursuant to Section 7 of the Municipal Government Act, R.S.A. 2000, Chapter M-26 and amendments thereto, the Council of the Municipal District of Pincher Creek No. 9 may pass bylaws for municipal purposes respecting:

- a) The safety, health and welfare of people and the protection of people and property; and
- b) People, activities and things in, on or near a public place or place that is open to the public;
- c) Transport and transportation systems; and
- d) The enforcement of bylaws;

AND WHEREAS, pursuant to:

Section 7(i) of the *Municipal Government Act*, RSA 2000, c. M-26, a Council may pass bylaws respecting the enforcement of bylaws;

Section 210 of the *Municipal Government Act*, provides that a council may, by bylaw, establish one or more positions to carry out the powers, duties and functions of a designated officer;

Section 555 of the *Municipal Government Act*, a person who is appointed as a bylaw enforcement officer is, in the execution of enforcement duties, responsible for the preservation and maintenance of the public peace;

Sections 556 of the *Municipal Government Act*, every 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;

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 officers;

Section 1(k)(vii) of the *Provincial Offences Procedures Act*, RSA 2000, c. P-34, a person who is employed by a municipality for the preservation and maintenance of the public peace, while the person is in the exercise or discharge of the person's powers and duties is deemed to be a "peace officer" for the purposes of that Act;

Section 2(c) of the *Criminal Code of Canada*, RS, c. C-34, s.1, a person who is employed for the preservation and maintenance of the public peace is deemed to be a "peace officer";

**NOW THEREFORE**, Council of the Municipal District of Pincher Creek No. 9, in the Province of Alberta, in open meeting hereby enacts as follows:

**Title:**

1. This Bylaw may be cited as the "Bylaw Enforcement Officer Bylaw."

**Definitions:**

2. In this Bylaw, the following words shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the past and future; words in the plural, include the singular; words in the singular include the plural; words in the masculine gender, include the feminine and neuter genders; words in the feminine and neuter genders, include the masculine gender. The word "shall" is always mandatory, and not merely directory.

- (a) "Bylaw" means a Bylaw passed by the Council of the municipality;
- (b) "Bylaw Enforcement Officer" means a person who has been appointed pursuant to this Bylaw as a Bylaw Enforcement Officer ;
- (c) "Council" means the council of the municipality;
- (d) "Municipality" means the municipal corporation of the Municipal District of Pincher Creek No. 9, within the boundary thereof as the context requires;
- (e) "Chief Administrative Officer" means the person appointed as the Chief Administrative Officer of the Municipal District or his/her delegate;
- (f) "Contractor" means a person or business with whom the municipality has entered into a written agreement or contract with for the provision of services relating to the enforcement of Bylaws;
- (g) "Designated Officer" means a person appointed to a position established under Section 210 of the Municipal Government Act and a person appointed as a Bylaw Enforcement Officer under this Bylaw;
- (h) "Human Resources Manager" means the person appointed as the Human Resources Manager of the Municipal District or his/her delegate;

### **PURPOSE**

3. This Bylaw is intended to:
- (a) prescribe the requirements for appointing Bylaw Enforcement Officers;
  - (b) identify the powers, duties, and responsibilities of Bylaw Enforcement Officers;
  - (c) identify that appropriate training, tools and equipment shall be provided to Bylaw Enforcement Officers to ensure that they can perform their duties in a responsible, effective, and safe manner;
  - (d) establish a disciplinary procedure and appeals process that is applicable to any misuse of power by a Bylaw Enforcement Officer; and
  - (e) deal with other matters respecting the enforcement of Bylaws and other enactments.

### **APPOINTMENT OF BYLAW ENFORCEMENT OFFICERS**

4. To be eligible for appointment as a Bylaw Enforcement Officer, individuals shall provide to the Chief Administrative Officer, or designate:
- (a) a criminal record check that is no more than six months old;
  - (b) sufficient references that demonstrate that the individual is of good character;
  - (c) proof of any relevant training completed, that would assist the individual in the performance of the powers, duties, and responsibilities of a Bylaw Enforcement Officer; and
  - (d) any other requirement as specified.
5. The Chief Administrative Officer, or designate, may:
- (a) appoint individuals as Bylaw Enforcement Officers in accordance with this

Bylaw;

- (b) authorize or require Bylaw Enforcement Officers, while the Bylaw Enforcement Officer is in the exercise or discharge of their duties as a Bylaw Enforcement Officer, to carry out any powers, duties, or functions necessary to fulfill their responsibility for the preservation and maintenance of the public peace ;
- (c) impose terms and conditions on a Bylaw Enforcement Officer Appointment; and
- (d) add any amounts owing to the municipality, that arise from the enforcement of Bylaws to a tax roll, in accordance with the *Municipal Government Act* or any other enactment.

6. The Chief Administrative Officer, or designate, shall:

- (a) ensure that prior to commencing their duties, all Bylaw Enforcement Officers take and complete the official oath found in Schedule 'A'; and
- (b) ensure that Bylaw Enforcement Officers are provided with adequate and appropriate training, tools and equipment that will support the Bylaw Enforcement Officers so that they can perform their powers, duties, and responsibilities in a professional, effective, and safe manner.

#### **AUTHORITIES, POWERS AND DUTIES**

7. A Bylaw Enforcement Officer is a designated officer of the municipality for the purpose of inspections pursuant to Section 542 of the *Municipal Government Act* and enforcement of Bylaws pursuant to Sections 545 and 546 of the *Municipal Government Act*.

8. A Bylaw Enforcement Officer, when in the execution of their duties as a Bylaw Enforcement Officer, is a person responsible for the preservation and maintenance of the public peace.

9. In accordance with their appointment by the Chief Administrative Officer, Bylaw Enforcement Officers are responsible for:

- (a) enforcing all Bylaws within the municipality;
- (b) conducting routine patrols to ensure compliance municipal Bylaws;
- (c) reporting to and carrying out the directions of the Chief Administrative Officer, or designate;
- (d) responding to and investigating complaints and alleged breaches of Bylaws;
- (e) issuing and serving notices, violation tickets, summonses, subpoenas and laying informations as required;
- (f) exercising all the 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 Section 542 of the *Municipal Government Act*;
- (g) exercising all the powers, duties, and functions of a designated officer to issue written orders pursuant to Sections 545 and 546 of the *Municipal Government Act*;
- (h) taking whatever actions or measures are necessary to remedy a contravention or prevent a re-occurrence of a contravention of the *Municipal Government Act*, an enactment that the municipality is authorized to enforce, or a Bylaw, in accordance with Section 549 of the *Municipal Government Act*;
- (i) taking whatever actions or measures are necessary to eliminate a danger to public safety caused by a structure, excavation, or hole or to deal with the unsightly condition of property, in accordance with Section 550 of the *Municipal*

*Government Act;*

- (j) assisting in the prosecution of breaches of Bylaws, including gathering evidence, ensuring the attendance of witnesses, attending court, and providing evidence as required;
- (k) carrying identification issued by the municipality that identifies the person as being a Bylaw Enforcement Officer and producing such identification upon request, whenever the Bylaw Enforcement Officer is engaged in their duties as a Bylaw Enforcement Officer; and
- (l) performing all other duties and tasks assigned by the Chief Administrative Officer from time to time.

**SUPERVISION / ACCOUNTABILITY**

- 10. Bylaw Enforcement Officers are subject to the supervision of and accountable to the Chief Administrative Officer, or designate, and shall exercise their powers and duties in accordance with all applicable municipal policies, standard operating procedures, and directives.

**MODIFICATION OR REVOCATION OF BYLAW ENFORCEMENT OFFICER APPOINTMENT**

- 11. If an individual appointed as a Bylaw Enforcement Officer is no longer employed or retained by the municipality, or if the individual's role is modified such that the individual no longer requires appointment as a Bylaw Enforcement Officer or requires a modified appointment, the Chief Administrative Officer may modify or revoke the Bylaw Enforcement Officer's appointment.
- 12. Upon revocation of a Bylaw Enforcement Officer appointment, the Bylaw Enforcement Officer shall immediately return all uniforms, patrol cars, equipment, ticket books, appointment certificates and any / all other materials or equipment supplied to the Bylaw Enforcement Officer by the municipality, to the Chief Administrative Officer or designate.

**COMPLAINTS AGAINST A BYLAW ENFORCEMENT OFFICER**

- 13. Complaints concerning the conduct of a Bylaw Enforcement Officer shall be handled pursuant to the procedure provided in Schedule "B".

**SEVERABILITY**

- 14. Each section of this Bylaw should be considered as being separate and severable from all other sections. Should any section or part be found invalid by a court of competent jurisdiction, it is intended that the invalid section or part shall be severable, and the remainder of the Bylaw will remain in effect.

**GENERAL / INTERPRETATION**

- 15. Schedules 'A' and 'B', as attached, form a part of this Bylaw.
- 16. Any heading or sub-headings in this Bylaw are included for guidance purposes and convenience only and shall not form a part of this Bylaw.
- 17. Where this Bylaw refers to another Act, Bylaw, Regulation or Agency, it includes reference to any Act, Bylaw Regulation or Agency that may amend or be substituted therefore.

**EFFECTIVE DATE**

- 18. Bylaw No. 1312-19 is hereby repealed
- 19. This Bylaw shall come into force and effect upon its passing by Council.

READ a first time this	14 day of January 2025.
READ a second time this	14 day of January 2025.
Presented for third reading this	14 day of January 2025.
READ a third time and finally PASSED this	14 day of January 2025.



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**Reeve**

Rick Lemire



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**Chief Administrative Officer**

Roland Milligan

**SCHEDULE 'A'**

**Oath of Office  
Municipal District of Pincher Creek No. 9  
Bylaw Enforcement Officers**

**[If Swearing]**

I, \_\_\_\_\_, swear that I will diligently, faithfully and to the best of my ability execute, according to law, the office of a Bylaw Enforcement Officer for the Municipal District of Pincher Creek No. 9.

So help me God.

SWORN BEFORE ME at the \_\_\_\_\_ of )  
\_\_\_\_\_, in the Province of )  
Alberta, this \_\_\_\_\_ day of \_\_\_\_\_, )  
20\_\_\_\_. )

\_\_\_\_\_) \_\_\_\_\_  
A Commissioner for Oaths ) **Name:**  
in and for the Province of Alberta )

**[If Affirming or Declaring]**

I, \_\_\_\_\_, solemnly swear and truly declare and affirm that I will diligently, faithfully and to the best of my ability execute according to law the office of a Bylaw Enforcement Officer for the Municipal District of Pincher Creek No. 9.

SWORN BEFORE ME at the \_\_\_\_\_ of )  
\_\_\_\_\_, in the Province of )  
Alberta, this \_\_\_\_\_ day of \_\_\_\_\_, )  
20\_\_\_\_. )

\_\_\_\_\_) \_\_\_\_\_  
A Commissioner for Oaths ) **Name:**  
in and for the Province of Alberta )

## SCHEDULE 'B'

### **Complaints, Investigations, Disciplinary Procedures and Appeals**

#### **Complaints**

1. If any citizen feels that they have been, in some way, treated inappropriately or unfairly by a Bylaw Enforcement Officer, they may lodge a complaint about the Bylaw Enforcement Officer pursuant to Section 13 of this Bylaw and the provisions found hereunder in this Schedule.
2. Complaints against Bylaw Enforcement Officers must be submitted to the MD of Pincher Creek in writing, and at minimum, must include the following:
  - (a) Name, address and telephone number of the complainant;
  - (b) Email address (optional);
  - (c) Details of the alleged misconduct of the Bylaw Enforcement Officer
3. Written complaints shall be submitted to:

Human Resources Manager  
MD of Pincher Creek  
1037 Heron Avenue, PO Box 279  
Pincher Creek, AB  
T0K 1W0

#### **Anonymous / Verbal / Non-Written Complaints**

4. The MD of Pincher Creek will not entertain anonymous complaints, whether made in writing, by telephone, voicemail, text message, via social media or any other method of communication.
5. All anonymous, verbal, or other non-written complaints received by the MD of Pincher Creek will be documented by the Human Resources Manager, or designate, and such information may be utilized to show due diligence and effective management by the authorized employer as this information may be used to track any patterns or practices by Bylaw Enforcement Officers that may indicate that a problem exists.

#### **Unreported, Serious or Sensitive Incidents**

6. If the MD of Pincher Creek becomes aware of an unreported complaint regarding a serious or sensitive incident that may lead to a complaint relating to a Bylaw Enforcement Officer breaching the terms and conditions of their Bylaw Enforcement Officer Appointment, the municipality shall investigate and dispose of the matter pursuant to Section 13 of this Bylaw and the provisions found hereunder in this Schedule.

#### **Complaints Relating to Criminal Matters**

7. If, during any investigation into a complaint, it is determined that criminal misconduct may have occurred, the Human Resources Manager, or designate, shall forward this information to the Royal Canadian Mounted Police for investigation. Any complaint that contains allegations of excessive force used by a Bylaw Enforcement Officer is deemed to be criminal in nature and shall be reported to the Royal Canadian Mounted Police for investigation.

#### **Receipt of a Complaint**

8. Citizen complaints received by the MD of Pincher Creek shall be forwarded to the Human Resources Manager, or designate, for any required investigation or follow-up. The Human

Resources Manager, or designate, shall provide information to the complainant regarding how their complaint may be resolved. Complaints can be resolved by:

- (a) having the matter dealt with through an informal resolution process as noted at Section 9 of this Schedule, if mutually agreeable between both the complainant and the Human Resources Manager or designate; or
- (b) having the matter dealt with through the Investigation of Formal Complaints process noted at Section 11 of this Schedule.

### **Informal Resolution of Complaints**

9. Should the complainant choose to participate in an informal resolution process, the complaint may be submitted to the Human Resources Manager, or designate, either verbally, via email or in writing. When utilizing the Informal Resolution of Complaints process, the Human Resources Manager or designate, shall:
  - (a) document the name, address and phone number of the complainant;
  - (b) document the nature of the concern that is the source of the complaint;
  - (c) document the name of the Bylaw Enforcement Officer(s) involved, if known;
  - (d) provide the complainant with a timeframe within which it is anticipated to take to look into their concern and then reconnect with them with further information / updates;
  - (e) make all appropriate inquiries / investigation regarding the complaint and follow up with all involved parties as to an appropriate resolution of the complaint, based on the facts discovered through this informal process; and
  - (f) maintain a copy of all informal complaint resolution files pursuant to the MD of Pincher Creek's record retention policies or for a period of seven (7) years, whichever is greater.
10. Should the complainant not be satisfied with the outcome of the informal resolution process, they would have the option of submitting a formal written complaint that will be handled pursuant to Section 13 of this Bylaw and the provisions found hereunder in this Schedule.

### **Investigation of Formal Complaints:**

11. Upon receipt of a formal written complaint, the Human Resources Manager, or designate, shall:
  - (a) within 30 calendar days, acknowledge in writing, receipt of the complaint to the complainant;
  - (b) provide a copy of the written complaint to the Bylaw Enforcement Officer that is the subject of the complaint;
  - (c) investigate the allegations made within the complaint by interviewing the complainant, any witnesses, the Bylaw Enforcement Officer(s) involved, if they so consent, and any other person who may have knowledge relevant to the occurrence; and
  - (d) review any relevant documents or recordings in existence pertaining to the occurrence including, but not limited to:
    - i. investigative files;



- ii. Bylaw Enforcement Officer's notebooks;
  - iii. Court reports;
  - iv. legal documents;
  - v. video / audio recordings; and
  - vi. emails, text messages, letters.
- (e) notify the complainant and the Bylaw Enforcement Officer(s) involved as to the status of the investigation at least once every 45 calendar days.
12. The Bylaw Enforcement Officer shall be given the opportunity to make a full response to the allegations and to provide supporting evidence in writing to the Human Resources Manager, or designate.

### **Complaints Not Requiring Investigation**

13. It is recognized that some complaints will be made under circumstances in which an investigation is not required, which may include complaints that are:
- (a) Frivolous: A complaint intended merely to harass or embarrass;
  - (b) Vexatious: A complaint that has no basis in fact or reason, with its purpose to bother, annoy and embarrass the Bylaw Enforcement Officer or employer;
  - (c) Bad faith: A complaint filed with intentional dishonesty or the intent to mislead;
  - (d) Related to Quality of Service: A complaint relating to the interpretation or application of legislation, including Bylaws, investigation outcome or action taken as a result of an investigation are not normally considered a complaint regarding the conduct or actions of a Bylaw Enforcement Officer.
14. After receipt of a complaint pursuant to the provisions of Section 13 of this Bylaw or the provisions found in this Schedule, the Human Resources Manager, or designate may refuse to investigate or discontinue the investigation if, in the opinion of the Human Resources Manager, or designate, the nature of the complaint fits into one or more of the subsections noted at Section 13 of this Schedule. The Human Resources Manager, or designate, shall issue a written letter to the complainant advising of the reasons why the investigation has been refused or discontinued.

### **Disposition of Formal Complaints**

15. Upon concluding an investigation into a complaint against a Bylaw Enforcement Officer, the Human Resources Manager, or designate, shall dispose of the complaint by making one of the following decisions and giving reasons for the decision:
- (a) The complaint is unfounded.  
This means that based on a thorough investigation, the Human Resources Manager, or designate, has determined that the complaint has no merit or basis.
  - (b) The complaint is unsubstantiated.  
This means that based on a thorough investigation, the Human Resources Manager, or designate, has determined that there is insufficient evidence to determine the facts of the complaint and that it may or may not have occurred.
  - (c) The complaint is found to have merit, in whole or in part.  
This means that based on a thorough investigation that:
    - i. "in whole" - the Human Resources Manager, or designate, has a reasonable

belief that the Bylaw Enforcement Officer(s) involved engaged in misconduct in regards to the entirety of the complaint; or

- ii. "in part" - the Human Resources Manager, or designate, has a reasonable belief that the Bylaw Enforcement Officer(s) involved engaged in misconduct in regards to a portion of the complaint, but not in its entirety.

(d) The complaint is frivolous, vexatious or made in bad faith.

(e) Having regard to all of the circumstances of the complaint, no investigation is necessary.

16. In the event that a complaint is found to have merit in whole or in part, the Human Resources Manager, or designate, must take disciplinary action against the Bylaw Enforcement Officer(s) involved, in accordance with the municipality's Progressive Discipline Policy # 170, as amended or repealed and replaced from time to time
17. The Human Resources Manager, or designate, shall inform the Bylaw Enforcement Officer(s) involved in writing of his or her decision and, if applicable, the disciplinary action imposed. The Bylaw Enforcement Officer(s) involved shall be advised of the ability to appeal the decision to the Chief Administrative Officer.
18. The Human Resources Manager, or designate, shall inform the complainant in writing of his or her decision and, if applicable, the disciplinary action to be taken. The complainant shall be advised of the ability to appeal the decision to the Chief Administrative Officer.
19. The written decision provided to both the complainant and the Bylaw Enforcement Officer(s) involved must contain the following closing paragraph which communicates the appeal process:  
  

*"Please be advised you have the right to appeal this decision to the Chief Administrative Officer of the Municipality. An appeal must be in writing and initiated within 30 calendar days of receipt of this decision, and any decision reached by the Chief Administrative Officer on appeal is final."*
20. If the Human Resources Manager, or designate refuses to investigate a complaint or discontinues the investigation of a complaint, the Human Resources Manager, or designate, shall notify the complainant in writing with supporting reasons for not investigating the complaint.
21. All complaints disposed of pursuant to Section 14 or 15 of this Schedule must be reported to the Chief Administrative Officer within seven (7) calendar days of the disposition decision.

### **Appeals**

22. A complainant or the Bylaw Enforcement Officer(s) involved may appeal a decision of the Human Resources Manager, or designate, to the Chief Administrative Officer.
23. All appeals shall be made in writing and shall be submitted to:

Chief Administrative Officer  
MD of Pincher Creek  
1037 Heron Avenue, PO Box 279  
Pincher Creek, AB  
T0K 1W0

within thirty (30) calendar days of receipt of the written decision issued by the Human Resources Manager, or designate.

24. Upon receipt of an appeal, the Chief Administrative Officer shall:
  - (a) obtain a copy of the information in the possession of the Human Resources Manager, or designate, related to the complaint, including the written decision of the Human Resources Manager, or designate;

- (b) provide the appellant with fourteen (14) calendar days in which to submit a written submission to the Chief Administrative Officer setting out the reasons for the appeal, including the basis of the appellant's reason for believing that the Human Resources Manager, or designate, erred in his or her decision;
  - (c) provide a copy of the written reasons for the appeal prepared by the appellant to the respondent;
  - (d) provide the respondent with fourteen (14) calendar days in which to submit a written submission to the Chief Administrative Officer in response to the appellant's submissions, a copy of which shall be provided by the Chief Administrative Officer to the appellant; and
  - (e) determine, in his or her discretion, whether or not an oral hearing is required in the circumstances.
25. Where, in the Chief Administrative Officer's discretion, an oral hearing is required to determine the appeal, the following procedure shall be followed:
- (a) Fourteen (14) calendar days' notice in writing of the hearing shall be given to the appellant and the respondent;
  - (b) At the hearing, the Chief Administrative Officer shall give the appellant or his or her representative an opportunity to make oral submissions;
  - (c) At the hearing, the Chief Administrative Officer shall give the respondent an opportunity to make oral submissions.
26. Following the conclusion of the oral hearing, or the Chief Administrative Officer's review of the written submissions if an oral hearing is not held, the Chief Administrative Officer shall either confirm, reverse or vary the decision of the Human Resources Manager, or designate.
27. Where an oral hearing is conducted, the decision of the Chief Administrative Officer shall be issued to the appellant and the respondent, in writing, together with the reasons for the decision within twenty one (21) calendar days of the conclusion of the hearing.
28. Where no oral hearing is conducted, the decision of the Chief Administrative Officer shall be issued to the appellant and the respondent in writing, together with the reasons for the decision, within twenty-one (21) calendar days of the conclusion of the review of written documents and submissions.
29. The decision of the Chief Administrative Officer is final and conclusive with no further right of appeal to the Court.