

RURAL MUNICIPALITY OF WEST RIVER, PEI
A BYLAW WITH RESPECT TO ENFORCEMENT OFFICERS

BYLAW No. 2023 - 01

A Bylaw to appoint enforcement officers in the Rural Municipality of West River.

This Bylaw is made under the authority of the *Municipal Government Act*, R.S.P.E.I. 1988, Cap. M-12.1.

BE IT ENACTED BY THE COUNCIL OF THE RURAL MUNICIPALITY OF WEST RIVER as follows:

PART 1 – GENERAL

1. Title

This Bylaw may be cited and referred to as the “Enforcement Officers Bylaw”.

2. Scope

This Bylaw applies to Enforcement Officers carrying out duties in the Municipality.

3. Definitions

In this Bylaw:

- (a) “Act” means the *Municipal Government Act* R.S.P.E.I. 1988, Cap. M-12.1, as amended from time to time;
- (b) “Chief Administrative Officer” means the administrative head of the Municipality as appointed by Council pursuant to clause 86(2)(c) of the Act;
- (c) “Council” means the Mayor and other members of the Municipality’s Council;
- (d) “Councillor” means a member of Council other than the Mayor;
- (e) “Enforcement Officer” means any enforcement officer appointed by the Chief Administrative Officer pursuant to subsection 223(4) of the Act and in accordance with this Bylaw;
- (f) “Mayor” means the mayor of the Municipality;
- (g) “Third Party” means an individual or corporation hired by the Municipality to provide bylaw enforcement services and whose principals, contractors, and/or employees serve as Enforcement Officers for the Municipality; and
- (h) “Municipality” means the Rural Municipality of West River.

PART II – BYLAW ENFORCEMENT OFFICERS

4. Appointment and Supervision

- 4.1 Council hereby establishes the position of Enforcement Officer and an individual appointed to that position will have the title “Bylaw Enforcement Officer”.
- 4.2 The Chief Administrative Officer shall appoint all Enforcement Officers for the Municipality and Enforcement Officers shall report to the Chief Administrative Officer.

5. Qualifications

- 5.1 To be eligible for appointment as an Enforcement Officer, individuals must provide the Chief Administrative Officer with the following:
 - (a) a recent criminal records check acceptable to the Chief Administrative Officer;
 - (b) proof of adequate education and training necessary for performing the powers, duties and functions of an Enforcement Officer; and
 - (c) any other information that the Chief Administrative Officer determines is relevant or necessary in order to carry out the duties of an Enforcement Officer in the Municipality.
- 5.2 Enforcement Officers shall comply with all relevant policies, directives and procedures of the Municipality.
- 5.3 Prior to commencing their duties, an Enforcement Officer shall swear or affirm the oath hereto annexed as Schedule “A”.
- 5.4 An individual may be appointed as an Enforcement Officer for the Municipality notwithstanding that they may also be appointed as an enforcement officer for another municipality.

6. Powers and Duties of a Bylaw Enforcement Officer

- 6.1 An Enforcement Officer shall be responsible for:
 - (a) enforcing the bylaws for which the Enforcement Officer is authorized to enforce within the Municipality’s boundaries;
 - (b) following the directions of the Chief Administrative Officer, performing all enforcement duties delegated by the Chief Administrative Officer and reporting to the Chief Administrative Officer as required;
 - (c) responding to, investigating, and keeping a written record of complaints;
 - (d) conducting routine patrols, as directed by the Chief Administrative Officer;
 - (e) issuing notices;
 - (f) where required by a bylaw, laying an information;

- (g) assisting in the prosecution of bylaw contraventions including appearances in court to provide evidence;
- (h) investigating properties to ensure compliance with bylaws, as directed by the Chief Administrative Officer;
- (i) carrying upon their person at all such times as they are acting as an Enforcement Officer evidence in writing of their position as an Enforcement Officer of the Municipality;
- (j) acting in accordance with the Act, including, but not limited to, the provisions set forth in Part 9 of the Act;
- (k) liaising with community groups and organizations concerning safety issues, as directed by the Chief Administrative Officer; and
- (l) performing other duties as may be required or assigned by the Chief Administrative Officer.

6.2 Where this Bylaw or another Municipality bylaw authorized or requires a Bylaw Enforcement Officer to

- (i) inspect anything;
- (ii) remedy anything;
- (iii) enforce anything; or
- (iv) do anything required to be done by the Municipality

the Bylaw Enforcement Officer may, after giving not less than 24 hours' notice to the owner or occupier of land or a building or other structure, take an action specified in subsection (a).

- (a) A Bylaw Enforcement Officer may, on notice in accordance with section 6.2,
 - (i) enter the land, building or structure referred to in section 6.2 at any reasonable time and carry out the inspection, enforcement or action authorized or required by this Bylaw or another Municipality bylaw;
 - (ii) require that anything be produced to assist in the inspection, remedy, enforcement or action; and
 - (iii) make copies of anything related to the inspection, remedy, enforcement or action.
- (b) A Bylaw Enforcement Officer acting under this section shall display or produce, on request, identification and documentation showing that the person is authorized to carry out the duties specified in clauses (a)(i) to (iii).

- (c) A Bylaw Enforcement Officer acting under this section shall not enter a dwelling without a warrant issued under the *Summary Proceedings Act* (PEI) unless the occupant consents to the entry.
- (d) Despite section 6.2, where, in the opinion of a Bylaw Enforcement Officer acting under this section, an emergency or extraordinary circumstances exist, the Bylaw Enforcement Officer is not required to give 24 hours' notice or enter at a reasonable hour to do the things referred to in subsection (a).

PART III – COMPLAINTS PROCESS

7. Complaints

- 7.1 Complaints of inappropriate conduct of an Enforcement Officer shall be directed to the Chief Administrative Officer.
- 7.2 All complaints must be accepted and addressed according to this Bylaw and must be submitted in writing.
- 7.3 The Chief Administrative Officer shall acknowledge receipt of the complaint, in writing, to the person making the complaint.
- 7.4 The Chief Administrative Officer shall provide notice of the complaint:
 - (a) to the Enforcement Officer against whom the complaint is made;
 - (b) to Council; and
 - (c) where the Municipality has contracted with a Third Party for the services of the Enforcement Officer, to the Third Party.
- 7.5 A contract between the Municipality and a Third Party wherein the Third Party agrees to provide the services of one or more individuals to act as Enforcement Officers shall, at a minimum, contain the following provisions with respect to the complaint process:
 - (a) that upon the receipt of a complaint in respect of an Enforcement Officer, the Chief Administrative Officer may suspend that individual from acting as an Enforcement Officer for the Municipality pending the completion of the complaint process;
 - (b) that upon the receipt of a complaint in respect of the individual, the Third Party shall hire an independent party that is acceptable to the Municipality to conduct an investigation and the costs associated with the investigation shall be the responsibility of the Third Party; and
 - (c) that the results of the investigation referred to in subsection (b), together with any investigation report prepared, shall be forwarded to the Chief Administrative Officer, the complainant, the Third Party and the Enforcement Officer who was investigated.

- 7.6 In the event there is no Third Party, the Municipality shall hire an independent party to investigate the complaint and the costs associated with the investigation shall be the responsibility of the Municipality.
- 7.7 Upon receipt of the results of the investigation and the investigation report, if any, the Chief Administrative Officer shall set a date and time for a hearing.
- 7.8 The complainant, the Enforcement Officer and the Third Party, if any, shall have the opportunity to be heard at the hearing.

8. **Disciplinary Action**

- 8.1 If following the hearing conducted in accordance with section 7.7, the Chief Administrative Officer finds the Enforcement Officer has acted inappropriately, the Chief Administrative Officer may take one of the following actions:
- (a) issue a verbal warning to the Enforcement Officer;
 - (b) issue a written reprimand to the Enforcement Officer;
 - (c) suspend the Enforcement Officer from carrying out their duties in the Municipality for a specified time period; or
 - (d) revoke the appointment of the Enforcement Officer in the Municipality.

9. **Notification and Appeal**

- 9.1 The Chief Administrative Officer shall notify, in writing, the complainant, the Enforcement Officer and the Third Party, if any, of the results of the investigation and what, if any, disciplinary action has been taken.
- 9.2 The Chief Administrative Officer shall include reasons for their decision with the notification provided under section 9.1.
- 9.3 The complainant, the Enforcement Officer and the Third Party, if any, have the right to appeal the Chief Administrative Officer's decision.
- 9.4 The Chief Administrative Officer shall include, in the notification provided under section 9.1, a written notice that the Council is authorized to hear an appeal of the Chief Administrative Officer's decision and that the appeal must be filed, in writing, within 30 days of the date of the decision.
- 9.5 The written appeal submission must contain the reasons why the decision of the Chief Administrative Officer should be overturned.
- 9.6 The Council shall forward any written appeal submission it receives from a party listed in section 9.3 to the remaining parties listed in section 9.3 and the remaining parties shall have 20 days from their receipt of the written appeal submission within which to file their own written appeal submission.

- 9.7 After reviewing the information contained in the written appeal submissions provided under sections 9.5 and 9.6, Council may:
- (a) dismiss the appeal; or
 - (b) allow the appeal and vary the decision of the Chief Administrative Officer.
- 9.8 Within 30 days of making a decision under section 9.7, the Council shall notify, in writing, the complainant, the Enforcement Officer and the Third Party, if any, of the results of the appeal.
- 9.9 The Council has the authority to decide any matter of procedure not otherwise provided for in this Bylaw.
- 9.10 The decision of Council is final and binding.

10. Effective Date

- 10.1 This Enforcement Officers Bylaw, Bylaw No. 2023-01 shall be effective on the date of approval and adoption below.

First Reading:

This Enforcement Officers Bylaw, Bylaw No. 2023-01 was read a first time at the Council meeting held on the 25 day of May 2023.

This Enforcement Officers Bylaw, Bylaw 2023-01 was approved by a majority of Councillors present at the Council meeting held on the 25 day of May, 2023.

Second Reading:

This Enforcement Officers Bylaw, Bylaw No. 2023-01 was read a second time at the Council meeting held on the 22 day of June, 2023.

This Enforcement Officers Bylaw, Bylaw No. 2023-01 was approved by a majority of Councillors present at the Council meeting held on the 22 day of June, 2023.

Adoption and Approval by Council:

This Enforcement Officers Bylaw, Bylaw No. 2023-01 was adopted by a resolution of Council at the Council meeting held on the 22 day of June, 2023.

This Enforcement Officers Bylaw, Bylaw No. 2023-01 is declared to be passed on the 22 day of June, 2023.

WITNESS the corporate seal of the Municipality.

Mayor (signature sealed)

Chief Administrative Officer
(signature sealed)

BE IT RESOLVED THAT: Bylaw No. 2023-01, being a bylaw related to the appointment of enforcement officers in the Municipality, is hereby enacted as a bylaw of the Municipality and the Mayor and Chief Administrative Officer be and they are hereby authorized to sign the Bylaw and apply the Municipality's seal thereto.

Dated the 22 day of June, 2023.

Mayor (signature sealed)

Chief Administrative Officer
(signature sealed)

Schedule "A"

I, _____, solemnly and sincerely swear (or affirm) that I will diligently, faithfully and impartially fulfill the duties of bylaw enforcement officer for the Rural Municipality of West River and that I will not, without due authority, disclose or make known any matter that comes to my knowledge by reason of such position.

SWORN (or affirmed) BEFORE ME at

_____ County, Province of
Prince Edward Island, the ____ day of
_____, 20__.

A COMMISSIONER FOR TAKING
AFFIDAVITS IN THE SUPREME COURT

(Person giving Oath or Affirmation)