The Corporation of the District of North Cowichan

Bylaw Enforcement Officer Bylaw

BYLAW NO. 3948

A bylaw to establish the bylaw enforcement officer position and assign the powers, duties and functions to the position.

WHEREAS the Council for the District of North Cowichan deems it necessary to designate certain employee positions as bylaw enforcement officers that are accountable to Council and to assign them powers, duties and functions;

AND WHEREAS Section 264 of the *Community Charter* permits a municipal Council to designate as a bylaw enforcement officer a person who comes within a class of person prescribed by regulation;

AND WHEREAS Section 16 of the *Community Charter* permits a municipal Council to authorize employees and other persons to execute the municipal authority to enter on or into any property for the purposes expressed in Section 16(6);

NOW THEREFORE The Council of The Corporation of the District of North Cowichan, in open meeting assembled, enacts as follows:

Citation

1 This Bylaw may be cited as "Bylaw Enforcement Officer Bylaw No. 3948, 2024".

Interpretation

2 Reference aids and clarifications provided in this Bylaw, in accordance with Section 11 of the *Interpretation Act,* Chapter 238, RSBC 1996, as revised or replaced from time to time, are for convenience of reference only and do not form part of this Bylaw. Terms defined under Section 3 of this Bylaw have been *italicized* throughout for convenience purposes.

3 In this Bylaw:

"*Bylaw Enforcement Officer*" means a person designated under this Bylaw, as per section 264 of the *Community Charter* [SBC 2003] Chapter 26 and Bylaw Enforcement Ticket Regulation BC Reg 425/2003, as revised or replaced from time to time.

"*Bylaw Notice*" has the same meaning as defined under the *Local Government Bylaw Enforcement Act* SBC 2003, c 60, as revised or replaced from time to time, and is issued under the Bylaw Offence Notice Enforcement Bylaw No. 3677, 2021, as revised, consolidated or replaced from time to time.

"*District*" means the District of North Cowichan.

"*Municipal Ticket*" is a laying of an information by means of a ticket issued under the Municipal Ticket Information System Bylaw No. 3464, 2013, as revised, consolidated or replaced from time to time.

"*Oath*" or "*Solemn Affirmation*" is a declaration, as prescribed in Schedule A, made by a Bylaw Enforcement Officer that the statements that they are making are true.

"*Peace Officer*" has the same meaning as defined under the *Criminal Code of Canada,* RSC 1985, c C-46, as revised or replaced from time to time.

Designation of Bylaw Enforcement Officer

4 Any person who is employed by the *District* and comes within the following classes of persons are hereby designated as a Bylaw Enforcement Officer as per section 264 of the *Community Charter* and Bylaw Enforcement Ticket Regulation:

(a) Business Licence Inspector;
(b) Bylaw Compliance Officers;
(c) Chief Building Inspector;
(d) Manager, Bylaw and Business Licensing Services;
(e) Municipal Forester;
(f) Supervisor, Bylaw Compliance;
(g) Weed Control Officer;
(h) Persons acting in any capacity on behalf of the *District*, for the purpose of enforcement of one or more of its bylaws; or
(i) Persons who have been appointed as Bylaw Enforcement Officers in accordance with Section 9(6) of Delegation of Authority Bylaw No. 3814, 2021, as revised or replaced from time to time.

5 Any person who has been appointed as an Animal Control Officer in accordance with Section 9(10) of Delegation of Authority Bylaw No. 3814, 2021, as revised or replaced from time to time, is designated as a *Bylaw Enforcement Officer*.

6 Any person who is a member of the Royal Canadian Mounted Police is designated as a *Bylaw Enforcement Officer*.

7 Any person designated as *Bylaw Enforcement Officer* is deemed to be a *Peace Officer* when engaged in their duties while enforcing municipal bylaws against persons who have contravened one or more provisions of one or more municipal bylaws.

8 All persons designated as *Bylaw Enforcement Officers* under Section 4 or 5 shall swear an oath or make a solemn affirmation (Schedule A) before they may exercise the authority prescribed by this Bylaw.

Authority of Bylaw Enforcement Officers

9 *Bylaw Enforcement Officers* have the authority to:

(a) Investigate complaints of possible bylaw violations;

(b) Perform site inspections for various departments;

(c) Respond to requests for assistance from other agencies in the investigation of enforcement issues;

(d) Lay an information by means of a *Municipal Ticket* as per Division 3 of Part 8 of the *Community Charter* in the same manner as a summons may be served under the *Offence Act*, in accordance with Municipal Ticket Information System Bylaw No. 3464, 2013;

(e) Complete and issue a *Bylaw Notice* as per Section 4(3) of the *Local Government Bylaw Enforcement Act* and in accordance with Bylaw Offence Notice Enforcement Bylaw No. 3677, 2021;

(f) Serve a summons in respect of an alleged offence under a *District* bylaw as prescribed by Section 28(3) of the *Offence Act, RSBC 1996, c338;*

(g) Exercise the municipal authority to enter on or into any property for the purposes specified in Section 16(6) of the *Community Charter* [*to conduct an inspection, to take action, to discontinue or remove the utility system or other service, or to assess or inspect trees*];

(h) Use force, as prescribed by Section 25 of the *Criminal Code of Canada,* RSC 1985, c C-46, including detaining and arresting a person, during the course of their duties where RCMP officers are not immediately available to assist and there is an unavoidable need to act in self-defence or where grievous bodily harm or death could be caused to the *Bylaw Enforcement Officer*; and

(i) Exercise any other powers, duties, functions, or authorities granted to a *Bylaw Enforcement Officer* by any *District* bylaw.

Schedules

10 The following schedules are included in and form part of this Bylaw:

(a) Schedule "A" – Bylaw Enforcement Officer Oath or Solemn Affirmation

Offence

11 No person shall interfere with, hinder or obstruct a *Bylaw Enforcement Officer* in the exercise or performance of their powers, duties or functions as prescribed in Section 153 of the *Community Charter*.

Penalty in relation to an *Offence Act prosecution*

12 Every person who contravenes any provisions of this bylaw commits an offence punishable upon summary conviction and is liable to a fine not exceeding $50,000, together with the cost of the prosecution and any other penalty or order imposed pursuant to Section 263 of the *Community Charter* or the *Offence Act,* as revised or replaced from time to time, if convicted of an offence in a prosecution under the *Offence Act*.

Severability

13 If any section, subsection, sentence, clause or phrase of this Bylaw is, for any reason, held to be invalid by the decision of any court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this Bylaw.

_____

READ a first time on January 17, 2024
READ a second time on January 17, 2024
READ a third time on January 17, 2024
ADOPTED on _____.

CORPORATE OFFICER

PRESIDING MEMBER

Schedule “A” to accompany “Bylaw Enforcement Officer Bylaw No. 3948, 2024”.

Presiding Member

Corporate Officer