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## SUNDANCE BEACH EASEMENT HOLDERS ASSOCIATION

[NOTE: IT IS INTENDED THAT THESE REGULATIONS SHALL FORM PART OF THE LAND USE BYLAW TO BE ENACTED BY THE SUMMER VILLAGE OF SUNDANCE BEACH]

### REGULATIONS FOR DEVELOPMENT OF EASEMENT LANDS

#### 1 - Definitions and Interpretation

1.1 In these regulations, unless the context otherwise requires, the following definitions shall have the following meanings:

- (a) "Adjoining Users" means, with respect to an Easement Parcel, those persons who are authorized to use and occupy the Easement Parcels located immediately adjacent to and on either side of such Easement Parcel;
- (b) "Development" means (i) the construction of, or substantial repair to, or replacement of, or addition to, or relocation of, any Structure on an Easement Parcel, (ii) a change of use of an Easement Parcel or any Structure on an Easement Parcel, (iii) any landscaping of a material nature made to, or removed from, an Easement Parcel, (iv) any material alterations to the existing grade or existing surface drainage pattern of an Easement Parcel, and (v) the removal of one or more trees located on an Easement Parcel;
- (c) "Development Authority" means the development authority established for the Summer Village pursuant to the Municipal Government Act;
- (d) "Development Permit" means a development permit which is issued under the Land Use Bylaw and which authorizes a Development on an Easement Parcel;
- (e) "Easement Lands" means the lands which are (i) located in the Summer Village, (ii) owned by the EHA, and (iii) located between the shoreline of Pigeon Lake and the Road;
- (f) "Easement Parcel" means a portion of the Easement Lands which one or more Easement Users are entitled to use and oc-

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copy pursuant to a written easement agreement granted by the EHA or its predecessor in title;

- (g) "Easement User" means, with respect to an Easement Parcel, the one or more persons who are authorized to use and occupy such Easement Parcel pursuant to a written easement agreement granted by the EHA or its predecessor in title;
- (h) "EHA" means the Alberta society known as the Sundance Beach Easement Holders Association;
- (i) "EHA Directors" means the board of directors of the EHA, as constituted from time to time;
- (j) "Engineer's Report" means a written report which (i) is signed and stamped by a duly licensed Alberta professional engineer, (ii) is addressed to the Development Authority, and (iii) provides a written assessment of the applicable Easement Parcel and the likely impact of the proposed Development on such Easement Parcel;
- (k) "Land Use Bylaw" means the land use bylaw enacted by the Summer Village under the Municipal Government Act from time to time, together with any amendments thereto and replacements thereof;
- (l) "Municipal Government Act" means the Municipal Government Act (Alberta) together with any amendments thereto and replacements thereof;
- (m) "Non-Conforming Structure" means, with respect to any given date, a Structure which was lawfully constructed under the Summer Village's land use bylaw in effect prior to such given date and which no longer complies with the Summer Village's land use bylaw in effect as at such given date;
- (n) "Permitted Building" means a building which is used for (i) the storage of watercraft and watercraft accessories, or (ii) the storage of miscellaneous items provided that, for clarity, a Permitted Building shall not include a building to be used as a residence or dwelling, a mobile home or a recreational vehicle;

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- (o) "Road" means the road located in the Summer Village and known as Lakeshore Drive.
- (p) "Structures" means buildings, decks, patios, steps, stairways, retaining walls, fire pits, planters and other types of improvements located or constructed on, or to be located or constructed on, an Easement Parcel; and
- (q) "Summer Village" means the Summer Village of Sundance Beach.

1.2 Words in the singular shall include the plural and vice versa. Words in the masculine shall include the feminine and vice versa.

1.3 Nothing in these regulations shall restrict, limit or adversely affect the power or ability of the EHA to enforce, or exercise its rights and powers under, any written easement agreement granted by the EHA or its predecessor in title in favour of an Easement User or his/her predecessor in title.

1.4 In the event of any conflict or inconsistency between the provisions of these regulations and the provisions of the Land Use Bylaw, the provisions of these regulations shall govern to the extent of such conflict or inconsistency.

### **2 - Approval of EHA Directors Required**

2.1 Nothing in these regulations shall allow the Development Authority, or any body which is empowered to hear an appeal of a decision of the Development Authority, to issue a Development Permit unless and until the Development described in such Development Permit has been approved in writing by the EHA Directors.

2.2 The decision of the EHA Directors to give or withhold their approval of a Development shall be within the sole and unfettered discretion of the EHA Directors provided that, in making their decision, the EHA Directors shall take into account the requirements set out in these regulations and any other matters which are deemed relevant by the EHA Directors including, without limitation, the terms of any easement agreement, restrictive covenant or caveat registered against the title to the Easement Parcel which is the subject of that Development.

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### 3 - Development Permits

3.1 Except as provided in these regulations, no person shall commence, carry on or complete a Development on an Easement Parcel without a Development Permit applicable thereto and issued under the Land Use Bylaw.

3.2 A Development Permit issued under the Land Use Bylaw shall not be required for any of the following types of Developments:

- (a) routine maintenance of, or routine repairs to, a Structure located on an Easement Parcel provided that the work to be done does not constitute structural repairs or alterations;
- (b) routine maintenance of landscaping including, without limitation, cutting grass and trimming plants, shrubs and trees;
- (c) landscaping of a minor nature made to, or removed from, an Easement Parcel and which does not materially alter the existing grade or the existing surface drainage pattern of such Easement Parcel;
- (d) removal of a dangerous tree which (i) is located on an Easement Parcel, (ii) has fallen or is about to fall, and (iii) which poses a threat to public safety;
- (e) placement and use of lawn chairs, benches, tables, umbrellas, furniture and other portable items on an Easement Parcel on a temporary basis; and
- (f) temporary storage of small watercraft, watercraft lifts, piers, pier sections, pier stands and similar items on an Easement Parcel during off-season months.

3.3 In the event that the Development described in an application for a Development Permit does not comply with one or more of the requirements set out in these regulations, the Development Authority shall give to the Adjoining Users not less than 21 days' prior written notice of the Development including a description of the non-complying aspects of the Development. Any written objections to the Development made by an Adjoining User to the Development Authority prior to the expiration of the 21 day notice period shall be taken into account by the Development Authority and the EHA Directors in making their decision to give or withhold their approval of the application for the Development Permit.

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### **4 - Site Coverage and Setbacks**

4.1 The maximum site coverage for all Structures on an Easement Parcel shall be 40% of the total area of such Easement Parcel.

4.2 The minimum site coverage for trees and natural vegetation on an Easement Parcel shall be 25% of the total area of such Easement Parcel.

4.3 The minimum setbacks applicable to a Structure on an Easement Parcel shall be as follows:

- (a) 10 feet (3.048 metres) from the edge of the travelled portion of the Road;
- (b) 10 feet (3.048 metres) from the high water mark of Pigeon Lake; and
- (c) three feet (0.9144 metres) from each of the side boundaries of such Easement Parcel.

4.4 If applicable to a Structure, the setbacks described in section 4.3 above shall be measured from the overhang of such Structure.

### **5 - Structures**

5.1 The types of Structures which can be constructed on an Easement Parcel shall be restricted to the following:

- (a) Permitted Buildings;
- (b) stairs and stairways;
- (c) decks and patios;
- (d) retaining walls;
- (e) fire pits; and
- (f) planters.

For clarity, decks and patios shall not be permitted on top of Permitted Buildings.

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5.2 The total area of a Permitted Building shall not exceed 100 square feet (9.2903 square metres).

5.3 The height of a Permitted Building shall not exceed five feet (1.524 metres) above the crown of the Road.

5.4 Any footing or piling used to support a Structure shall not have an excavated depth of more than two feet (0.6096 metres) below the existing grade unless the application for the Development Permit applicable to such Structure is accompanied by an Engineer's Report which is acceptable to the Development Authority. Screw piles and concrete pads shall not be used to support a Structure.

5.5 The height of a retaining wall shall not exceed five feet (1.524 metres) unless the application for the Development Permit applicable to such retaining wall is accompanied by an Engineer's Report which is acceptable to the Development Authority.

5.6 The building materials used to construct a Structure shall conform to the following requirements:

- (a) the use of environmentally friendly materials and low impact development technologies shall be encouraged;
- (b) materials shall not contain any toxic substances which could reasonably be expected to leach into Pigeon Lake or any ground water;
- (c) paving stones shall be permitted for patios and fire pits so long as any water run-off can drain between the individual stones or so long as the requirements of section 5.6(d) below are met; and
- (d) non-permeable materials used for horizontal surfaces shall not be permitted unless any water run-off from such surfaces is directed into a filtration area such as a grassy area, a shrub bed or a flower bed.

5.7 The design, construction and architectural appearance of any Structure on an Easement Parcel shall:

- (a) be to the satisfaction of the Development Authority;

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- (b) comply with all current building codes and all current safety codes and shall not otherwise threaten public health or safety; and
- (c) be compatible with the general standard of design and construction of the Structures located near such Easement Parcel.

5.8 Fences shall not be permitted between Easement Parcels.

### **6 - Utilities**

6.1 Permanently installed utilities (including, without limitation, electricity, natural gas, propane, water wells and wastewater holding tanks) shall not be permitted on an Easement Parcel.

### **7 - Trees**

7.1 Subject to section 3.2(d) above, the removal of trees from an Easement Parcel shall require a Development Permit.

7.2 The removal of healthy trees from an Easement Parcel shall be discouraged.

7.3 Unless otherwise determined by the Development Authority, a Development Permit which allows the removal of one or more trees from an Easement Parcel shall require that a replacement tree must be planted on such Easement Parcel for each tree removed from such Easement Parcel. For clarity, a replacement tree need not be planted in the same location from which the original tree was removed.

### **8 - Non-Conforming Structures and Conditions**

8.1 A Structure which is located on an Easement Parcel and which is a Non-Conforming Structure at the time that these regulations become effective shall be permitted to remain provided that:

- (a) such Non-Conforming Structure complied with all building codes and safety codes applicable to such Non-Conforming Structure at the time of construction of such Non-Conforming Structure;

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- (b) subject to sections 8.1(c) and (d) below, such Non-Conforming Structure is maintained in good condition and repair;
- (c) such Non-Conforming Structure is not enlarged, added to, rebuilt or structurally altered except (i) to make such Non-Conforming Structure conform with the Land Use Bylaw in effect at such time, (ii) for routine maintenance of such Non-Conforming Structure if the Development Authority and the EHA Directors consider such routine maintenance to be necessary, or (iii) in accordance with minor variances approved by the Development Authority and the EHA Directors; and
- (d) if such Non-Conforming Structure is damaged or destroyed to the extent of more than 75% of the value of such Non-Conforming Structure, then such Non-Conforming Structure may not be repaired or rebuilt unless, upon completion thereof, such Non-Conforming Structure conforms with the Land Use Bylaw in effect at such time.

8.2 Permanently installed utilities which are located on an Easement Parcel at the time that these regulations become effective shall be permitted to remain provided that:

- (a) such utilities complied with all building codes and safety codes applicable to such utilities at the time of installation of such utilities; and
- (b) such utilities are maintained in good condition and repair.

8.3 Toxic materials which form part of a Structure located on an Easement Parcel at the time that these regulations become effective shall be permitted to remain provided that:

- (a) the toxic materials are not leaching into Pigeon Lake or any ground water;
- (b) such Structure complied with all building codes and safety codes applicable to such Structure at the time of construction of such Structure;



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- (c) subject to section 8.3(d) below, such Structure is maintained in good condition and repair; and
- (d) any toxic materials which are to be replaced as part of any repairs described in section 8.3(c) above shall be replaced with non-toxic materials.

8.4 If, at any time, the Development Authority becomes aware of the fact that an Easement User is no longer in compliance with one or more of the requirements set out in sections 8.1, 8.2 or 8.3 above, as the case may be, then:

- (a) the Development Authority may give written notice of such non-compliance to such Easement User within 10 days following the date that the Development Authority became aware of such non-compliance;
- (b) in the case of a Non-Conforming Structure, within 45 days following the end of the 10 day notice period, such Easement User shall either (i) remedy the non-compliance, or (ii) remove the Non-Conforming Structure from the Easement Parcel;
- (c) in the case of permanently installed utilities, within 45 days following the end of the 10 day notice period, such Easement User shall either (i) remedy the non-compliance, or (ii) remove such utilities from the Easement Parcel;
- (d) in the case of toxic materials, within 45 days following the end of the 10 day period, such Easement Holder shall either (i) remedy the non-compliance, or (ii) remove the toxic materials from the Easement Parcel;
- (e) no later than the end of the 45 day period described in sections 8.4(b), (c) or (d) above, as the case may be, such Easement Holder shall provide to the Development Authority evidence, in a form satisfactory to the Development Authority, that such Easement User has satisfied the requirements set out in sections 8.4(b), (c) or (d) above, as the case may be; and
- (f) in the event that such Easement User fails to comply with section 8.4(e) above, the Development Authority shall be en-

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titled to exercise and enforce one or more of the rights, powers and remedies available to the Development Authority under the Municipal Government Act including, without limitation, sections 645 and 646 of the Municipal Government Act.