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**A BYLAW OF THE SUMMER VILLAGE OF SUNDANCE BEACH TO CONTROL OPEN BURNING WITHIN THE SUMMER VILLAGE OF SUNDANCE BEACH.**

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**WHEREAS**, Section 7 of the MGA (as defined below) authorizes a council of a municipality to pass bylaws for municipal purposes respecting the safety, health and welfare of people and the protection of people and property;

**AND WHEREAS**, the Council (as defined below) deems it proper and expedient to pass a bylaw regulating open burning in the Summer Village (as defined below);

**NOW THEREFORE**, the Council, duly assembled, enacts as follows:

**1. SHORT TITLE**

1.1 This Bylaw shall be known as the "Control of Burning Bylaw".

**2. DEFINITIONS**

2.1 Definitions used in this Bylaw, if not defined in this Bylaw, shall have the same meanings attributed to those definitions in the MGA.

2.2 In this Bylaw:

- a) **"Burning"** means the igniting, burning or combustion of any combustible materials or substances in the outdoors;
- b) **"Burning Barrel"** means a barrel or other container which is made of non-combustible materials, which is covered by a metal screen and which is used to burn combustible materials in the outdoors;
- c) **"Bylaw Enforcement Officer"** means (i) a person who is an employee of the Summer Village or a third party and who has been appointed to carry out the duties of enforcing its Bylaws, (ii) a person who is a community peace officer as defined under the *Peace Officer Act, Statutes of Alberta, 2006 Chapter P-3.5*, or (iii) a person who is a member of the Royal Canadian Mounted Police;
- a) **"CAO"** means the Chief Administrative Officer of the Summer Village;
- b) **"Council"** means the Council of the Summer Village;
- c) **"Fire Ban"** means a ban of any Burning in any location including within the Summer Village;

- d) **"Fire Department"** means the Mulhurst Bay Fire Department or whichever fire department agrees to provide fire protection services to the Summer Village from time to time;
- e) **"Fire Extinguishing Equipment"** means any equipment or device which is capable, when used properly, of extinguishing burning materials;
- f) **"Fire Pit"** means an outdoor open pit which is not less than one foot in depth and is surrounded by non-combustible materials, or an installation which has enclosed sides made from bricks, concrete blocks, heavy gauge metal, or other non-combustible materials;
- g) **"MGA"** means the *Municipal Government Act, Revised Statutes of Alberta, 2000 Chapter M-26*;
- h) **"Municipal Tag"** means a ticket issued by the Summer Village pursuant to the MGA for breach of its Bylaws;
- i) **"Person"** means an individual and includes partnership, corporation, trustee, executor, joint venture, proprietorship, association, society and any other legal entity;
- j) **"Portable Appliance"** means any portable appliance which is used for the purpose of cooking food out-of-doors or heating and which uses natural gas, propane, charcoal briquettes, bottled liquid fuel or wood pellets as a fuel source;
- k) **"POPA"** means the *Provincial Offences Procedure Act, Revised Statutes of Alberta, 2000 Chapter P-34*;
- l) **"Private Property"** means any land, buildings or property located in the Summer Village which is privately owned and to which members of the public do not have access as of right. For greater certainty, "Private Property" includes (i) land which is owned by the Sundance Beach Easement Holders Association and which certain members of the Sundance Beach Easement Holders Association have the right to use and occupy pursuant to a written easement agreement, (ii) public utility lots which are owned by the Summer Village and which certain residents of the Summer Village have the right to use and occupy pursuant to a written easement agreement, (iii) public utility lots which are owned by the Summer Village and which certain residents of the development known as "Sundance Estates" have the right to use and occupy pursuant to a written license agreement, and (iv) road allowances which are controlled by the Summer Village and which certain residents of the Summer Village have the right to use and occupy pursuant to a written license agreement.
- m) **"Public Place"** means any land, buildings or property located in the Summer Village to which members of the public have access as of right, or by express or implied invitation, whether on payment of any fee or not. For greater certainty,



"Public Place" includes roads, parks and playgrounds but excludes Private Property;

- n) "**Right of Access**" means the right of a Bylaw Enforcement Officer or an designated officer, to enter onto a property to inspect the property, in accordance with Section 542 of the MGA, and determine if there are conditions that may contravene or fail to comply with the provisions of this Bylaw;
- o) "**Summer Village**" means the Summer Village of Sundance Beach;
- p) "**Violation Ticket**" means a ticket issued pursuant to Part 2 or Part 3, as applicable, of the POPA.

### 3. GENERAL INTERPRETATION

- 3.1 All schedules attached to this Bylaw form part of this Bylaw.
- 3.2 Headings or subheadings in this Bylaw are inserted for ease of reference and guidance purposes only and do not form part of this Bylaw.
- 3.3 Words in the singular include the plural and words in the plural include the singular.
- 3.4 Where this Bylaw cites or refers to any act, regulation, code or other bylaw, the citation or reference to the act, regulation, code or other bylaw includes any amendments thereto before or after the commencement of this Bylaw, and includes reference to any act, regulation, code or other bylaw that may be substituted in its place.
- 3.5 Each provision of this Bylaw is independent of, and severable from, all other provisions and if any provision is declared invalid or unenforceable for any reason by a court of competent jurisdiction, all other provisions of this Bylaw remain valid and enforceable.
- 3.6 Nothing in this Bylaw relieves a Person from complying with any provision of any federal, provincial or municipal law or regulation or any requirement of any lawful permit, order or license.

### 4. PROHIBITIONS

- 4.1 No Person shall conduct any Burning on any Private Property unless:
  - a) such Burning is performed under the direct supervision of an individual who is 18 years or older;
  - b) such Burning is conducted in a safe manner;



- c) the materials used in such Burning are restricted to firewood, tree branches and twigs, leaves, pulp products (paper or cardboard), dry refuse from vegetation or untreated/unpainted wood;
  - d) Fire Extinguishing Equipment is readily available at the site of such Burning; and
  - e) such Burning is confined within a Fire Pit or a Burning Barrel and is located at least three meters from any building or structure or within a Portable Appliance.
- 4.2 No Person shall conduct any Burning in any Public Place unless such Burning is conducted in a Portable Appliance owned by the Summer Village and located at the Summer Village's Community Center.
- 4.3 No Person shall conduct any Burning without first taking sufficient precautions to ensure that the Burning can be kept under control at all times on the site of the Burning.
- 4.4 No Person shall conduct any Burning when environmental conditions are conducive to such Burning readily escaping out of control.
- 4.5 No Person shall abandon any Burning until it has been fully extinguished.

## **5. FIRE BAN ORDERS**

- 5.1 The CAO may, from time to time, issue Fire Ban orders and when issued and in effect:
- a) subject to Section 5.2 below, no Person may conduct any Burning within the Summer Village; and
  - b) no Person shall discharge or set off any fireworks within the Summer Village.
- 5.2 During a Fire Ban order, Portable Appliances may be used provided that any open flame is contained within such Portable Appliance and no sparks are generated.

## **6. RECOVERY COSTS**

- 6.1 When the Fire Department responds to an incident in the Summer Village for the purpose of preserving life or property from injury or destruction by fire or other peril including, without limitation, any action taken by the Fire Department on a false alarm, the CAO or his or her designate may, in respect of any costs incurred by the Fire Department:
- a) recover such costs as a debt due to the Summer Village; or



- b) charge such costs against the applicable Private Property as taxes due and owing by the owner of such Private Property.

## **7. FIRE HAZARDS**

- 7.1 If the Bylaw Enforcement Officer finds on any Private Property conditions that constitute a fire hazard, he or she may order the owner of such Private Property to reduce or remove the hazard within a fixed time and in a manner prescribed by the Bylaw Enforcement Officer.
- 7.2 If any Person neglects or refuses to remedy the condition as directed by the Bylaw Enforcement Officer pursuant to Section 7.1 above, then the Summer Village may cause the work to be performed to remedy the condition and, with respect to the costs incurred:
  - a) to recover such costs as a debt due to the Summer Village; or
  - b) to charge such costs against the applicable Private Property as taxes due and owing by the owner of such Private Property.

## **8. FINES AND ENFORCEMENT**

- 8.1 A Person who contravenes any provision of this Bylaw is guilty of an offence pursuant to this Bylaw.
- 8.2 A Bylaw Enforcement Officer or a designated officer is hereby authorized to have the Right of Access to enter any property for the inspection of conditions that may contravene or fail to comply with the provisions of this Bylaw.
- 8.3 In the case of an offence that is of a continuing nature, a contravention constitutes a separate offence in respect of each day, or part of a day, on which it continues and a Person guilty of such an offence is liable to a fine in an amount not less than the amount established in accordance with Section 8.4 below for each separate offence.
- 8.4 Any Person who is guilty of an offence under this Bylaw is liable for a fine not less than the amount established in this section and not more than \$10,000. The following fine amounts are established for use in Municipal Tags and Violation Tickets (which offer a voluntary payment option):
  - a) \$200 for any offence under this Bylaw; and
  - b) double the fine amount described above for any subsequent offence which means an offence committed by a Person within one year after that Person has already been convicted of the same offence or has voluntarily paid a fine for the same offence.



- 8.5 With respect to an offence under this Bylaw, a Bylaw Enforcement Officer may issue a Municipal Tag or a Violation Ticket specifying the amount of the fine established in accordance with Section 8.4 above.
- 8.6 When a Municipal Tag is issued, the amount of the fine indicated therein may be paid in accordance with the Municipal Tag in lieu of prosecution.
- 8.7 When a Violation Ticket is issued with a specified penalty, the amount of the fine indicated therein may be paid in accordance with the Violation Ticket in lieu of prosecution.
- 8.8 Nothing in this Bylaw shall preclude a Bylaw Enforcement Officer from issuing a Violation Ticket for a mandatory court appearance to any Person who contravenes any provision of this Bylaw.
- 8.9 Nothing in this Bylaw shall preclude a Bylaw Enforcement Officer from laying charges under any alternate governing legislation.

## 9. REPEAL

- 9.1 This Bylaw shall replace Bylaw No. A45(Fire Ban Bylaw) and Bylaw No. P2-139 (Fire Extinguishing & False Alarm Costs) and Bylaw No. A45 and Bylaw No. P2-139 are hereby repealed.

## 10. COMING INTO FORCE

- 10.1 This Bylaw shall come into full force and effect upon final passing.

**READ** a first time this 21<sup>st</sup> day of January, 2021.

**READ** a second time this 21<sup>st</sup> day of January, 2021.

**UNANIMOUS CONSENT** to proceed to third reading this 21<sup>st</sup> day of January, 2021.

**READ** a third and final time this 21<sup>st</sup> day of January, 2021.

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Peter Pellatt, Mayor  
Summer Village of Sundance Beach

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June Boyda, Chief Administrative Officer  
Summer Village of Sundance Beach