
A BYLAW OF THE SUMMER VILLAGE OF SUNDANCE BEACH FOR MATTERS RELATED TO REGULATION OF UNSIGHTLY PREMISES

WHEREAS, Section 7 of the MGA (as defined below) authorizes a council of a municipality to pass bylaws for municipal purposes respecting nuisances, including unsightly property;

AND WHEREAS, pursuant to Section 8 of the MGA, a council of a municipality may, in a bylaw, regulate or prohibit and provide for a system of licenses, permits or approvals;

AND WHEREAS, pursuant to Section 66(2) of the *Safety Codes Act, Revised Statutes of Alberta, 2000 Chapter S-1*, a council of a municipality may make bylaws respecting minimum maintenance standards for buildings and structures and unsightly or derelict buildings or structures;

NOW THEREFORE, the Council (as defined below), duly assembled, enacts as follows:

1. SHORT TITLE

- 1.1. This Bylaw shall be known as the "Unsightly Premises 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) **"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 the 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;
- b) **"CAO"** means the Chief Administrative Officer of the Summer Village;
- c) **"Council"** means the Council of the Summer Village;
- d) **"MGA"** means the *Municipal Government Act, Revised Statutes of Alberta, 2000 Chapter M-26*;
- e) **"Municipal Tag"** means a ticket issued by the Summer Village pursuant to the MGA for breach of its Bylaws;
- f) **"Nuisance"** means any condition on or around, or use of, or emission from, a Property which, in the opinion of the Bylaw Enforcement Officer or a designated officer (i) is unsightly, offensive or dangerous to public health or safety, (ii) has, or could reasonably be expected to have, a detrimental effect on any Person or on

any other Property, (iii) unreasonably interferes with the use or enjoyment of such Property or any other Property, or (iv) materially depreciates the value of such Property or any other Property;

- g) **"Occupant"** means a Person, other than an Owner or a User, who (i) is in possession or control of a Property, or (ii) has the right to use and occupy a Property, in each case whether under a lease, tenancy, rental arrangement, easement, license, agency arrangement or otherwise;
- h) **"Owner"** means the registered owner of a Property located in the Summer Village;
- i) **"Person"** means an individual and includes partnership, corporation, trustee, executor, joint venture, proprietorship, association, society and any other legal entity;
- j) **"POPA"** means the *Provincial Offences Procedure Act, Revised Statutes of Alberta, 2000 Chapter P-34*;
- k) **"Property"** means any land, buildings, improvements or personal property which is located in the Summer Village and which is (i) privately owned, (ii) owned or controlled by the Summer Village, or (iii) owned by the Sundance Beach Easement Holders Association;
- l) **"Reasonable State of Repair"** means the condition of being (i) structurally sound, (ii) free from material damage, (iii) free from rot or other deterioration, and (iv) safe for its intended use;
- m) **"Refuse"** means any of the following materials or items which, in the opinion of the Bylaw Enforcement Officer or a designated officer, is or appears to be (i) solid or liquid waste, rubbish, debris, junk or garbage, (ii) discarded, broken, inoperable or abandoned equipment or other personal Property, (iii) animal remains, excrement, manure, parts or carcasses, or (iv) cut and accumulated grass, weeds, leaves, branches and other vegetation which is unsightly or which creates a fire hazard;
- n) **"Remedy Order"** means an order, issued in accordance with Section 545 or 546 of the MGA;
- o) **"Right of Access"** means the right of a Bylaw Enforcement Officer or a designated officer to enter on a Property to inspect such Property, in accordance with Section 542 of the MGA, and determine if there are conditions that may contravene or fail to comply with this Bylaw;
- p) **"Summer Village"** means the Summer Village of Sundance Beach;



- q) **"Unsightly Premises"** means any Property which, in the opinion of the Bylaw Enforcement Officer or a designated officer, is (i) unsightly to such an extent that it detrimentally affects the use, enjoyment or value of such Property or an adjacent Property, (ii) in unsightly condition (as defined in the MGA), or (iii) detrimental to the surrounding area (as defined in the MGA);
- r) **"User"** means a Person, other than an Owner or an Occupant, who has the right to use or occupy a Property, whether as a guest, relative or otherwise; and
- s) **"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 An Owner, Occupant or User of a Property shall not cause, permit or allow:
 - a) such Property or any portion thereof to become or continue to be a Nuisance or an Unsightly Premises; or
 - b) the use of such Property or any portion thereof by such Owner, Occupant or User to become or continue to be a Nuisance.
- 4.2 For the purposes of Section 4.1 above, "Nuisance" and "Unsightly Premises" shall include but shall not be limited to the following:

- a) allowing Refuse to exist or accumulate on such Property or any portion thereof;
 - b) failing to keep such Property or any portion thereof, or any building, structure or improvement located thereon, in a Reasonable State of Repair including, without limitation, the roof, exterior walls, foundation, windows, doors and other components forming part of such building, structure or improvement;
 - c) failing to cut grass on such Property or any portion thereof so that such grass does not exceed 10 centimetres in height;
 - d) failing to control dandelions and other noxious weeds or plants on such Property or any portion thereof;
 - e) failing to prune, trim or remove trees, shrubs or vegetation which pose a safety risk or that do or could interfere with or cause damage to (i) such Property or an adjacent Property, or (ii) power lines, power poles, roads, culverts or other utilities located on such Property or an adjacent Property;
 - f) allowing any condition to exist on such Property or any portion thereof which, in the opinion of the Bylaw Enforcement Officer or a designated officer, is or could become hazardous or dangerous or otherwise pose a threat to public health or safety including, without limitation, open excavations, improperly stored or secured equipment or materials and unsafe structures or improvements;
 - g) allowing any condition to exist on such Property or any portion thereof which results or could result in an infestation of harmful rodents, vermin, insects or pests; and
 - h) allowing the generation of dust, smoke, unpleasant odours, noxious fumes or other emissions from such Property or any portion thereof which, in the opinion of the Bylaw Enforcement Officer or a designated officer, are excessive or otherwise hazardous.
- 4.3 Notwithstanding Sections 4.1 and 4.2 above, the following shall not be considered to be a Nuisance or an Unsightly Premises:
- a) placing Refuse in an approved receptacle on a Property for garbage collection or pickup;
 - b) placing grass clippings, leaves, branches, vegetation and other biodegradable or organic materials in an enclosed composting bin on a Property;
 - c) storing firewood, kindling and branches on a Property provided that, in the opinion of the Bylaw Enforcement Officer or a designated officer (i) such items are stacked or arranged in an orderly manner, and (ii) such storage does not create a fire hazard or pose a threat to public health or safety;

- d) storing lumber and other construction materials on a Property during or in anticipation of the construction of improvements on the Property provided that, in the opinion of the Bylaw Enforcement Officer or a designated officer (i) such items are stacked or arranged in an orderly manner, and (ii) such storage does not create a fire hazard or pose a threat to public health or safety; and
- e) storing motor vehicles, recreational vehicles, watercraft, watercraft lifts, piers, pier sections, pier stands and similar items on a Property provided that, in the opinion of the Bylaw Enforcement Officer or a designated officer (i) such items are intact and in working order, (ii) such storage takes place during the off-season or otherwise on a temporary basis and, (iii) such storage does not pose a threat to public health or safety.

5. FINES AND ENFORCEMENT

- 5.1 A Person who contravenes any provision of this Bylaw is guilty of an offence pursuant to this Bylaw.
- 5.2 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.
- 5.3 Any Person who contravenes this Bylaw may be issued a Remedy Order by a Bylaw Enforcement Officer or a designated officer to remedy the contravention in any manner deemed necessary in the circumstances, pursuant to Sections 545 or 546 of the MGA.
- 5.4 When a condition exists which contravenes any of the provisions of this Bylaw, the Bylaw Enforcement Officer or a designated officer may:
 - a) issue a warning notice to the Owner, Occupant or User of the Property in question, advising of the condition and directing as to what conditions are to be rectified within 14 days from the date of issuing the warning notice or as determined by the Bylaw Enforcement Officer or designated officer; and/or
 - b) issue a Remedy Order to the Owner, Occupant or User of the Property in question and direct that the condition be rectified within 14 days from the date of issuing the Remedy Order.
- 5.5 If any Owner, Occupant or User fails, neglects or refuses to remedy the condition as directed by the Bylaw Enforcement Officer or a designated officer, the Summer Village may cause the work to be performed to remedy the condition and with respect to the costs of such work:



- a) recover such costs from such Owner, Occupant or User as a debt due to the Summer Village; or
 - b) charge such costs against the Property in question as taxes due and owing in respect of that Property and recover such costs as such.
- 5.6 Notwithstanding whether a Remedy Order has been issued under this Bylaw, any Person who contravenes any provision of this Bylaw is guilty of an offence under this Bylaw and 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.
- 5.7 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 5.6 above.
- 5.8 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.
- 5.9 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.
- 5.10 Nothing in this Bylaw shall preclude a Bylaw Enforcement Officer from issuing a Validation Ticket for a mandatory court appearance to any Person who contravenes any provision of this Bylaw.
- 5.11 Nothing in this Bylaw shall preclude a Bylaw Enforcement Officer from laying charges under any alternate governing legislation.

6. REPEAL

- 6.1 This Bylaw shall replace Bylaw Nos. P19 (Minimum Maintenance Standards), 161 (Unsightly Premises) and P9 (Unsightly Premises) and Bylaw Nos. P19, 161 and P9 are hereby repealed.



7. COMING INTO FORCE

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

READ a first time this 1st day of October, 2020.

READ a second time this 1st day of October, 2020.

READ a third and final time this 24th day of June, 2021.

Peter Pellatt, Mayor
Summer Village of Sundance Beach

June Boyda, Chief Administrative Officer
Summer Village of Sundance Beach