

**SUMMER VILLAGE OF SANDY BEACH**

**BYLAW NO. \_03-2009\_**

**NUISANCES, UNSIGHTLY AND UNTIDY PROPERTY BYLAW**

Being a Bylaw of the Summer Village of Sandy Beach in the Province of Alberta to regulate Nuisances, Unsightly and Untidy Property.

WHEREAS, The Municipal Council of the Summer Village of Sandy Beach deems it appropriate and in the community interest to require that property within the Summer Village is maintained in such a manner that it is not offensive, dangerous to health, or does not interfere with the use or enjoyment of adjacent properties.

NOW THEREFORE, The Municipal Council of the Summer Village of Sandy Beach, duly assembled hereby enacts as follows:

**Section 1 Definitions**

- 1.1 "Act" shall mean the Municipal Government Act, RSA 2000, c.M-26.
- 1.2 "Summer Village" shall mean the Summer Village of Sandy Beach.
- 1.3 "Council" shall mean the Municipal Council of the Summer Village of Sandy Beach.
- 1.4 "Designated Officer" means the Chief Administrative Officer of the Summer Village or such other person as may be appointed from time to time by the Chief Administrative Officer. For the purposes of this Bylaw, Peace Officers shall be Designated Officers.
- 1.5 "Highway" shall mean any thoroughfare, street, road, trail, avenue, parkway, viaduct, alley, square, bridge, causeway, trestle way, or other places, whether publicly or privately owned, any part of which the public is ordinarily entitled or permitted to use for the passage or parking of vehicles, and which includes:
  - (1) A sidewalk (including a boulevard portion thereof),
  - (2) Where a ditch lies adjacent to or parallel with the roadway, the ditch, and

- (3) Where a highway right-of-way is contained between property lines or between a property line and one side of the roadway, all land between the property line and the edge of the roadway, as the case may be, but does not include a place declared by the Lieutenant Governor in Council not to be a highway.
- 1.6 "Junked Vehicle" shall mean a vehicle that subject to time limits contained in paragraph 2.2:
- (1) Is in a wrecked, partly wrecked, dismantled, partly dismantled, inoperative or abandoned condition, or is determined to be not roadworthy and is not located in a building or located on the property such that it can be concealed from view, or
- (2) Is not located in a building and does not form part of a business enterprise lawfully being operated on that property.
- 1.7 "Nuisance" for the purposes of this bylaw means any use of or activity upon any property which in the opinion of a Designated Officer is dangerous to health, or has or may have a detrimental impact upon any person or other property in the neighbourhood, or which creates an unreasonable interference with the use or enjoyment of other property, and without limiting the generality of the foregoing, includes the posting or exhibiting of posters, signs, billboards, placards, writings or pictures upon any fence or wall on any property, where the same are accumulated and become in a dilapidated and unsightly condition whether or not their posting or exhibiting is permitted by this or any other Bylaw.
- 1.8 "Occupant of Land" means the owner of any lot or parcel of land within the Summer Village Sandy Beach whether or not a dwelling place is present on the land. For the purposes of this Bylaw the "Occupant of Land" shall also be deemed to be the occupant of that portion of any Highway within the Summer Village and subject to the direction, management and control of the Municipal Council of the Summer Village of Sandy Beach and which adjoins his or her land and lies between the boundary of his or her land and the middle line of the highway.
- 1.9 "Peace Officer" shall mean either a member of the Royal Canadian Mounted Police or a Summer Village By-law Enforcement Officer.
- 1.10 "Person" includes a corporation, individual, and heirs, executors, administrators or other legal representatives of an individual.
- 1.11 "Property" includes any lands, buildings or premises in the Summer Village of Sandy Beach.

- 1.12 "Public Lands" shall mean all lands under the ownership and control of Her Majesty the Queen in the right of Canada, Her Majesty the Queen in the right of Alberta, or the Summer Village of Sandy Beach.
- 1.13 "Refuse" shall mean, junked articles, including but not limited to solid wastes, including broken dishes, tins, glass, rags, cast-off clothing, waste paper, cardboard, food containers, grass cuttings, shrubbery and tree prunings, weeds and garden waste, abandoned vehicles, tires, residential furnishings, household appliances, animal feces or garbage bags.
- 1.14 "Untidy" or "Unsightly" property shall mean:
- (1) A property that because of its condition or the accumulation of Refuse is detrimental to the use and enjoyment of the surrounding area or neighbouring properties,
  - (2) In respect of a structure, includes a structure whose exterior shows signs of significant physical deterioration, serious disregard for general maintenance, upkeep or repair and in the opinion of a Designated Officer, is dangerous to public safety.
  - (3) In respect of land, includes land that shows signs of a serious disregard for general maintenance or upkeep or if in the opinion of a Designated Officer, an excavation hole is dangerous to public safety or property.
- 1.15 "Vehicle" means a device in, on or by which a person or thing may be transported or drawn on a highway.

## **Section 2 Duties and Compliance**

- 2.1 No person being the owner of any land or premises within the Summer Village of Sandy Beach shall permit the land or premises to be or remain in a Nuisance, Unsightly or Untidy condition, in accordance with Section 546 of the Municipal Government Act.
- 2.2 No person shall permit or allow a Junked Vehicle to remain in any part of a yard in any residential district, for more that fourteen (14) successive days.
- 2.3 No person shall cause, permit or allow refuse, metal, appliances, tires or animal feces to accumulate or be upon lands owned or occupied by him, or under responsibility, or upon Public Lands adjoining lands owned or occupied by him, or under his responsibility.
- 2.4 No person shall cause, permit or allow refuse, metal or wood to accumulate in any open structure attached to any building within the

Summer Village of Sandy Beach except in containers, bins, drawers, shelves and areas provided for temporary storage. No storage shall be allowed in the front or side yard of any property.

- 2.5 It shall be a contravention of this Bylaw and an offense for an Owner of land within the Summer Village of Sandy Beach, to allow or condone any of the following acts:
- (1) The accumulation or storage of any building materials, whether new, used or second hand, on any lands or premises where the owner of the lands or premises is not in possession of a valid development permit referring to such materials and lands or premises unless the building materials are to be used for the maintenance or repair of a building as permitted under Section 10(a) of Bylaw 99-04, Land Use Bylaw as amended;
  - (2) The accumulation of automobile parts or appliance parts or accessories in any part of a yard in any district;
  - (3) The parking of vehicles on a front or side yard in any residential district except on a designated driveway, created for that purpose;
  - (4) No person shall cause, permit or allow for the storage, repair, cleaning, maintenance, collection or servicing of mechanical equipment including but not limited to bulldozers, graders, backhoes, pay loaders, cranes, tractors, semi-trailers, or similar heavy equipment within the Summer Village of Sandy Beach.

### **Section 3 Notice by a Designated Officer**

Where any lands or premises in the Summer Village of Sandy Beach are deemed to be Untidy, Unsightly or of a Nuisance Condition, a Designated Officer may give notice in writing to a person who is under a duty imposed by this Bylaw to prevent such a condition to remedy the same, and the Designated Officer may direct that this be done in such a manner as he or she deems advisable on or before a day to be named in the Notice.

### **Section 4 Inspections**

After giving reasonable notice, a Designated Officer is authorized to enter any lands, buildings or premises other than a dwelling house to inspect for conditions that may constitute a Nuisance, or contravene or fail to comply with the provisions of any Bylaw and such Designated Officers may order the owner or occupant thereof to remedy any condition which is deemed

to be in contravention of this or any Bylaw in the Summer Village of Sandy Beach. This is pursuant to Section 542 of the Municipal Government Act for the purpose of ensuring compliance with this Bylaw.

## **Section 5 Delivery of Notice**

- 5.1 After the inspection is completed a Designated Officer may issue a notice. The notice must specify a deadline for compliance and may give any specific instructions to remedy the Nuisance.
- 5.2 The Designated Officer may allow up to thirty (30) days from the date of delivery of the notice for its compliance.
- 5.3 The Summer Village of Sandy Beach must serve the notice by delivering it or sending it by registered mail to the Owner of the Property, and may also;
  - (1) Post it to the door of a building or in any other conspicuous place on the Property, and service is effective on the day of the posting, or
  - (2) Deliver it in person or mail it to any other Owner, tenant or agent.

## **Section 6 Penalties**

- 6.1 If a Designated Officer believes on reasonable and probable grounds that an offense has been committed or that an Owner has not complied with the notice by the specified deadline, he may issue a ticket for a fine of:
  - (1) \$250.00 for a first offence by that Owner, and
  - (2) \$500.00 for any subsequent offences by that owner.
- 6.2 If the owner has not complied with the notice by the specified deadline, the Summer Village will take appropriate action or measure at the expense of the occupant. Such expense shall include a 50% administrative surcharge in addition to any costs incurred by the Summer Village.
- 6.3 Where the owner neglects or refuses to pay the Summer Village of Sandy Beach in compliance with the notice, the Summer Village of Sandy Beach may cause these costs to be added to the tax roll as a charge against the lands of the owner in the same manner as taxes and with the same priority as to lien and to repayment thereof as in the case of ordinary municipal taxes.

## **Section 7 Right to Appeal**

- 7.1 An owner who considers himself or herself aggrieved by a Notice that relates to the Property that is given by a designated Officer may appeal to the Summer Village of Sandy Beach by filing a notice of appeal under Section 547 of the Municipal Government Act.
- 7.2 A notice of appeal shall be accompanied by an administrative fee of:
- (1) if a residential property \$100.00 or
  - (2) if a business property \$200.00.
- 7.3 In the event that the Municipal Council of the Summer Village of Sandy Beach rules in favour of the appellant and grants the appeal, the administrative fee shall be fully refunded.
- 7.4 A notice of appeal shall be in writing and shall set out:
- (1) The name and address of the appellant,
  - (2) A copy of the notice in respect of which the appeal is being taken,
  - (3) The legal description of the land affected, and
  - (4) The grounds for the appeal.

## **Section 8 Liability**

The Summer Village, and any Designated Officer or any person who inspects any Property under this Bylaw, or any person who performs any work on behalf of the Summer Village to remedy a Nuisance is not liable for any damages caused by the inspection, the work or disposing of anything to complete the work set out in the notice.

## **Section 9 Severability**

If at any time, any provision of this Bylaw is declared or held to be illegal, invalid, or ultra vires, in whole or in part, then the provision shall not apply and the remainder of this Bylaw shall continue in full force and effect and be construed as if it had been enacted without the illegal, invalid or ultra vires provision.

Bylaw 03-2009 shall be repealed upon passage of this Bylaw.

This Bylaw comes into effect upon being given Third Reading

First Reading Carried                      June 16, 2009.

Second Reading Carried                  June 16 2009

Third Reading Carried                  August 11 2009

  
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Mayor

  
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Chief Administrative Officer