

BYLAW NO. 431-16
PROVINCE OF ALBERTA
SUMMER VILLAGE OF WEST COVE

A BYLAW OF THE SUMMER VILLAGE OF WEST COVE, IN THE PROVINCE OF ALBERTA, TO REGULATE, CONTROL AND ABATE NUISANCES, INCLUDING DANGEROUS AND UNSIGHTLY PREMISES.

WHEREAS the *Municipal Government Act* authorizes a municipal council to pass bylaws respecting nuisances generally, including unsightly premises;

AND WHEREAS Council deems it desirable to regulate, control and abate nuisances including dangerous and unsightly premises within the Summer Village of West Cove;

NOW THEREFORE the Municipal Council of the Summer Village of West Cove, duly assembled, hereby **ENACTS AS FOLLOWS:**

PART 1 SHORT TITLE

1 This Bylaw shall be cited as the “Dangerous and Unsightly Premises Bylaw”.

PART 2 PURPOSE

2 The purpose of this bylaw is establish and enforce minimum standards relating to the state of repair and maintenance of property and to regulate, control and abate nuisances.

PART 3 DEFINITIONS

3 In this Bylaw:

- (a) “Bylaw” means a Village bylaw, including any amendments thereto;
- (b) “Chief Administrative Officer” or “CAO” means the Village’s chief administrative officer;
- (c) “Council” means the Village’s municipal council;
- (d) “Court” means the Provincial Court of Alberta;
- (e) “Derelict Vehicle” shall mean:
 - (i) the whole or any part of any vehicle or vehicles which have not currently registered with Alberta Motor Vehicle Registries for the current year or are inoperative by reason of disrepair, removed parts or missing parts or equipment; and
 - (ii) a vehicle that is not located in a structure and does not form part of a business enterprise lawfully being operated on that property.
- (f) “Designated Officer” means the CAO;
- (g) “Good Repair” means a condition where something is free from:
 - (i) Significant damage;

- (ii) Peeling surfaces;
 - (iii) Broken missing or fallen parts;
 - (iv) Rot or other significant deterioration;
 - (v) Openings that are not secured against trespassers or infiltration of air and precipitation;
 - (vi) Other visual evidence of a lack of general maintenance.
- (h) “Municipal Violation Tag” means a Village-issued notice that alleges an offence and provides a person with the opportunity to pay an amount to the Village in lieu of prosecution for the offence;
- (i) “Nuisance” means any act or deed, practice or thing which, in the opinion of the Designated Officer or Council, is or could be reasonably considered to be annoying, troublesome, destructive, harmful, inconvenient, unsanitary, unsightly, unsafe or injurious to a person or property.
- (j) “Owner”, “Own” or “Owns” means:
- (i) in respect of land, the person who is registered under the *Land Titles Act* as the owner of the fee simple estate in the land; or
 - (ii) in respect of any property other than land, the person in lawful possession of it.
- (k) “Person” includes any individual, corporation, society, association, partnership, firm, trustee, executor, administrator or other legal representative;
- (l) “Premises” means land, improvements to land, structures located on land or personal property within the Village;
- (m) “Public Lands” means all lands under the ownership and control of Her Majesty the Queen in right of Canada, Her Majesty the Queen in right of Alberta, or the Village;
- (n) “Structure” means a building or other thing erected or placed in, on, over or under land, whether or not it is so affixed to the land as to become transferred without special mention by a transfer or sale of the land and includes but is not limited to any building, retaining wall, scaffolding, garbage container, trailer, mobile home, shed, portable garage, modular home, manufactured home and sea container.
- (o) “Unsightly Premises” means any Premises which is, in the opinion of the Designated Officer of Council, unsightly whether or not it detrimentally affects the repose, amenities, use, value or enjoyment of the surrounding lands in reasonable proximity to the Premises.
- (p) “Village” means the Sumer Village of West Cove, a municipal corporation of the Province of Alberta, and includes, where the context so requires, the area contained within the boundaries of the Summer Village of West Cove;
- (q) “Violation Ticket” means a violation ticket issued in accordance with the *Provincial Offences Procedure Act* R.S.A. 2000, c.P-34 (as amended) and regulations thereunder

PART 4 PROHIBITIONS

- 4 The Owner of land shall not cause or allow his land or his use of his land to constitute a Nuisance.
- 5 The Owner of land shall not cause or allow his land to be an Unsightly Premise.
- 6 No person shall cause, permit or allow scrap metal or any Derelict Vehicle to collect, accumulate or be upon lands owned or occupied by him or under his responsibility, or upon Public Lands adjoining lands owned or occupied by him, or under his responsibility.
- 7 No Person shall cause, permit or allow storage in the front yard of his property if the property is in an area zoned as residential under the Village's Land Use Bylaw.
- 8 No Owner shall permit, allow or condone the use of his property in a residential area for the storage or 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.
- 9 No Owner of a Premise shall allow a Structure or fence to become a safety hazard.
- 10 Every Owner of a property shall ensure that following are maintained in Good Repair:
- (1) fences;
 - (2) Structures and their components, including:
 - (a) foundations and foundation walls
 - (b) exterior walls and their components
 - (c) roofs
 - (d) windows and their casings
 - (e) doors and their frames
 - (3) protective or decorative finishes of all exterior surfaces of Structures or fence; and
 - (4) exterior stairs, landings, porches, balconies and decks.
- 11 Every Owner of a property shall ensure the good maintenance and upkeep of yards and lawns on the property. Without limiting the generality of the foregoing, examples of a disregard for general maintenance and upkeep of a yard or lawn include the following:
- (1) Unkempt grass or weeds higher than 15 centimeters; and
 - (2) Excessive accumulation of grass clippings or fallen leaves.

PART 5 ENFORCEMENT

Offence

- 12 A Person who contravenes this Bylaw is guilty of an offence.

Continuing Offence

13 In the case of an offence that is of a continuing nature, a contravention constitutes a separate offence in respect to 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 the amount not less than that established by this bylaw for each such day.

Vicarious Liability

14 For the purpose of this Bylaw, an act or omission by an employee or agent of a Person is deemed also to be an act or omission of the Person if the act or omission occurred in the course of the employee or agent's exercising the powers or performing the duties on behalf of the Person under their employment or agency relationship.

Corporations and Partnerships

15 When a corporation commits an offence under this Bylaw, every director, officer, manager, employee or agent of the corporation who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence whether or not the corporation has been prosecuted for the offence.

16 If a partner in a partnership is guilty of an offence under this Bylaw, each partner in that partnership who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence.

Fines and Penalties

17 The following are minimum fine amounts and are established for use on Municipal Violation Tags and Violation Tickets if a voluntary payment option is offered.

- (1) \$150.00 for any offence with the exception of Section 29;
- (2) \$500.00 for any offence under Section 29;
- (3) fines double for any similar subsequent offence pertaining to the same property within 12 months of the date of the previous offence.

Municipal Violation Tag

18 If a Municipal Violation Tag is issued in respect of an offence, the Municipal Violation Tag must specify the fine amount established by this Bylaw for the offence.

19 A Municipal Violation Tag issued under this Bylaw may be served:

- (1) by delivering it personally to the individual;
- (2) by leaving it for the individual at their apparent place of residence with someone who appears to be at least 18 years of age;
- (3) by mail to the address shown on the tax roll of the Village or at the Land Titles Registry.

20 In the case of a Corporation, a Municipal Violation Tag may be served:

- (1) by delivering personally to any director or officer of the corporation;
- (2) by delivering it personally to a Person apparently in charge of an office of the corporation at an address held out by the corporation to be its address; or

(3) by mail to the registered office of the corporation.

Payment in Lieu of Prosecution

21 A Person who commits an offence may, if a Municipal Violation Tag is issued in respect of the offence, pay the fine amount established by this Bylaw for the offence and if the amount is paid on or before the required date, the Person will not be prosecuted for the offence.

Violation Ticket

22 If a Violation Ticket is issued in respect of an offence, the Violation Ticket may:

- (1) specify the fine amount established by this Bylaw for the offence; or
- (2) require a Person to appear in Court without the alternative of making a voluntary payment.

Voluntary Payment

23 A person who commits an offence may:

- (1) if a Violation Ticket is issued in respect of the offence; and
- (2) if the Violation Ticket specifies the fine amount established by this Bylaw for the offence, make a voluntary payment equal to the specified fine.

Order to Comply

24 If the CAO believes, on reasonable grounds, that a Person is contravening any provision of this Bylaw, the CAO may, by written order pursuant to Section 545 of the *Municipal Government Act*, require any Person responsible for the contravention to remedy it.

25 The order may:

- (1) direct a Person to stop doing something or to change the way in which the Person is doing it;
- (2) direct a Person to take any action or measures necessary to remedy the contravention of the enactment or bylaw, including the removal or demolition of a Structure that has been erected or placed in contravention of this Bylaw and, if necessary, to prevent a re-occurrence of the contravention;
- (3) state a time within which the Person must comply with the directions;
- (4) state that if the Person does not comply with the directions within a specified time, the Village will take the action or measure at the expense of the Owner, the said expense being recoverable pursuant to the provisions of the *Municipal Government Act*.

26 If in the opinion of the CAO, any property within the Village that is found to be an Unsightly Premise, the CAO may by written order:

- (1) require the Owner of the Unsightly Premise to remove or demolish the Unsightly Premise;
- (2) require the Owner of the Unsightly Premise to improve the appearance of the property in the manner specified, or if the property is a Structure, to remove or demolish the Structure and level the site.

27 A Person named in and served with an order issued pursuant to this section shall comply with any action or measure required to be taken within the time specified.

28 An order issued pursuant to this section may be served:

- (1) by delivering it personally to the individual;
- (2) by leaving it for the individual at their apparent place of residence with someone who appears to be at least 18 years of age;
- (3) by mail to the address shown on the tax roll of the Village or at the Land Titles Registry.

29 In the case of a Corporation, an order may be served:

- (1) by delivering personally to any director or officer of the corporation;
- (2) by delivering it personally to a Person apparently in charge of an office of the corporation at an address held out by the corporation to be its address; or
- (3) by mail to the registered office of the corporation.

Obstruction

30 A person who contravenes or does not comply with an order under this Part or who obstructs or hinders any person in the exercise or performance of the person's powers under this Part, is guilty of an offence under section 557 of the *Municipal Government Act*.

Review Process for Orders

31 An Owner who receives a written order under this Part may request the Council to review the order by written notice within 14 days of the day the order is received.

32 After reviewing the order, Council has the authority to review and confirm, vary, substitute or cancel the order.

33 An Owner affected by the decision of Council under Section 31 may appeal to the Court of Queen's Bench in accordance with section 548 of the *Municipal Government Act*.

PART 6 GENERAL

Power of the Chief Administrative Officer

34 Without restricting any other power, duty or function granted by this Bylaw the CAO may:

- (1) Carry out any inspections to determine compliance with this Bylaw;
- (2) Take any steps or carry out any actions required to enforce this Bylaw;
- (3) Take any steps or carry out any actions required to remedy a contravention of this Bylaw;
- (4) Establish investigation and enforcement procedures with respect to residential, commercial, industrial or other types of property and such procedures may differ depending on the type of property in question;
- (5) Establish forms for the purpose of this Bylaw; and

(6) Delegate any powers, duties or functions under this Bylaw to an employee or contractor of the Village.

Severability

35 Should any provision of this Bylaw be invalid, then such provision shall be severed and the remainder of the Bylaw shall remain in force.

Number and Gender References

36 All references in this Bylaw will be read with such changes in number and gender as may be appropriate according to whether the reference is to a male or female Person, or a corporation or partnership.

Liability

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

Enforcement of this Bylaw

38 The Village is not required to enforce this Bylaw. In deciding whether to enforce this Bylaw, the Village may take into account any practical concerns, including available municipal budget and personnel resources.

Bylaw Coming into Effect

39 This Bylaw takes effect on the final passing thereof and, on such final passing, Bylaw 313-13, is hereby repealed.

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| READ A FIRST TIME IN COUNCIL | THIS 15 th DAY OF December 2016 |
| READ A SECOND TIME IN COUNCIL | THIS 15 th DAY OF December 2016 |
| READ A THIRD TIME IN COUNCIL | THIS 15 th DAY OF December 2016 |

SUMMER VILLAGE OF WEST COVE

Ren Giesbrecht
Mayor

Wendy Wildman
Chief Administrative Officer