

SUMMER VILLAGE OF CASTLE ISLAND
BYLAW NO. 2012-03
Unsightly Bylaw

BEING A BYLAW OF THE SUMMER VILLAGE OF CASTLE ISLAND IN THE PROVINCE OF ALBERTA FOR THE PURPOSE OF PREVENTION, ABATEMENT AND REGULATION OF NUISANCES

WHEREAS pursuant to the *Municipal Government Act*, a Council may pass bylaws for municipal purposes respecting the following matters: (*MGA s.7*)

- (a) the safety, health and welfare of people and the protection of people and property;
- (b) nuisances, including unsightly property;
- (c) the enforcement of bylaws made under the *Municipal Government Act* or any other enactment including any or all of the following:
 - (i) the creation of offences;
 - (ii) for each offence, imposing a fine not exceeding \$ 10,000;
 - (iii) providing that a person who contravenes a bylaw may pay an amount established by bylaw and if the amount is paid, the person will not be prosecuted for the contravention;
 - (iv) providing for inspections to determine if bylaws are being complied with; and
 - (v) remedying contraventions of bylaws;

AND WHEREAS pursuant to the *Safety Codes Act* a Council may make bylaws respecting the following matters; (*SCA s.66(2)*)

- (a) Minimum maintenance standards for buildings and structures; and
- (b) Unsightly or derelict buildings or structures; and

AND WHEREAS pursuant to the *Agricultural Pests Act* and the *Weed Control Act*, a Council may pass certain bylaws and appoint Inspectors;

NOW THEREFORE the Council of the Summer Village of Castle Island of the Province of Alberta duly assembled enacts as follows:

PART 1 - DEFINITIONS

1.0.0 This bylaw may be cited as a "Nuisance Bylaw"

2.0.0 In this Bylaw, except where otherwise defined:

2.1.0 "Boulevard" means that part of a highway that:

2.1.1 is not a roadway; and

2.1.2 is that part of the sidewalk that is not especially adapted to the use of or ordinarily used by pedestrians; and

2.1.3 is road allowance that has vegetations;

2.2.0 "Designated Officer" shall mean a Bylaw Enforcement Officer, Peace Officer, or any other person so authorized to act on behalf of the Council of the Municipality;

2.3.0 "Driveway" shall mean a paved or unpaved strip of private land that provides access and maneuvering space for vehicles to a parking space or parking spaces, a garage, dwelling, or other structure.

2.4.0 "Highway" as defined in the *Traffic Safety Act*;

2.5.0 "Motor Vehicle" as defined in the *Traffic Safety Act*;

2.6.0 "Municipal Tag" means a ticket alleging an offence issued pursuant to the authority of a bylaw of the Summer Village

2.7.0 "Notice to Occupier of Land" means the attached FORM A

2.8.0 “Occupy” or “Occupies” means residing on or to be in apparent possession or control of property.

2.9.0 “Own” or “Owns” means:

2.9.1 in the case of land, to be registered under the *Land Titles Act* as the owner or the fee simple estate in a parcel of land; or

2.9.2 in the case of personal property, to be in lawful possession or have the right to exercise control over it or to be the registered owner of it.

2.10.0 “Person” means any individual, firm, partnership, association, corporation, trustee, executor, administrator or other legal representative;

2.11.0 “Property” means a parcel of land including any buildings;

2.12.0 “Summer Village” means the Summer Village of Castle Island, a municipal corporation of the Province of Alberta, and includes the area contained within the boundaries of the Summer Village of Castle Island where the context so requires;

2.13.0 “Violation Ticket” has the same meaning as in the *Provincial Offences Procedure Act*;

PART 2 - PROPERTY MAINTENANCE

3.0.0 In this Part, “**building**” includes a structure and any part of a building or structure placed in, on or over land whether or not it is so affixed to become transferred without special mention by a transfer or sale of the land.

4.0.0 For the purposes of this Part, a person who owns or occupies land shall be considered to occupy that portion of any highway between the property line and the centre line of the highway.

5.0.0 Land

5.1.0 A person shall not cause or permit a nuisance to exist on land they own or occupy.

5.2.0 For the purpose of greater certainty a nuisance, in respect of land, means land that shows signs of serious disregard for general maintenance and upkeep, whether or not it is detrimental to the surrounding area, some examples of which include:

5.2.1 excessive accumulation of material including but not limited to building materials, appliances, household goods, boxes, tires, vehicle parts, garbage or refuse, whether of any apparent value or not;

5.2.2 damaged, dismantled or derelict vehicles or motor vehicles, whether insured or registered or not;

5.2.3 smelly or messy compost heaps;

5.2.4 unkempt grass or weeds higher than 10 centimeters;

5.2.5 production of excessive dust, dirt or smoke;

5.2.6 production of any generally offensive odours;

5.2.7 any tree, shrub, other type of vegetation or any structure:

(i) that interferes or could interfere with any public work or utility; or

(ii) that impairs the visibility required for safe traffic flow at any intersection adjacent to the land;

5.2.8 any construction project or activity not completed within five years of the date, the building permit for the project or activity was issued or, if no permit was issued or required, within five years of starting construction.

5.3.0 A person shall not cause or permit any loose litter, garbage or refuse in the area used for the storage of such materials or in the area used for the placement of such materials for collection on land they own or occupy.

6.0.0 A person shall maintain any boulevard adjacent to land they own or occupy by:

6.1.0 keeping any grass on the boulevard cut to a reasonable length; and

6.2.0 removing any accumulation of fallen leaves or other debris.

7.0.0

7.1.0 A person shall not cause or permit a nuisance to exist in respect of any building on land they own or occupy.

7.2.0 For the purpose of greater certainty, a nuisance in respect of a building means a building showing signs of a serious disregard for general maintenance and upkeep, whether or not it is detrimental to the surrounding area, some examples of which include:

7.2.1 any damage to the building;

7.2.2 any rot or other deterioration within the building; and

7.2.3 any inappropriate infiltration of air, moisture or water into the building due to peeling, unpainted or untreated surfaces, missing shingles or other roofing materials, broken or missing windows or doors, or any other hole or opening in the building.

8.0.0

8.1.0 If a building normally intended for human habitation is unoccupied then any door or window opening in the building may be covered with a solid piece of wood only if the wood is:

8.1.1 installed from the exterior and fitted within the frame of the opening in a watertight manner;

8.1.2 of a thickness sufficient to prevent unauthorized entry into the building;

8.1.3 secured in a manner sufficient to prevent unauthorized entry into the building; and

9.0.0 A person shall not place, cause or permit to be placed any waste bin on land they own or occupy unless the waste bin is:

9.1.0 equipped with a lid or cover capable of completely covering the waste bin; and

9.2.0 kept closed or covered at all times except for the actual loading or unloading of waste.

9.3.0 will not be blown out of the bin.

10.0.0

10.1.0 A person shall not place, store cause or permit to be placed old appliances on land they own or occupy unless effective measures have been taken to prevent the opening and closing of the appliance.

10.2.0 Without limiting the generality of subsection 11.1.0, measures considered to be effective may include:

10.2.1 the complete removal of the door for the appliance;

10.2.2 the removal of the door handle mechanism if this prevents the opening and closing of the door;

10.2.3 the removal of the door hinges;

10.2.4 locking the appliance;

10.2.5 otherwise wrapping or containing the appliance so that the interior is inaccessible.

PART 3 - WEED AND PEST CONTROL

11.0.0 In this Part:

11.1.0 "Inspector" means an individual appointed as an inspector pursuant to the *Agricultural Pests Act*; and

11.2.0 "Non-Permitted Weed" includes any plant designated as "Noxious Weed", "Nuisance Weed" or "Restricted Weed" as defined in the *Weed Control Act* and *Regulation* thereto, as well as any other plant designated as such by this bylaw.

12.0.0 For the purposes of this bylaw, a person who owns or occupies land shall maintain that portion of the road allowance between the property line and the road.

13.0.0 A person shall not cause or permit a Non-Permitted Weed to grow, scatter, spread or ripen on land they own or occupy and shall comply with any order received in accordance with section 24 of this bylaw. For the purposes of this bylaw, the following plants are also designated as Non-Permitted Weeds within the boundaries of the Summer Village, as well as the list is subject to revision from Alberta Environment:

13.1.1 Burdock (*Arctium minus*);

- 13.1.2 Common chickweed (*Stellaria media* (L.) Vill.);
- 13.1.3 Dandelions (*Taraxacum officinale* (L));
- 13.1.4 Flixweed (*Descurainia sophia* (L.) Webb.);
- 13.1.5 Barley foxtail (*Hordeum, jubatum* L.);
- 13.1.6 Green foxtail (*Setaria viridis* (L.) Beauv.);
- 13.1.7 Common groundsel (*Senecio vulgaris* L.);
- 13.1.8 Narrow leaved hawk's-beard (*Crepis tectorum* L.);
- 13.1.9 Hemp nettle (*Galeopsis tetrahit* L.);
- 13.1.10 Henbit (*Lamium amplexicaule* L.);
- 13.1.11 *Himalayan Orchid*
- 13.1.12 Kochia (*Kochia scoparia* L.);
- 13.1.13 Lamb's quarters (*Chenopodium album* L.)
- 13.1.14 Redroot pigweed (*Amaranthus retroflexus* L.);
- 13.1.15 Broad leaved plantain (*Plantago major* L.);
- 13.1.16 Shepherd's-purse (*Capsella bursa-pastoris* L.)
- 13.1.17 Stinkweed (*Thlaspi arvense* L.); and
- 13.1.18 Russian thistle (*Salsola pestifer* A. Nels.).

PART 4 - ENFORCEMENT

14.0.0 A person who contravenes this bylaw is guilty of an offence.

15.0.0 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 that established by this bylaw for each such day.

16.0.0

16.1.0 A person who is guilty of an offence is liable to a fine in an amount not less than that established in this section, and not exceeding \$10,000.00.

16.2.0 Without restricting the generality of section 17.1.0, the following fine amounts are established for use on municipal tags and violation tickets if a voluntary payment option is offered:

16.2.1 \$250.00 for any offence for which a fine is not otherwise established in this section;

16.2.2 \$85.00 for any offence under section 6;

16.2.3 \$100.00 for any offence under sections 5.3.0, 7, and 10.

16.2.4 double these fine amounts for any subsequent offence

16.2.5 For any offence under Part 3 of this Bylaw, the amount actually incurred by the Summer Village to remedy the condition plus a further amount equal to the amount actually incurred by the Summer Village to remedy the condition, respecting the Summer Village's costs to administer, supervise and manage the remedying of the condition and following up to ensure that the condition has been remedied.

Where the person upon whom this penalty is imposed neglects or refuses to pay the Summer Village its costs in obtaining compliance with the Notice, including the additional administrative costs, the Summer Village may cause those costs to be added to the tax roll as a charge against the lands of the person who owns the lands in respect of which the Notice was issued in the same manner as taxes and with the same priority as to lien and to payment thereof as in the case of ordinary municipal taxes.

17.0.0 If a municipal tag is issued in respect of an offence the municipal tag must specify the fine amount established by this bylaw for the offence.

18.0.0 A person who commits an offence may, if a municipal 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.

19.0.0 If a violation ticket is issued in respect of an offence, the violation ticket may:

19.1.0 specify the fine amount established by this bylaw for the offence, or

19.2.0 require a person to appear in court without the alternative of making a voluntary payment.

20.0.0 A person who commits an offence may:

20.1.0 if a violation ticket is issued in respect of the offence; and

20.2.0 if the violation ticket specifies the fine amount established by this bylaw for the offence, make a voluntary payment equal to the specified fine.

21.0.0 If the Designated Officer believes, on reasonable grounds, that a person is contravening any provision of this bylaw, the Designated Officer may, by written order, require any person responsible for the contravention to remedy it.

21.1.0 The order may:

21.1.1 direct a person to stop doing something, or to change the way in which the person is doing it;

21.1.2 direct a person to take any action or measures necessary to remedy the contravention of the bylaw and, if necessary, to prevent a re-occurrence of the contravention;

21.1.3 state a time within which the person must comply with the directions;

21.1.4 state that if the person does not comply with the directions within a specified time, the Summer Village will take action or measure.

21.2.0 A person named in and served with an order issued pursuant to section 24 shall comply with any action or measure required to be taken within the time specified.

21.3.0 An order or a Notice to Owner and Occupier of Land issued pursuant to section 24 may be served:

21.3.1 in the case of an individual:

(i) by delivering it personally to the individual;

(ii) by leaving it for the individual at their apparent place of residence or place of business with someone who appears to be over 18 years of age; or

- (iii) by registered mail addressed to the individual at their apparent place of residence or at any address for the individual on the tax roll of the Summer Village or indicated on the certificate of title for the subject parcel on record at the North Alberta Land Titles Office;
- (iv) posting the notice in a conspicuous place on the land referred to in the notice or on any building or erection thereon when the Peace Officer or Inspector has reason to believe:
 - (a) that the person to whom the notice is addressed is evading service thereof; or
 - (b) for any reason it is improbable that the notice will be received by the person to whom it is addressed within three days of the date of the notice if it is delivered in any of the ways mentioned in section 24.

22.0.0 A person shall not obstruct or hinder any person in the exercise or performance of the person's powers pursuant to this bylaw.

PART 5 - GENERAL

POWERS OF CHIEF ADMINISTRATIVE OFFICER

23.0.0 Without restricting any other power, duty or function granted by this bylaw the Chief Administrative Officer may:

23.1.0 carry out any inspections to determine compliance with this bylaw;

23.2.0 take any steps or carry out any actions required to enforce this bylaw;

23.3.0 take any steps or carry out any actions required to remedy a contravention of this bylaw;

23.4.0 establish investigation and enforcement procedures with respect to residential property and such procedures may differ depending on the type of property in question;

23.5.0 establish areas where activities restricted by this bylaw are permitted;

23.6.0 establish forms for the purposes of this bylaw;

23.7.0 issue permits with such terms and conditions as are deemed appropriate;

23.8.0 delegate any powers, duties or functions under this bylaw to a designated officer of the Summer Village; and

23.9.0 appoint inspectors for the purposes of *Agricultural Pest Act* and the *Weed Control Act*.

24.0.0

24.1.0 A person to whom a permit has been issued pursuant to this bylaw and any person carrying out an activity otherwise regulated, restricted or prohibited by this bylaw pursuant to such permit, shall comply with any terms or conditions forming part of the permit.

24.2.0 A person shall not make any false or misleading statement or provide any false or misleading information to obtain a permit pursuant to this bylaw.

24.3.0 If any term or condition of a permit issued pursuant to this bylaw is contravened or if a false or misleading statement or false or misleading information was provided to obtain the permit, the Summer Village Manager may immediately cancel the permit.

25.0.0 The onus of proving a permit has been issued in relation to any activity otherwise regulated, restricted or prohibited by this bylaw is on the person alleging the existence of such a permit on a balance of probabilities.

26.0.0 A copy of a record of the Summer Village, certified by the Chief Administrative Officer as a true copy of the original, shall be admitted in evidence as prima facie proof of the facts stated in the record without proof of the appointment or signature of the person signing it.

27.0.0 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.

PART 6 - APPEAL

28.0.0 A person who receives a Notice pursuant to this bylaw may appeal to Council by delivering an Appeal in person or sending an Appeal by certified mail to the Chief Administrative Officer within 14 days of the date on which the Notice was served. All appeals must be made in writing. For the purposes of this Bylaw, a Notice is deemed to have been received on the 4th business day following the date on which the Notice is mailed by registered mail.

29.0.0 Upon receipt of an appeal, the Chief Administrative Officer shall send a Notice to the person who lodged the Appeal as well as to the owner, advising them of the date, time and place at which council will consider the matter. The person appealing may appear before Council in person or by representative.

30.0.0 If following the hearing of the appeal, Council is of the opinion that there is an infraction, it may confirm, vary, substitute or cancel the Notice and order that the condition be remedied and Council shall forthwith serve a copy of its Decision upon the person who lodged the appeal and on the owner stating the condition must be remedied as directed within 14 days of the date on which the Decision is served.

PART 7 - ENACTMENT

31.0.0 Should any provision of this Bylaw be found to be invalid then such invalid provisions shall be severed and the remaining bylaw shall be maintained.

32.0.0 Bylaw #39 and any amendments thereto are hereby repealed.

33.0.0 This bylaw shall come into full force and effect on third and final reading.

Read a first time this 11th day of September, 2012

Read a second time this 11th day of September, 2012

Given unanimous consent for third reading this 11th day of September, 2012

Read a third time this 11th day of September, 2012

Mayor Cornelia Helland

CAO Shelley Marsh

FORM A

BYLAW 2012-01 - NUISANCE

SUMMER VILLAGE OF CASTLE ISLAND

ORDER TO OWNER AND OCCUPIER OF LAND

PURSUANT TO THE MUNICIPAL GOVERNMENT ACT OF ALBERTA

Dated

To

Address of Land:

The following condition(s) on the above-said land or premises must be fixed no later than
5:00 p.m. on
