

**BYLAW NO. 160-11**

**OF THE SUMMER VILLAGE OF BIRCHCLIFF**

**BEING A BYLAW OF THE SUMMER VILLAGE OF BIRCHCLIFF IN THE PROVINCE OF ALBERTA TO PROHIBIT CERTAIN ACTIVITIES IN ORDER TO PREVENT AND COMPEL THE ABATEMENT OF NOISE, NUISANCE, UNSIGHTLY PREMISES AND PUBLIC DISTURBANCES**

WHEREAS the *Municipal Government Act*, R.S.A. 2000, c. M-26 as amended of the Province of Alberta provides that a Municipal Council may by bylaw provide for a system of licensing, permits and approvals and regulating business within the Municipality;

WHEREAS Council of the Summer Village of Birchcliff deems it expedient and in the public's interest to pass a bylaw to regulate and control noise, nuisance, unsightly premises and public disturbances;

NOW THEREFORE the Municipal Council of the Summer Village of Birchcliff duly assembled enacts as follows:

**1. TITLE**

“Community Standards Bylaw”

**2. DEFINITIONS**

In this Bylaw, including this section, unless the context otherwise requires:

“**Act**” means the *Municipal Government Act*, R.S.A. 2000, c. M-26 as amended, and any amendment or substitutions there of.

“**Bullying**” means verbal or physical abuse, threats, taunts, teasing, name calling and put downs, written or electronically transmitted, or repeated abusive communication, direct or through any medium whatsoever.

“**Chief Administrative Officer**” means the Chief Administrative Officer of the Summer Village of Birchcliff appointed by Council.

“**Council**” means the Municipal Council of the Summer Village of Birchcliff.

“**Graffiti**” means the defacement or disfigurement of any property or object, through the performance of any of the following acts:

- (i) the application of any substance, including paint, ink, stain or whitewash to any surface; or
- (ii) the affixing of any substance, including paper, fabric or plastic, by any form of adhesion that does not remove cleanly when pulled away from the applied surface; or
- (iii) the marking, scratching, etching or other alteration or disfigurement of any surface.

“**Minor**” means an individual under 18 years of age.

“**Municipal Ticket**” means a ticket in a form as approved by the Chief Administrative Officer, issued by the Summer Village allowing for the voluntary payment of a fine established under this Bylaw.

“**Peace Officer**” means:

- (i) a member of the Royal Canadian Mounted Police;
- (ii) a Bylaw Officer as appointed by the Summer Village to enforce bylaws of The Summer Village; or
- (iii) a Community Peace Officer as appointed by the Solicitor General of Alberta.

**“Premises”** means the external surfaces of all buildings and the whole or part of any parcel of real property, including the land immediately adjacent to any building or buildings.

**“Provincial Ticket”** means a ticket as defined in the *Provincial Offences Procedure Act*, R.S.A. 2000, c. P-34.

**“Public Place”** means any place, including privately owned or leased property, to which the public reasonably has or is permitted to have access.

**“Summer Village”** means the Summer Village of Birchcliff.

**“Youth”** means an individual 12 to 17 years of age;

### **3. NOISE**

3.1 No person shall cause or permit any noise that annoys or disturbs the peace of any other person.

3.2 No person shall permit property that they own or control to be used so that noise from the property annoys or disturbs the peace of any other person.

3.3 In determining what constitutes noise likely to annoy or disturb the peace of other persons, consideration may be given, but is not limited to:

3.3.1 type, volume and duration of the sound;

3.3.2 time of day and day of the week;

3.3.3 nature and use of the surrounding area.

3.4 Permissible Hours. Noise or disturbance that annoys or disturbs the peace of any other person is not allowed between 11:00 p.m. and 8:00 a.m. any day.

### **4. INDUSTRIAL/CONSTRUCTION NOISE**

4.1 Nothing in this bylaw shall prevent the continual operation or carrying on of an industrial activity where the activity is one which:

4.1.1 is a permitted use; or

4.1.2 is an approved discretionary use; or

4.1.3 is a non-conforming, but not illegal, use as defined in the *Municipal Government Act*.

4.2 In the operation or carrying on of an industrial activity, the person operating or carrying on that activity shall make no more noise than is necessary in the normal method of performing or carrying on that activity.

4.3 With the exception of the activities referred to in section 4.1 herein, no person shall use, operate or allow to be used or operated any tools, machinery or equipment so as to create a noise, or disturbance which may be heard in a residential building between the hours of 10:00 p.m. and 8:00 a.m. any day.

### **5. EXCEPTIONS**

5.1 These provisions do not apply to work carried on by The Summer Village, or by a contractor carrying out the instructions of The Summer Village, providing it is work of an emergent nature of circumstance.

## **6. NUISANCE AND UNSIGHTLY PREMISES**

- 6.1 “Nuisance” for the purpose of this bylaw includes any use of or activity upon any property which is offensive to any person, or has or may have a detrimental impact upon any person or other property in the neighbourhood, and without limiting the generality of the foregoing, includes the following:
- 6.1.1 the failure to cut grass, weeds, shrubs, trees or other landscaping features incidental to a landscaped area;
  - 6.1.2 the failure to destroy restricted weeds, control noxious weeds, or prevent the spread or scattering of nuisance weeds;
  - 6.1.3 the growth of trees or shrubs in such a manner that they interfere with utilities or endanger visibility to street signage, or roadway clearance;
  - 6.1.4 the accumulation of any material that creates unpleasant odours, any material that attracts pests or any animal remains, parts of animal remains or animal feces;
  - 6.1.5 the storage or accumulation of or failure to dispose of discarded dilapidated furniture or household appliances, loose garbage, rubbish, packaging material, scrap metals, scrap lumber, tires, parts of disassembled machinery, equipment or appliances and motor vehicle parts;
  - 6.1.6 the causing of opaque or dense smoke and permitting such smoke to be emitted into the atmosphere for a period in excess of six (6) minutes in any one hour, or at a point other than the opening to the atmosphere of the flue, stack or chimney, unless specifically authorized by Council;
  - 6.1.7 the generation of excessive dust and permitting such dust to escape from the property;
  - 6.1.8 the failure to maintain an accessory building, structure or fence such that it deteriorates, becomes unsightly or becomes a safety hazard.
  - 6.1.9 the failure to fence or secure an excavation, drain, ditch or other depression so that it does not become a danger to public safety;
  - 6.1.10 the posting or exhibiting of posters, signs, billboards, placards, writings or pictures upon any light standard, bench, garbage receptacle, fence or wall on any property, where the same are accumulated and become in a dilapidated and unsightly condition;
  - 6.1.11 the burning of anything other than dry untreated clean wood in a residential wood fireplace.
- 6.2 No person being the owner, agent of the owner, lessee or occupier of any property within the Summer Village shall permit such property, or the activities upon such property to be or remain a nuisance or safety hazard.

## **7. GRAFFITI**

- 7.1 No person shall place graffiti or cause it to be placed on any property.
- 7.2 Every property owner shall ensure that graffiti placed on their premises is removed, painted over, or otherwise permanently blocked from public view.

- 7.3 A property owner who breaches the provisions of Section 8.2 where, following the issuance of and failure to comply with an Order under section 545 of the Municipal Government Act, shall be liable to payment of a penalty as prescribed in Schedule A.
- 7.4 In prosecuting for an offence under this Section, the consent of the property owner of any premises to place graffiti shall not be a defense under this bylaw.

## **8. CONSTRUCTION WASTE**

- 8.1 Each construction site shall have a waste container to ensure that waste construction materials are placed in the container to prevent the material from being blown away from the construction site.
- 8.2 No loose construction material is to be stored or accumulated on a construction site unless it is not capable of being blown around the construction area.

## **9. NUISANCE ENFORCEMENT**

- 9.1 A Peace Officer may, after giving reasonable notice to the owner or occupier of the premises, enter upon the said premises and carry out an inspection.
- 9.2 Upon completion of the inspection, the Peace Officer may direct the owner or occupant of the property to:
- 9.2.1 cease the activity which causes the nuisance;
  - 9.2.2 change the way in which such person is carrying out any activity;
  - 9.2.3 direct any person to take any action or measure necessary to compel the elimination or abatement of the nuisance, including:
    - (a) the removal of any thing or matter from the property, which constitutes the nuisance; and
    - (b) the construction or installation of a garbage bin or enclosure or the repair of an existing garbage enclosure;
    - (c) enter into a cleanliness agreement in a form to the satisfaction of the Peace Officer.
    - (d) specify the time within which such person must comply with the directions contained in the notice; and
    - (e) notify the owner or occupant that, if compliance with the notice is not effected within a specified time, the municipality will take the actions or measures specified in the notice to abate the nuisance, at the expense of the owner or occupier;
    - (f) offer the owner or occupant of the property an opportunity to enter into any other voluntary agreement with the Summer Village to keep the premises clean, tidy and free of nuisances.
- 9.3 Any person who refuses to allow an inspection of the premises under Section 10.1 is guilty of an offence.
- 9.4 Any person who fails to comply with a direction made under Section is guilty of an offence.
- 9.5 No person shall cause or permit or undertake any activity upon any Summer Village property which is a nuisance.

## **10 LITTERING**

- 10.1 No person shall place, deposit or throw or cause to be placed, deposited or thrown upon any Summer Village property, including any street, lane, ditches, park, other public place or water course:
- 10.1.1 a cardboard or wooden box, carton, container, or receptacle of any kind;
  - 10.1.2 a paper, wrapper, envelope, or covering of any kind, whether paper or not, from food or confectionery;
  - 10.1.3 paper of any kind, whether or not containing written or printed matter thereon;
  - 10.1.4 any human, animal or vegetable matter or waste;
  - 10.1.5 any glass, crockery, nails, tacks, barbed-wire or other breakable or sharp objects;
  - 10.1.6 scrap metal, scrap lumber, tires, dismantled wrecked or dilapidated motor vehicles or parts there from;
  - 10.1.7 any motor vehicle or any part of any motor vehicle which may, in whole or in part, obstruct any highway, street, lane, alley, bi-way or other public place;
  - 10.1.8 dirt, filth, yard refuse or rubbish of any kind whether similar or dissimilar to the foregoing.
- 10.2 A person who has placed, deposited or thrown or caused to be placed or thrown anything or any matter mentioned in subsection 11.1 upon any road, ditch, municipal reserve or other public place or water course shall forthwith remove it.

## **11. AUTHORITY TO REMOVE**

- 11.1 The Chief Administrative Officer may authorize the removal and put in storage or destroy anything placed upon Summer Village property in contravention of this bylaw.

## **12. ORDER**

- 12.1 A designated officer may, by written order, require a person responsible for the contravention to remedy the contravention.
- 12.2 The Order shall:
- 12.2.1 state a time within the owner must comply with the order;
  - 12.2.2 state that if the owner does not comply with the order within a specified time, the Summer Village will take the action or measure at the expense of the owner.
- 12.3 The Summer Village may, in respect of an order, register a caveat under the Land Titles Act against the certificate of title for the land that is the subject of the order.

## **13. RIGHT TO REMEDY**

- 13.1 The Summer Village may take whatever actions or measures are necessary to deal with the unsightly property if:
- 13.1.1 the Summer Village has issued a written Order under Section 13 of this bylaw

- 13.1.2 the Order contains a statement referred to in Section 12.2 of this bylaw
- 13.1.3 the person to whom the Order is directed has not complied with the Order within the time specified in the Order, and
- 13.1.4 the appeal periods respecting the Order have passed or, if an appeal has been made, the appeal has been decided and it allows the Summer Village to take the action or measures.

#### **14. PENALTIES**

- 14.1 Any person who breaches any section of this Bylaw is guilty of an offence and liable to:
    - 14.1.1 payment of the penalty specified in Schedule “A” hereto; or
    - 14.2.2 for any offence for which there is no penalty specified, to a penalty of not less than \$200.00 and not more than \$10,000.00;
- and in default of payment of any penalty, to imprisonment for up to six (6) months.

#### **15. MUNICIPAL AND PROVINCIAL TICKETS**

- 15.1 Any Peace Officer or who has reasonable and probable grounds to believe that any person has contravened any provision of this Bylaw, may issue and serve:
  - 15.1.1 A Municipal Ticket allowing payment of the specified penalty to The Summer Village; or
  - 15.1.2 A Provincial Ticket according to the provisions of the *Provincial Offences Procedure Act*, as amended.
- 15.2 Service of a Municipal Ticket will be sufficient if it is:
  - 15.2.1 personally served; or
  - 15.2.2 served by regular mail to the person’s last known mailing address.
- 15.3 If a violation ticket is issued in respect of an offence, the violation ticket may:
  - 15.3.1 specify the fine amount established by this Bylaw for the offence; or
  - 15.3.2 require a person to appear in Court without the alternative of making a voluntary payment.
- 15.4 A person who commits an offence may:
  - 15.4.1 If a violation ticket is issued in respect of the offence; and
  - 15.4.2 If the violation ticket specifies the fine amount established by this Bylaw for the offence, make a voluntary payment equal to the specified fine by delivering the violation ticket and the specified fine to the Provincial Court Office specified on the violation ticket.

#### **16. SEVERABILITY**

- 16.1 If any part of this Bylaw is found to be invalid, then that part shall be severed and the remaining Bylaw will continue to be in force.

THAT this Bylaw shall take effect on the date of the third and final reading and upon signing by the Mayor and Chief Administrative Officer.

**READ** a first time in Council assembled this 9<sup>th</sup> day of December, 2010

**READ** a second time in Council assembled this 17<sup>th</sup> day of February, 2011

**READ** a third time in Council assembled and passed this 19<sup>th</sup> day of May, 2011

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Mayor

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Chief Administrative Officer

<b><u>Offence</u></b>	<b><u>Schedule "A" Schedule of Fines</u></b>	<b><u>Section</u></b>	<b><u>Fine</u></b>
Make noise		3.1	
	a) first offence		\$50.00
	b) second offence within 1 year		\$500.00
	c) third and subsequent offences within 1 year		\$750.00
Permit Noise		3.2	
	a) first offence		\$250.00
	a) second offence within 1 year		\$500.00
	b) third and subsequent offences within 1 year		\$750.00
Industrial or construction noises		4.1 or 4.2	
	a) first offence		\$250.00
	b) second offence within 1 year		\$500.00
	c) third and subsequent offences within 1 year		\$750.00
Permitting a nuisance on Private Property		7.1	
	a) first offence		\$200.00
	b) second offence within 1 year		\$400.00
	c) third and subsequent offences within 1 year		\$600.00
Placing Graffiti on property		8.1	
	a) first offence		\$2,500.00
	b) a second offence within 1 year		\$5,000.00
	c) third and subsequent offences within 1 year		\$7,500.00
Failure to remove Graffiti		8.2	
	a) first offence		\$250.00
	b) second offence within 1 year		\$500.00
	c) third and subsequent offences within 1 year		\$1,000.00
Failure to comply with Graffiti order		8.3	\$250.00 for each day that the breach continues
Failing to contain construction waste		9.1 or 9.2	
	a) first offence		\$250.00
	b) second offence within 1 year		\$500.00
	c) third and subsequent offences		\$1000.00
Refusing to allow a Peace Officer access to carry out an inspection		10.1	\$500.00
Failing to comply with order of a Peace Officer		10.2	
	a) first offence		\$500.00
	b) second offence within 1 year		\$750.00
	c) third and subsequent offences within 1 year		\$1,000.00
Nuisance upon Summer Village property		10.5	\$500.00
Depositing litter on Summer Village property		10.1	
	a) first offence		\$500.00
	b) second offence within 1 year		\$750.00
Failing to remove litter		112	
	a) first offence		\$500.00
	b) second offence within 1 year		\$750.00
	c) third and subsequent offences within 1 year		\$1,000.00