

SUMMER VILLAGE OF SUNBREAKER COVE BYLAW ENFORCEMENT OFFICER BYLAW BYLAW #177-22

A BYLAW OF THE SUMMER VILLAGE OF SUNBREAKER COVE, IN THE PROVINCE OF ALBERTA, RESPECTING THE ENFORCEMENT OF BYLAWS.

WHEREAS pursuant to:

Section 7 (i) of the *Municipal Government Act*, RSA 2000, C M-26, a Council may pass bylaws respecting the enforcement of bylaws;

Section 555 of the *Municipal Government Act*, a person who is appointed as a Bylaw Enforcement Officer is, in the execution of those duties, responsible for the preservation and maintenance of the public peace;

Section 556 of the *Municipal Government Act*, a Council must pass a bylaw specifying the powers and duties of Bylaw Enforcement Officers and establishing disciplinary procedures for misuse of power, including penalties and an appeal process applicable to misuse of power by Bylaw Enforcement Officers;

Part 13, Division 4 of the *Municipal Government Act*, the municipality may carry out numerous enforcement powers and duties, which may be exercised by Bylaw Enforcement Officers;

Section 1(k)(vii) of the *Provincial Offences Procedure Act*, RSA 2008, c P-3, a person who is employed or retained by a municipality for the preservation and maintenance of the public peace in the exercise or discharge of their powers and duties will be considered a "peace officer" for the purposes of the Act;

The Council of the Summer Village of Sunbreaker Cove duly assembled enacts:

1. This By-law may be called the "By-law Enforcement Officer By-law".

2. DEFINITIONS

2.1 In this By-law

- a) "*Administrator*" means the person appointed by Council to carry out the duties of Administrator for the Municipality.
- b) "*By-law*" means the by-laws of the Municipality of the Summer Village of Sunbreaker Cove.
- c) "*By-law Enforcement Officer*" means the person or persons appointed as per the provisions of this by-law.
- d) "*Chief By-law Enforcement Officer*" means the person appointed as per the provisions of this by-law.
- e) "*Municipality*" means the Summer Village of Sunbreaker Cove.

3. CHIEF ADMINISTRATIVE OFFICER ROLE

3.1 The Chief Administrative Officer may:

- a) appoint individuals as Bylaw Enforcement Officers in accordance with this bylaw;
- b) further delegate the authority to appoint Bylaw Enforcement Officers, including specified duties and authorities, to a Municipality, and ensure the Municipality establishes a disciplinary procedure for misuse of power, including penalties and an appeal process applicable to misuse of power by bylaw enforcement officers.

4. POWERS, DUTIES AND APPOINTMENT OF THE CHIEF BY-LAW ENFORCEMENT OFFICER

4.1 The Chief By-law Enforcement Officer shall

- a) ensure that municipal by-laws are enforced as may be required from time to time by Council.
- b) be responsible for the supervision of all appointed By-law Enforcement Officers and / or by-law enforcement services.
- c) make recommendations to the Council with respect to any proposed contract with a corporation or other similar body for the provision of by-law enforcement services.

4.2 The Administrator shall be the Chief By-law Enforcement Officer.

PART 5 – BYLAW ENFORCEMENT OFFICERS

5.1 In accordance with their appointment by the CAO, Bylaw Enforcement Officers may:

- a) issue municipal tags and/or violation tickets for offences under bylaws;
- b) exercise all the powers, duties, and functions of a designated officer to conduct any inspections, remedies, or enforcement authorized or required by a bylaw or enactment in accordance with section 542 of the *Municipal Government Act*;
- c) exercise all the powers, duties, and functions of a designated officer to issue written orders pursuant to sections 545 and 546 of the *Municipal Government Act*;
- d) take whatever actions or means are necessary to remedy a contravention or prevent a re-occurrence of a contravention of the *Municipal Government Act*, an enactment that the Summer

- Village is authorized to enforce, or a bylaw in accordance with section 549 of the *Municipal Government Act*;
- e) take whatever actions or measures are necessary to eliminate a danger to public safety caused by a structure, excavation, or hole or to deal with the unsightly condition of property in accordance with section 549 of the *Municipal Government Act*; and
 - f) issue notices not to trespass under the *Trespass to Premises Act*.
- 5.2 The appointment of an individual as a Bylaw Enforcement Officer in accordance with this bylaw is deemed to be written authorization to issue violation tickets for offences under bylaws specified in the appointment as the case may require.
- 5.3 To be eligible for appointment as a Bylaw Enforcement Officer, individuals must provide to the CAO:
- a) a recent criminal record check acceptable to the CAO;
 - b) demonstrated commitment to good character;
 - c) proof of adequate training necessary for performing the powers, duties, and functions of a Bylaw Enforcement Officer; and
 - d) any other requirement specified by the CAO.
- 5.4 The CAO may impose terms and conditions on a Bylaw Enforcement Officer appointment.
- 5.5 Prior to commencing their duties, all Bylaw Enforcement Officers must take the official oath contained in Schedule A.
- 5.6 Bylaw Enforcement Officers are subject to the supervision of and accountable to the CAO and must comply with their appointment and all Summer Village policies, directives, and procedures.
- 5.7 If, in the opinion of the CAO, based on reasonable grounds, a Bylaw Enforcement Officer has misused a power, contravened their appointment of this bylaw, including any terms or conditions, or acted contrary to the public interest, the CAO may issue a written reprimand, suspend with or without pay for a period not exceeding six months, or revoke or modify the Bylaw Enforcement Officer's appointment.
- a) Prior to issuing a written reprimand, suspending, revoking, or modifying a Bylaw Enforcement Officer appointment, the CAO must provide the affected Bylaw Enforcement Officer with written notice of the proposed reprimand, suspension, revocation, or modification, including reasons.
 - b) The affected Bylaw Enforcement Officer may make written representation to the CAO respecting the proposed reprimand, suspension, revocation, or modification.
 - c) The CAO will provide the Bylaw Enforcement Officer, and the complainant, if any, with a written decision, including reasons,

on the proposal to reprimand, suspend, revoke, or modify the Bylaw Enforcement Officer's appointment.

- 5.8 If an individual appointed as a Bylaw Enforcement Officer is no longer employed or retained by the Summer Village, or if the individual's role is modified such that the individual no longer requires appointment as a Bylaw Enforcement Officer or requires a modified appointment, the CAO may modify or revoke the Bylaw Enforcement Officer's appointment.

PART 6 – APPEAL PROCESS

- 6.1 If either the complainant or the Bylaw Enforcement Officer wishes to appeal the decision of the CAO, the appeal shall be delivered to the Summer Village Council within sixty (60) days of the date of receipt of the written decision of the CAO.
- 6.2 Within sixty (60) days from the date of the receipt of appeal as provided for in section 6.1, the Summer Village Council shall review the complaint, and written decision of the CAO, speak to the person(s) involved as deemed necessary and review any other related documents associated with the matter.
- 6.3 The Summer Village Council, in considering the appeal, may dismiss the appeal or allow the appeal and impose or vary discipline as outlined in section 5.7.
- 6.4 The Summer Village Council, within sixty (60) days of receiving a notice of appeal, notify the complainant, if any, and the Bylaw Enforcement Officer, in writing as to the results of the appeal. The decision of the Summer Village Council with regard to the appeal is final.

PART 7 – OFFENCES

- 7.1 Any person who contravenes a bylaw is guilty of an offence.
- 7.2 Unless otherwise specified, a municipal tag may be issued for any offence under a bylaw.
- 7.3 If a municipal tag is issued for an offence, the municipal tag must specify the fine amount established by the bylaw for the offence.
- 7.4 A person who commits an offence may, if a municipal tag is issued for an offence, pay the fine amount established by the bylaw for the offence and if the amount paid on or before the required date, the person will not be prosecuted for the offence.
- 7.5 if a violation ticket is issued in respect of an offence under a bylaw the violation ticket may:
- a) specify the fine amount established by the bylaw for the offence; or
 - b) require a person to appear in court without the alternative or making a voluntary payment.

- 7.6 A person who commits an offence may, if a violation ticket is issued specifying the fine amount established by bylaw for the offence, make a voluntary payment equal to the specified fine amount.
- 7.7 A person found guilty of an offence under a bylaw is liable to a fine in an amount not less than that specified in the bylaw, and in any event not exceeding \$10,000.00 or imprisonment for not more than one year for non-payment equal to the specified fine amount.
- 7.8 In the case of an offence under a bylaw 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 the bylaw for each such day.

PART 8 – GENERAL

- 8.1 This bylaw applies to every bylaw of the Summer Village.
- 8.2 (1) An order, notice, municipal tag, violation tag, or other document required or authorized to be issued by a Bylaw Enforcement Officer or by the CAO pursuant to this bylaw must be served by:
- a) Sending the order, notice, municipal tag, violation ticket, or other document by regular mail, or electronic mail, to the mailing address or electronic mail address, of the person named in the order, notice, or document;
 - b) Posting the order, notice, municipal tag, violation ticket, or other document in a conspicuous location at the property, or on a vehicle subject to the order, notice, or other document;
 - c) Personally serving the order, notice, municipal tag, violation ticket or document on the person named in the order, notice, municipal tag, violation ticket, or document.
- (2) Unless otherwise specified in a bylaw or enactment, service of an order, notice, municipal tag, violation ticket, or other document in accordance with section 8.2 is presumed to be affected:
- a) Immediately upon the date issued, if the order, notice, municipal tag, violation ticket, or other document is sent by means of electronic mail;
 - b) 7 days from the date of mailing if the order, notice, municipal tag, violation ticket, or other document is mailed to an address in Alberta; or
 - c) 14 days from the date of mailing if the order, notice, municipal tag, violation ticket, or other document is mailed to an address outside of Alberta but within Canada.
- (3) Unless otherwise specified in a bylaw or enactment; service of an order, notice, municipal tag, violation ticket, or other document in accordance with section 8.2 is in effect on the date of delivery.

PART 9 – SEVERABILITY PROVISION

9.1 Should any provision of this Bylaw be invalid, then such invalid provision shall be severed, and the remaining Bylaw shall be maintained.

PART 10 – REPEAL OF BYLAW

10.1 Summer Village of Sunbreaker Cove Bylaw #171-22 is hereby repealed.

PART 11 – EFFECTIVE DATE

11.1 This Bylaw shall come into force and take effect on its passing.

INTRODUCED AND GIVEN FIRST READING this 28th day of November 2022.

GIVEN SECOND READING this 28th day of November 2022.

UPON UNANIMOUS CONSENT, GIVEN THIRD AND FINAL READING this 28th day of November 2022.

Jim Willmon, Mayor

Tanner Evans, C.A.O.

SCHEDULE "A"

OATH OF OFFICE

CANADA)

PROVINCE OF ALBERTA)

I, **«First Name» «Last Name»**, swear that I will diligently, faithfully and to the best of my ability execute according to law the office of Bylaw Enforcement Officer as stipulated on my appointment as a Bylaw Enforcement Officer. So, help me God.

TAKEN and subscribed before me) At Sylvan Lake, Alberta)
This «Day», day of «Month» (A.D., «Year»)

--- OR ---

CANADA)

PROVINCE OF ALBERTA)

I, **«First Name» «Last Name»**, solemnly and truly declare and affirm that I will diligently, faithfully and to the best of my ability execute according to law the office of Bylaw Enforcement Officer as stipulated on my appointment as a Bylaw Enforcement Officer.

TAKEN and subscribed before me) At Sylvan Lake, Alberta)
This «Day», day of «Month» (A.D., «Year»)