

BYLAW 112-14

SUMMER VILLAGE OF WHISPERING HILLS A BYLAW FOR THE PURPOSE OF CONTROLLING UNSIGHTLY AND UNTIDY PREMISES

Whereas, pursuant to section 7 of the *Municipal Government Act*, a Council may pass bylaws for municipal purposes respecting the following matters:

- (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 or imprisonment for not more than one year, or both;
 - (iii) providing for imprisonment for not more than one year for non-payment of a fine or penalty;
 - (iv) 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;
 - (v) providing for inspections to determine if bylaws are being complied with; and
 - (vi) remedying contraventions of bylaws; and

And Whereas pursuant to section 66(2) of the *Safety Codes Act* a Council may make bylaws respecting the following matters:

- (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;

Summer Village of Whispering Hills Council enacts:

PART I - PURPOSE, DEFINITIONS AND INTERPRETATION

PURPOSE

1

The purpose of this bylaw is to regulate the conduct and activities of people on privately owned property and immediately adjacent

areas in order to promote the safe, enjoyable and reasonable use of such property for the benefit of all citizens of the Summer Village.

DEFINITIONS

2

In this bylaw, unless the context otherwise requires:

- (a) **“Summer Village”** means the Summer Village of Whispering Hills;
- (b) **“Administrator”** means the chief administrative officer of the Summer Village or his/her delegate;
- (c) **“highway”** the same meaning as in the *Traffic Safety Act*;
- (d) **“motor vehicle”** has the same meaning as in the *Traffic Safety Act*;
- (e) **“fine”** means a letter alleging an offence issued pursuant to the authority of a bylaw of the Summer Village;
- (f) **“occupy”** or **“occupies”** means residing on or to be in apparent possession or control of property;
- (g) **“own”** or **“owns”** means:
 - (i) in the case of land, to be registered under the *Land Titles Act* as the owner of the fee simple estate in a parcel of land; or
 - (ii) 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;
- (h) **“person”** means any individual, firm, partnership, association, corporation, trustee, executor, administrator or other legal representative;
- (i) **“property”** means a parcel of land including any buildings;

**RULES FOR
INTERPRETATION**

3

The table of contents, marginal notes and headings in this bylaw are for reference purposes only.

PART II - PROPERTY MAINTENANCE**DEFINITIONS**

- 4 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.

LAND

- 5 (1) A person shall not cause or permit a nuisance to exist on land they own or occupy.
- (2) For the purpose of greater certainty a nuisance, in respect of land, means land that shows 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:
- (a) 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;
 - (a.1) any loose litter, garbage or refuse whether located in a storage area, collection area or elsewhere on the land;
 - (b) damaged, dismantled or derelict vehicles or motor vehicles, whether insured or registered or not;
 - (c) smelly or messy compost heaps;
 - (d) unkempt grass or weeds higher than 20 centimetres;
 - (e) production of excessive dust, dirt or smoke;
 - (f) production of any generally offensive odours;
 - (g) any tree, shrub, other type of vegetation or any structure:
 - (i) that interferes or could interfere with any public work or utility;
 - (ii) that obstructs any sidewalk adjacent to the land; or
 - (iii) that impairs the visibility required for safe traffic flow at any intersection adjacent to the land; and
 - (g.1) any accessible excavation, ditch, drain or standing water that could pose a danger to the public;

BUILDINGS

- 6 (1) A person shall not cause or permit a nuisance to exist in respect of any building on land they own or occupy.
- (2) 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.
- (a) any damage to the building;
 - (a.1) any graffiti displayed on the building that is visible from any surrounding property;
 - (b) any rot or other deterioration within the building; and
 - (c) 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.

UNOCCUPIED BUILDINGS

- 7 (1) 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 but only if the wood is:
- (a) installed from the exterior and fitted within the frame of the opening in a watertight manner;
 - (b) of a thickness sufficient to prevent unauthorized entry into the building;
 - (c) secured in a manner sufficient to prevent unauthorized entry into the building; and
 - (d) coated with an opaque protective finish in a manner that is not detrimental to the surrounding area.

WASTE BINS

- 8 (1) 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:
- (a) equipped with a lid or cover capable of completely covering the waste bin; and
 - (b) kept closed or covered at all times except for actual loading or unloading of waste.

- (2) A person shall not place, cause or permit to be placed any roll off waste bin on land they own or occupy unless the roll off waste bin is:
- (a) kept closed or covered at all times except for actual loading or unloading of waste; and
 - (b) contains only material that will not emit odour and will not be blown out of the bin.

**REFRIGERATORS
AND FREEZERS**

- 9 (1) A person shall not place, cause or permit to be placed a discarded refrigerator, freezer or other similar appliance on land they own or occupy unless effective measures have been taken to prevent the opening and closing of the appliance.
- (2) Without limiting the generality of subsection (1) measures considered to be effective may include:
- (a) the complete removal of the door for the appliance;
 - (b) the removal of the door handle mechanism if this prevents opening and closing of the door;
 - (c) the removal of the door hinges;
 - (d) locking the appliance; or
 - (e) otherwise wrapping or containing the appliance so that the interior is inaccessible.

WASTE DISPOSAL

- 12.1 A person shall not place, cause or permit to be placed any litter, garbage, refuse or other waste material upon the privately owned property of another person.

PART III - ENFORCEMENT**OFFENCE**

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

**CONTINUING
OFFENCE**

- 11 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.

**VICARIOUS
LIABILITY**

- 12 For the purposes 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's employment with the person, or in the course of the agent's exercising the powers or performing the duties on behalf of the person under their agency relationship.

**CORPORATIONS
AND
PARTNERSHIPS**

- 13 (1) When a corporation commits an offence under this bylaw, every principal, director, 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.

**FINES AND
PENALTIES**

- 14 (1) 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, and to imprisonment for not more than six months for non-payment of a fine.
- (2) Without restricting the generality of subsection (1) the following fine amounts are established for use on municipal tags and violation tickets if a voluntary payment option is offered:
- (a) \$250.00 for any offence for which a fine is not otherwise established in this section;
 - (b) double these fine amounts for any subsequent offence

**NON PAYMENT OF
FINES**

- 18 Any fines that remain outstanding after the established time limit will be added to the property taxes.

**PAYMENT IN LIEU
OF PROSECUTION**

- 19 A person who commits an offence may, if a municipal letter 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
LETTER**

- 20 If a violation letter is issued in respect of an offence, the letter may:
- (c) specify the fine amount established by this bylaw for the offence; or

- (d) require a person to appear in court without the alternative of making a voluntary payment.

**VOLUNTARY
PAYMENT**

21 A person who commits an offence may:

- (e) if a violation letter is issued in respect of the offence; and
- (f) if the violation letter specifies the fine amount established by this bylaw for the offence;

make a voluntary payment equal to the specified fine.

**ORDER TO
COMPLY**

22 (1) If the Summer Village Administrator believes, on reasonable grounds, that a person is contravening any provision of this bylaw, the Summer Village Administrator may, by written order, require any person responsible for the contravention to remedy it.

(2) The order may:

- (a) direct a person to stop doing something, or to change the way in which the person is doing it;
- (b) 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;
- (c) state a time within which the person must comply with the directions;
- (d) state that if the person does not comply with the directions within a specified time, the Summer Village will take the action or measure.

(3) 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.

(4) An order issued pursuant to this section may be served:

- (a) 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 with someone who appears to be at least 18 years of age; or
 - (iii) by 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 at the Land Titles registry;
- (b) in the case of a corporation:
 - (i) by delivering personally to any director or officer of the corporation;
 - (ii) 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
 - (iii) by mail addressed to the registered office of the corporation.

OBSTRUCTION

23

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

PART IV - GENERAL**POWERS OF THE
SUMMER VILLAGE
ADMINISTRATOR**

24

Without restricting any other power, duty or function granted by this bylaw the Summer Village Administrator or his/her designate may:

- (c) carry out any inspections to determine compliance with this bylaw;
- (d) take any steps or carry out any actions required to enforce this bylaw;
- (e) take any steps or carry out any actions required to remedy a contravention of this bylaw;
- (f) 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;

- (g) establish areas where activities restricted by this bylaw are permitted;
- (h) establish forms for the purposes of this bylaw;
- (i) issue permits with such terms and conditions as are deemed appropriate;
- (j) establish the criteria to be met for a permit pursuant to this bylaw;
- (k) delegate any powers, duties or functions under this bylaw to an employee of the Summer Village;

**NUMBER AND
GENDER
REFERENCES**

- 25 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.

READ a first time this 6th day of November, 2014.

READ a second time this 6th day of November, 2014

READ a third time and passed this 6th day of November, 2014.

Mayor



Chief Administrative Officer

