

Summer Village of Birch Cove

BY-LAW NO. 121-13

Being a By-law of the Summer Village of Birch Cove in the Province of Alberta to provide for the regulation of Untidy and Unsightly Land or Premises

WHEREAS a Council of the municipality may, pursuant to Section 7 of the Municipal Government Act, being Chapter M-26.1 of the Revised Statutes of Alberta 2000, and amendments thereto, pass bylaws respecting untidy and unsightly land or premises;

NOW THEREFORE the Municipal Council of the Summer Village of Birch Cove, duly assembled, hereby enacts as follows:

I. Title:

This Bylaw may be cited as the Untidy and Unsightly Bylaw of the Summer Village of Birch Cove.

II. Definitions:

In this Bylaw:

1. "Council" shall mean the municipal Council of the Summer Village of Birch Cove duly assembled and acting as such;
2. "Highway" has the same meaning as defined in the Highway Traffic Act;
3. "Litter" shall mean any solid or liquid material or product or combination of solid or liquid materials or products including but not limited to:
 - A) any rubbish, refuse, garbage, package, container, bottle, can, manure, human or animal excrement or sewage or the whole or part of an animal carcass; or
 - B) the whole or part of any article, raw or processed material, construction material, motor vehicle, or other machinery that is disposed of, or in a wrecked, discarded, or abandoned condition;
 - C) any hazardous, flammable or explosive material;
 - D) any tree's which are dead or dying, which may interfere with a neighboring property, or which may create a hazard;
 - E) any underbrush which may cause a fire hazard, including grass, or any other type of growth or litter which may be dangerous to any resident.
 - F) any structure, or part thereof, which may cause a hazard or be dangerous to any resident.
4. "Owner" shall mean any person who is registered under the Land Titles Act as the owner of the land;
5. "Peace Officer" shall mean a member of the Royal Canadian Mounted Police, a Bylaw Enforcement Officer, or a Special Constable as appointed by the municipality;
6. "Premises" shall mean the exterior walls and the components of any building or structure and shall include the land, accessory buildings, fences and erections thereon;

7. "Village" shall mean the Summer Village of Birch Cove, a municipal corporation of the Province of Alberta, and includes the area contained within the boundaries of the Village where the context so requires;
8. "Unightly" means the premises that have not been maintained in order to prevent their deterioration due to weather, rot or insect and not free from loose and broken materials.
9. "Untidy" shall mean the land that is not protected by suitable ground cover which prevents erosion of the soil or the devaluation of the neighboring property and shall also include grass, plants, tree's and vegetation which is not trimmed;

III. Prohibitions

1. No person being the owner, agent, lessee or occupier of any land within the Village shall permit the land or premises of which such person is the owner, agent, lessee, or occupier to be in or remain unightly.
2. No person being the owner, agent, lessee or occupier of any land within the Village shall permit the land of which such person is the owner, agent, lessee, or occupier to be in or remain untidy.
3. No person being the owner, agent, lessee or occupier of any land within the Village shall permit the land of which such person is the owner, agent, lessee, or occupier to have materials defined as litter on the property causing the property to be unightly or untidy.
4. The owner, agent, lessee, or occupier of any land within the Village shall cut the grass of the portion of the highway that lies between the boundary of this land and the centre of the highway which abuts or flanks the property of which such person is the owner, agent, lessee or occupier.

IV. Enforcement

1. A Peace Officer may, for the purpose of performing his or her duties and exercising his or her powers under this bylaw, enter at any reasonable hour and inspect the land or premises.
2. Where any lands or premises in the Village are found to be in contravention of this bylaw, the Peace Officer shall give notice in writing to a person who is under a duty imposed by this bylaw to prevent such a condition and to remedy the same, and the Peace Officer may direct that this be done in such a manner as he or she deems advisable on or before a day to be named in the notice.
3. The Peace Officer shall give not less than fifteen (15) days notice from the date of delivery of the notice for its compliance.
4. A) Notice to the Owner given by the Peace Officer under the provisions of this bylaw shall be in writing and in quadruplicate in Form A as set out in a schedule to this bylaw.

B) One of the notices shall be served on the person to whom it is addressed, one to the assessed owner, one shall be delivered to the Municipal Administrator and the fourth shall be retained by the official giving the notice.

C) A notice given by the Peace Officer pursuant to any of the provisions of this bylaw shall be deemed to have been duly given and served on the person to whom it is addressed if:
 - i) the notice is personally delivered to the person to whom it is addressed; or

- ii) the notice is left with a person apparently over the age of sixteen (16) years at the place of abode of the person to whom the notice is addressed; or
 - iii) the notice is sent by registered mail to the last known postal address of the person to whom the notice is addressed, or as shown on the assessment roll as the case may be; or
 - 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 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 this section.
5. If, after the day designated for the compliance in any notice given pursuant to this bylaw, the owner fails to remedy the condition stated in the notice, the Peace Officer may report the same to Council
 6. Upon consideration of the report, Council may direct that a notice in writing be served upon the owner involved in the infraction.
 7. This notice shall be in Form B as set out in a schedule to this bylaw with:
 - A) a description of the land on which the infraction reported is located:
 - B) a description of the infraction reported:
 - C) The date, time and place at which Council will consider the matter:
 - D) That Council may make an order declaring an infraction and ordering the remedying of the condition or the removal of the contravention:
 - E) That the owner shall be entitled, before enactment of the order, to make representation to the Council and set forth his reasons why an order should not be made.
 8. The notice shall be served upon the owner in the same manner as set out in Enforcement Section 4, not less than ten (10) days proceeding the date of the order being considered by Council.
 9. When the owner is not resident in Alberta, or his present address is unknown, the notice shall be served upon him by mailing it to him at his latest known address as shown on the assessment roll not less than fifteen (15) days preceding the date the order is to be first considered by Council.
 10. The owner may appeal before Council in person or by a representative.
 11. A) If, following the hearing, Council is of the opinion that there is an infraction, it may declare it to be so, and issue an order in Form C as set out in a Schedule to this bylaw.
 - B) Any such order may require the owner, within a period of time which shall not be less than fifteen (15) days from the date of making of the order, to remedy the untidy or unsightly condition of the premises in the matter set forth in the order.
 - C) If the owner does not remedy the condition within the period specified within the order, the said person authorized in the order shall remedy the condition to the extent directed in the order.
 - D) If the owner does not remedy the condition within the period specified within the order, the Village shall remedy the condition to the extent directed in the order and the costs incurred to remedy the condition are chargeable to the owner and recoverable as a debt due to the Village.

E) The Village may cause these costs to be added to the tax roll as a charge against the lands of the owner in the same manner as taxes and with the same priority as to lien and to payment thereof as is in the case of ordinary municipal taxes.

12. Any owner, agent, lessee, or occupier who receives a notice, order or direction requiring him to remedy any condition that constitutes untidy or unsightly premises, or that contravenes or fails to comply with this bylaw and who thinks himself aggrieved, may appeal within fifteen (15) days from the date of issue to the Court of Queen's Bench.

V. Penalties

1. A) Any person who contravenes, disobeys, refuses or neglects to obey any provision of the bylaw by:
- i) doing any act or thing which he or she is prohibited from doing herein:
 - ii) failing to do any act or thing he or she is required to do herein:
- is guilty of an offence and is liable to a fine of three hundred dollars (\$300.00).
- B) If a person is convicted of an offence under this bylaw, the court may, in addition to a penalty under subsection (V,1,A), order that the convicted person remedy the unsightly or untidy premises or land as the court considers appropriate.
2. A) Notwithstanding any other provisions for penalties in this bylaw, an Enforcement Officer may, in lieu of issuing a notice in respect to an alleged breach of any prohibition of this bylaw, issue a voluntary penalty ticket and the accused may within fifteen (15) days of the issuance of such ticket pay the Village the same monetary penalty as may be imposed under the provisions of this bylaw, as outlined in Section V.1.(A).
- B) By paying such monetary penalty as prescribed in this section, an accused shall be deemed to be guilty of the offense for which such penalty was paid.
- A) In the event that the prescribed voluntary penalty is not paid within the time allotted herein, an Enforcement Officer may thereafter issue a notice in respect to the alleged breach for which the voluntary penalty ticket was issued.

This bylaw hereby shall come into full effect on the final reading thereof and will repeal Bylaw # 37, the Nuisance Bylaw and Bylaw # 121-13.

READ A FIRST TIME IN COUNCIL	THIS 13TH DAY OF SEPTEMBER 2013
READ A SECOND TIME IN COUNCIL	THIS 13TH DAY OF SEPTEMBER 2013
READ A THIRD TIME IN COUNCIL AND DULY PASSED	THIS 13th DAY OF SEPTEMBER 2013

signed this 13th day of September, 2013.

Mayor Eugene Dugan

Municipal Administrator
Dennis Evans

Summer Village of Birch Cove

SCHEDULE TO BYLAW NO. 121-13 FORM 'A'

NOTICE TO OWNER

TO:

DATE: _____

RE: Property located at:

In the Summer Village of Birch Cove, Alberta

WHEREAS Bylaw 121-13, the Unsightly and Untidy Bylaw of the Summer Village of Birch Cove provides:

Prohibitions

No person being the owner, agent, lessee or occupier of any land or premise within the Summer Village of Birch Cove shall permit the land or premises to be in or remain in an untidy or unsightly condition.

AND WHEREAS the following definitions are provided

- "Unsightly" means the premises that have not been maintained in order to prevent their deterioration due to weather, rot or insect and not free from loose and broken materials;
- "Untidy" means the land that is not protected by suitable ground cover which prevents erosion of the soil or the devaluation of neighboring property and shall also include grass, plants, tree's and vegetation which is not trimmed;

AND WHEREAS a complaint has been received in respect to the above noted premises or land.

NOW THEREFORE, pursuant to Bylaw No.121-13, the Unsightly and Untidy Bylaw of the Summer Village of Birch Cove, take notice that those premises or land located at the above noted address have been found to be Untidy or Unsightly in that they:

AND FURTHER TAKE NOTICE that if the said untidy or unsightly condition is not remedied within fifteen (15) days from the date of issue that the matter may be reported to Council requesting an order directing you to do the remedy the condition.

SUMMER VILLAGE OF BIRCH COVE

Per:

Box 7, Site 19, RR 1, Gunn, Alberta T0E 1A0
Phone: 780-446-1426 email: d.evans@xplornet.com

Summer Village of Birch Cove

SCHEDULE TO BYLAW NO.121-13 FORM 'B'

NOTICE OF HEARING

TO:

DATE: _____

RE: Property located at

In the Summer Village of Birch Cove, Alberta

WHEREAS the Council of the Summer Village of Birch Cove is to consider a NOTICE TO OWNER report of the Peace Officer, a copy of which is attached hereto, indicating an infraction of Bylaw No.121-13, the Unsightly and Untidy Bylaw of the Summer Village of Birch Cove;

NOW THEREFORE TAKE NOTICE that the Council of the Summer Village of Birch Cove at the hour of 0:00 P.M. on the day of , , at , will consider the said report of the Peace Officer;

AND FURTHER TAKE NOTICE that you or your representative shall at such time be entitled to make a presentation to Council setting forth your reasons why an Order should not be made.

AND FURTHER TAKE NOTICE that following the Hearing, and whether or not you or your representative makes a presentation, Council may make an order declaring there has been an infraction of Bylaw No.121-13, the Unsightly and Untidy Bylaw of the Summer Village of Birch Cove, and ordering the remedying of the condition.

SUMMER VILLAGE OF BIRCH COVE

Per:

Summer Village of Birch Cove

SCHEDULE TO BYLAW NO. 121-13 FORM 'C'

ORDER

TO:

DATE: _____

RE: Property located at

In the Summer Village of Birch Cove, Alberta

WHEREAS at a meeting of Council held on the _____ day of _____, _____, the Council of the Summer Village of Birch Cove considered a report of the Peace Officer, indicating an infraction of Bylaw No. 121-13, the Unsightly and Untidy Bylaw of the Summer Village of Birch Cove occurring in respect to the above land or premises.

AND WHEREAS after reviewing the said report and hearing presentations, it is Council's opinion that the said premises noted above in the Summer Village of Birch Cove is in contravention of Bylaw NO. 121-13, in that

NOW THEREFORE BE IT ORDERED that the owner, namely: _____ of _____ do on or before the _____ day of _____, A.D., _____, remedy the said untidy or unsightly condition on those premises or lands described as (address), Summer Village of Birch Cove, Alberta, by: (description of work to be done)

AND IT IS FURTHER ORDERED that if the said condition on the said premises or land is not remedied in the manner above stated by the said date, the Summer Village of Birch Cove will take immediate and all necessary action to remedy the condition in the manner above stated.

AND IT IS FURTHER ORDERED that all costs incurred to remedy the infraction are chargeable to the said owner, and are to be added to the tax roll as a charge against the lands of the said owner 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.

ORDERED BY COUNCIL of the Summer Village of Birch Cove this _____ day of _____, A.D. _____

Summer Village of Birch Cove:

Mayor

Municipal Administrator

Box 7, Site 19, RR 1, Gunn, Alberta T0E 1A0
Phone: 780-446-1426 email: d.evans@xplornet.com

Summer Village of Birch Cove

SCHEDULE TO BYLAW NO. 121-13 FORM 'D'

FINE \$300.00

TO:

DATE: _____

RE: Property located at

In the Summer Village of Birch Cove, Alberta

WHEREAS Bylaw 121-13, the Unsightly and Untidy Bylaw of the Summer Village of Birch Cove provides:

Prohibitions

No person being the owner, agent, lessee or occupier of any land or premise within the Summer Village of Birch Cove shall permit the land or premises to be in or remain in an untidy or unsightly condition.

AND WHEREAS the following definitions are provided

- "Unsightly" means the premises that have not been maintained in order to prevent their deterioration due to weather, rot or insect and not free from loose and broken materials;
- "Untidy" means the land that is not protected by suitable ground cover which prevents erosion of the soil or the devaluation of neighboring property and shall also include grass, plants, tree's and vegetation which is not trimmed;

NOW THEREFORE, pursuant to Bylaw No.121-13, the Unsightly and Untidy Bylaw of the Summer Village of Birch Cove, take notice that those premises or land located at the above noted address have been found to be Untidy or Unsightly in that they:

NOW THEREFORE, pursuant to Bylaw No.121-13, the Unsightly and Untidy Bylaw of the Summer Village of Birch Cove,

V. Penalties

2. A) Any person who contravenes, disobeys, refuses or neglects to obey any provision of the bylaw by:
 - iii) doing any act or thing which he or she is prohibited from doing herein:
 - iv) failing to do any act or thing he or she is required to do herein:is guilty of an offense and is liable to a fine of three hundred dollars (\$300.00).

AND TAKE FURTHER NOTICE that the fine, if not paid in thirty (30) days, the amount of the fine will be added to the tax roll as a charge against the lands of the said owner 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.