

Summer Village of Larkspur BYLAW Use of Summer Village Public Lands

Bylaw Name:	Use of Summer Village Public Lands		
Bylaw number	21-2	Date Approved:	May 14, 2021
Reviewed By:		Date Reviewed:	

The Authority of the *Municipal Government Act* RSA 2000 Chapter M-26, section 7 (a)(b) and (i), 8 (a) authorizes the Council of a municipality to pass bylaws for municipal purposes respecting the safety, health and welfare of people, the protection of people and property and other matters including but not limited to regulating or prohibiting the use of public land:

1. PURPOSE

This bylaw is for the purpose of regulating the use of public lands to be compatible with the normal activities of urban life and with the recreational objectives of the municipality.

2. DEFINITIONS

- a. All definitions in this bylaw apply as defined in the Public Lands Act, RSA 2000, c P-40 and the Public Lands Administration Regulation except where expressly stated in this bylaw.
- b. **"Act"** shall mean the Municipal Government Act, Chapter M-26 RSA 2000.
- c. **"Chief Administrative Officer (CAO)"** means a person appointed by Council under a bylaw by the Summer Village of Larkspur in the Province of Alberta, or that person's designate acting lawfully as CAO in any absence.
- d. **"Council"** means the Council of the Summer Village of Larkspur.
- e. **"Municipality"** means all lands within the Corporate Boundary limits of the Summer Village of Larkspur in the Province of Alberta.
- f. **"Municipal Tag"** means a ticket for any violation of this bylaw in the form of a numbered "Notice of Violation" and contains provisions for either a "warning", or a "voluntary payment" payable to the Summer Village of Larkspur with or without discount provisions.
- g. **"Peace Officer"** means a member of the Royal Canadian Mounted Police, a Peace Officer appointed pursuant to the Alberta Peace Officer Act, or a Municipal Bylaw Enforcement Officer appointed by the Summer Village of Larkspur.
- h. **"Person"** includes any person, individual, owner, public body, body corporate, society, firm or partnership;
- i. **"Public Land"** means:

- i. Environmental Reserves and Natural Areas; and
- ii. Municipal Reserves;
- iii. Any land subject to the Summer Village direction, management or control including but not limited to:
 - 1. Land titled to the Summer Village of Larkspur;
 - 2. Developed or undeveloped Road Right-of-Ways and Statutory Road Allowances;
 - 3. All easements in favors of the Summer Village;
 - 4. All utility Right-of-Ways.
- j. ***“Summer Village”*** means the Summer Village of Larkspur.
- k. ***“Unauthorized Use”*** means a person accessing on or over Public Lands or constructing, storing, erecting or placing anything on/under or over Public Land for any purpose without written consent from the Summer Village
- l. ***“Vehicle”*** means a device in, on or by which a person or thing may be transported or drawn on a highway but does not include a mobility aid or a golf cart that is not capable of a speed that exceeds 30 KPH.
- m. ***“Violation Ticket”*** means a provincial ticket as described in the Alberta Provincial Offences Procedures Act Chapter P-34, RSA 2000 and the Procedures Regulation and may be issued in the form either a part 2 Summons or a part 3 Offence Notice. Service and procedures of such violation tickets shall be as per POPA above and pursuant to Section 160(1) of the Traffic Safety Act where applicable.

3. CONSENT TO USE

- a. Any person wishing to make use of public land, with the exception of day use, must apply to the Summer Village in writing for their proposed use.
- b. The CAO may authorize the proposed use and may specify conditions.
- c. Privately owned signs on Public Lands are prohibited, except as exempted on a case -by-case basis for signs for non-profit organizations under the Societies Act (Alberta) and /or the Board of Trade Act (Canada).
- d. All privately-owned signs and non-profit signs must meet the requirements set out in Appendix “A”

4. PUBLIC PROPERTY

- a. No person shall make unauthorized use of public land.
- b. No person shall use the public land for the parking or temporary storage of any vehicle, whether operable or inoperable, including but not limited to cars, trucks, vans, recreational vehicles, all-terrain vehicles, snowmobiles, boats, campers, and trailers.
- c. Docks and lifts may be temporarily stored on summer village reserves if they have written permission from the Chief Administration Officer as

authorized in the “Temporary Seasonal Docks and Lifts on Municipal Reserves” bylaw.

- d. No person shall develop on any municipal reserve, environmental reserve or other municipal owned land is prohibited.

5. UNAUTHORIZED USES on Public Land includes but is not limited to the following:

- a. constructing a driveway, parking pad or site, garage, stairway, walkway, pool, patio, deck, and,
- b. constructing and or maintaining a skating or hockey rink,
- c. placing or storage of personal property,
- d. installing irrigation or electrical systems,
- e. constructing drainage facilities including, but not limited to, pipes, catch basins, sumps, swales, detention ponds and ancillary structures,
- f. erecting staging, scaffolding or similar structures,
- g. depositing or storing building materials/topsoil/clay/sand/gravel, storing or operating machinery, equipment or tools used or to be used in connection with the erection, alteration, demolition, repair or painting of any structure,
- h. digging, cutting, excavating, filling or dumping soil, refuse, garden or yard material, compost and other materials.

6. PROHIBITIONS

- a. No person shall:
 - i. remove trees and/or shrubs, excavation, grading or drainage alteration on any municipal reserve, environmental reserve or other municipal owned land, without written approval from the municipality,
 - ii. erect or cause to be erected any fence on any property owned by the municipality without their expressed written approval,
 - iii. operate any vehicle on public land,
 - iv. park any vehicle upon any land owned by the Summer Village which the said Summer Village uses or permits to be used as a playground, recreation area, public park or for utility purposes except on such areas that the Municipal Administrator or designated employee may designate by a Traffic Control Device for vehicle parking,
 - v. place unauthorized signage/commercial advertising upon the Public Land.

7. THE CAO, MAY, BY ORDER;

- a. Require the person responsible for an unauthorized use of public land to cease such unauthorized use.
- b. An Order given by the CAO or designate must:
 - i. Identify the unauthorized use,

- ii. Direct the person to take any action or measures necessary to remedy the unauthorized use including, but not limited to, the restoration of the public land to its state immediately before commencement of the unauthorized use, and
 - iii. State a time within which the person must comply with the direction.
 - c. An Order may be served to an individual or a business:
 - i. Personally, if directed to an individual or by delivery to a person apparently over the age of sixteen (16) years residing or employed at the address where the individual resides, carries on business or is employed.
 - ii. Sending by prepaid registered mail to its registered office or its place of business in the case of any other corporation.
 - d. No person shall fail to comply with an Order.
 - e. If the Summer Village is unable to ascertain the name of the person or business responsible for any unauthorized use:
 - i. The Summer Village will post a sign on the public land which is the subject of the unauthorized use stating that, if the unauthorized use is not stopped and all work done necessary to restore the public land to its condition immediately before commencement of the unauthorized use, by a date at least twenty-one (21) days after the sign is posted, the Summer Village will do such work.
 - ii. If the Summer Village does work pursuant to the preceding paragraph, the cost of so doing will be a debt due to the Summer Village from the person responsible for the unauthorized use.
 - iii. The work referred to in preceding paragraphs includes, but is not limited to, the removal of materials and chattels of all kinds, excavating and removing improvements and carrying out landscaping.
 - iv. In the case of an emergency of any kind or a perceived threat to public safety, the period of twenty-one (21) days prescribed may be shortened to whatever period the CAO considers appropriate.
 - v. The Summer Village may sell any materials or chattels referred to in paragraph 5.3(5.3.3) and apply the proceeds towards payment of the debt due to the Summer Village from the person responsible for the unauthorized use.

8. ENFORCEMENT

- a. A person who contravenes any provision of this bylaw or the “Temporary Seasonal Docks and Lifts on Municipal Reserves” bylaw is guilty of an offence.

- b. A person who is found guilty of an offence under this bylaw or the Temporary Seasonal Docks and Lifts bylaw is liable to a fine of at least \$200.00 and not exceeding \$10,000.00.
- c. If a fine imposed is not paid, the Summer Village will proceed to collect it in the same manner as a civil judgement in favor of the Summer Village.
- d. In addition to imposing a fine pursuant to section 6.2, the Court may:
 - i. Order the responsible person to cease the unauthorized use and take whatever steps are necessary to restore the public land which has been subject of the use to the condition it was in prior to commencement of the use; and
 - ii. Direct that, if the responsible person fails to comply with an order pursuant to the preceding paragraph 6.4 (a) within a specified time, the Summer Village will be at liberty to do the work required and recover the costs of so doing from the responsible person. Such costs may be determined either concurrently with imposition of a fine or upon subsequent application to the court.

9. VIOLATION TAGS

- a. A Bylaw Enforcement Officer is hereby authorized and empowered to issue a Violation Tag to any person who the Bylaw Enforcement officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- b. A Violation Tag may be issued to such person either personally, or by mailing a copy to such Person at his or her last know post office address.
- c. The Violation tag shall be in a form approved by the Municipal Administrator and shall state:
 - i. the name of the person;
 - ii. the offence;
 - iii. the appropriate penalty for the offence being the minimum penalty prescribed by this Bylaw;
 - iv. that the penalty shall be paid within thirty (30) days of the issuance of the Violation Tag;
 - v. any other information as may be required by the Municipal Administrator.
- d. Where a contravention of this Bylaw is of a continuing nature, further Violation Tags may be issued by the Bylaw Enforcement Officer, provided that no more than one Violation Tag shall be issued for each day that the contravention continues.
- e. Where a Violation Tag is issued pursuant to this Bylaw, the Person to whom the Violation Tag is issued, may in lieu of being prosecuted for the offence, pay to the Village the penalty specified in the Violation Tag.

- f. Nothing in this Bylaw shall prevent a Bylaw Enforcement officer from immediately issuing a Violation Ticket.

10. VIOLATION TICKET

- a. If the penalty specified on a Violation Tag is not paid within the prescribed time period, then a Bylaw Enforcement Officer, is hereby authorized and empowered to issue a Violation Ticket pursuant to the Provincial Offences Procedures Act.
- b. A Peace Officer is hereby authorized and empowered to issue a violation ticket to any person who the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- c. A violation ticket may be issued to such person either personally, or by mailing a copy to such Person at his or her last know post office address.
- d. The violation ticket shall be in a form approved by the Municipal Administrator and shall state:
 - i. the name of the person;
 - ii. the offence;
 - iii. the appropriate penalty for the offence being the minimum penalty prescribed by this Bylaw;
 - iv. that the penalty shall be paid within thirty (30) days of the issuance of the violation ticket;
 - v. any other information as may be required by the Municipal Administrator.
- e. Where a contravention of this Bylaw is of a continuing nature, further violation ticket may be issued by the Peace Officer, provided that no more than one violation ticket shall be issued for each day that the contravention continues.
- f. Where a violation ticket is issued pursuant to this Bylaw, the Person to whom the violation ticket is issued, may in lieu of being prosecuted for the offence, pay to the Village the penalty specified in the Violation ticket.
- g. Nothing in this Bylaw shall prevent a Peace Officer from immediately issuing a violation ticket.
- h. A violation ticket in this bylaw is:
 - i. The offences under this bylaw in respect of which a voluntary penalty may be made are set out in the attached Schedule A or reference Fees and Schedules,
 - ii. Unpaid Fees will be added to the tax roll and will be subject to the same interest as unpaid property taxes;
 - iii. as distributed by the Province of Alberta and set out in the Provincial Offences Procedures Act and Regulation may be issued by a Peace Officer for any contravention of this bylaw,

- iv. deemed sufficiently served if the processes under the Provincial Offences Procedures Act and Regulation have been followed.

11. SEVERABILITY PROVISION

- a. Should any provision of this bylaw become invalid, void, illegal, or otherwise not enforceable, it shall be considered separate and severable from the bylaw and the remainder shall remain in force and be binding as though such provisions had not been invalid.

12. EXERCISE OF DISCRETION

- a. The Summer Village has the discretion to enforce this bylaw and is not liable of any outcomes should a Peace Officer decide not to enforce this bylaw if acting in good faith.

13. COMING INTO FORCE

This Bylaw shall come into effect upon the third and final reading and signing of this Bylaw

READ a first time this 14th day of May 2021

READ a second time this 14th day of May 2021

UNANIMOUS CONSENT to proceed to third reading 14th day of May 2021

READ a third and final time this 14th day of May 2021

Mayor

Administrator

**SUMMER VILLAGE OF LARKSPUR
BY-LAW 21-2**

**SCHEDULE "A"
FINES**

Penalties:

- | | |
|---|----------|
| 1. Use of Public Land without consent | \$200.00 |
| 2. Removal of plant life without consent | \$500.00 |
| Plus the cost of replacement of vegetation up to \$10,000 | |

Any penalty not listed here is subject to a fine of up to \$10,000 at the discretion of the
CAO