



Summer Village of Sundance Beach

Council Policy

Number	Title			
C-PLA-PUL-1	Use of Designated Public Utility Lots by Non-Residents			
Approval	Originally Approved		Last Revised	
(CAO initials)	Resolution No:	2021-169	Resolution No:	
	Date:	Sep. 23, 2021	Date:	

1. Background

1.1 The Summer Village of Sundance Beach (the “Summer Village”) owns public utility lots which are located within its municipal boundaries along the lakeshore of Pigeon Lake and which are designated as PUL 1, PUL 2, PUL 3, PUL 4, PUL 5, PUL 6, PUL 7, PUL 8, PUL 9, PUL 10, PUL 11 and PUL 12 (collectively the “PULs”).

1.2 The Summer Village has enacted Bylaw No. P30 (as replaced or amended and as renumbered, from time to time) which states, among other things, that no person shall use or occupy on a permanent or temporary basis any of the PULs unless that person is a resident of the Summer Village and is the holder of an easement agreement granted by the Summer Village.

1.3 The Summer Village has granted easement agreements in favour of certain residents of the Summer Village in order to allow those residents to use and occupy certain PULs described in those easement agreements.

1.4 The Summer Village has received, from time to time, requests to use certain portions of certain PULs from individuals who are not residents of the Summer Village.

1.5 The Summer Village wishes to adopt a policy which sets out guidelines concerning the circumstances under which the Summer Village may allow non-residents of the Summer Village to use certain portions of the PULs which are not the subject of easement agreements granted in favour of residents of the Summer Village and which, as at the date of this policy, are designated as PUL 4, PUL 6, PUL 8 and PUL 11 (each a “Designated PUL”).

2. Interpretation of Bylaw No. P30

2.1 As contemplated by Bylaw No. P30 (as replaced or amended and as renumbered, from time to time) no person shall be entitled to use or occupy, on a permanent or temporary basis, all or any portion of the PULs unless that person (an “Easement Holder” or a “License Holder”) is the holder of an easement



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agreement or license agreement (an “Easement” or a “License”) granted by the Summer Village with respect to one of the PULs and the applicable Easement Holder or the applicable License Holder is in compliance with the terms and conditions set out in the applicable Easement or the applicable License.

2.2 For certainty, the words “use or occupy” include, but are not limited to, the following activities:

- (a) walking on or through, or driving a vehicle on or through, any portion of one or more of the PULs in order to access, install or remove piers, pier stands, boats, boat lifts, watercraft, watercraft lifts or other equipment located on or near the lakeshore of Pigeon Lake; and
- (b) storing or otherwise leaving in place, at any time, piers, pier stands, boats, boat lifts, watercraft, watercraft lifts, or other equipment on any portion of one or more of the PULs.

3. Granting of Licenses to Non-Residents to Use Designated PULs

3.1 Unless otherwise determined by the council of the Summer Village, no License applicable to a Designated PUL shall be granted by the Summer Village in favour of any person who is a non-resident of the Summer Village (the “Non-Resident”) unless all of the following requirements have been satisfied:

- (a) the Non-Resident must own a property which, in the opinion of the council of the Summer Village, is located adjacent, or within close proximity, to the municipal boundaries of the Summer Village;
- (b) in the opinion of the council of the Summer Village, the Non-Resident must require use of one of the Designated PULs in order to have access to piers, boats, boat lifts, watercraft or watercraft lifts located on or near the lakeshore of Pigeon Lake;
- (c) in the opinion of the council of the Summer Village and after taking into account all Easements and all Licenses granted with respect to a Designated PUL, the granting of the License in favour of the Non-Resident with respect to the applicable Designated PUL will not create overcrowding or unsafe conditions in connection with the use of the applicable Designated PUL;
- (d) the granting of the License in favour of the Non-Resident must be, in the opinion of the council of the Summer Village, in the best interests of the Summer Village and its residents;
- (e) the Non-Resident must sign the applicable form of License prescribed by the council of the Summer Village from time to time; and
- (f) the Non-Resident must agree to perform and observe, on a timely basis, the terms and conditions set out in the applicable License including the payment of the fees described in the applicable License.

3.2 In circumstances where one or more Non-Residents require use of the same portion of a Designated PUL in order to have access to the lakeshore of Pigeon Lake, the Summer Village may, in its discretion,



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make more than one Non-Resident parties to the same License or grant more than one License with respect to the same portion of a Designated PUL.

4. Form and Contents of Licenses

4.1 Any License granted by the Summer Village in favour of a Non-Resident shall be in a form approved by the council of the Summer Village, from time to time.

4.2 Unless otherwise determined by the council of the Summer Village, a License granted in favour of a Non-Resident shall contain the following provisions:

- (a) acknowledgements by the License Holder that the rights of the License Holder in respect of a Designated PUL are (i) non-exclusive, (ii) subordinate to the rights of those residents of the Summer Village (if any) who receive Easements or Licenses with respect to the use or occupation of the same Designated PUL, and (iii) subject to termination by the Summer Village upon giving not less than 120 days' prior written notice to the License Holder;
- (b) covenants by the License Holder that, with respect to the applicable Designated PUL, he or she shall, in conjunction with, and at the expense of, all Easement Holders and all License Holders for the applicable Designated PUL (i) maintain the natural course of drainage across the applicable Designated PUL, (ii) keep the applicable Designated PUL free and clear of weeds, debris, excessive vegetation and other obstructions; and (iii) keep the applicable Designated PUL free and clear of dangerous trees and other unsafe conditions;
- (c) with respect to a License which includes storage rights, an acknowledgement by the License Holder that no buildings or other improvements shall be constructed or allowed to exist on the applicable Designated PUL;
- (d) an indemnity by the License Holder that he or she shall indemnify the Summer Village (including, without limitation, its councillors and its administration, employees and contractors) with respect to any damages, costs or expenses incurred by one or more of such parties by reason of, or arising out of, (i) any breach of any provisions of the applicable License by that License Holder or any person for whom that License Holder is responsible at law in connection with the applicable License, and (ii) any negligence or willful misconduct of that License Holder or any person for whom that License Holder is responsible at law in connection with the applicable License; and
- (e) an acknowledgement by the License Holder that any disputes or disagreements between that License Holder and any other Easement Holder or License Holder who holds an Easement or a License with respect to the same Designated PUL or any other Designated PUL shall be resolved by those parties without the involvement of the Summer Village provided that if those parties are unable to resolve any given dispute or disagreement within a reasonable period of time, in the opinion of the Summer Village, then the Summer Village may impose a resolution upon those parties (including, without limitation, termination of one or more of the Easements or the Licenses applicable to one or more of those parties) and those parties shall comply with that resolution.



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Repeal: This policy repeals policy passed by Resolution #2017-001 Policy Concerning Use of Designated Public Utility Lots By Non-Residents

Revisions:

Resolution Number	MM/DD/YY