

SUMMER VILLAGE OF ARGENTIA BEACH

CONTROL OF NOISE BYLAW BYLAW NO. 259

A BYLAW OF THE SUMMER VILLAGE OF ARGENTIA BEACH FOR MATTERS RELATED TO THE CONTROL OF NOISE BY PROHIBITION, ELIMINATION OR ABATEMENT.

WHEREAS Section 7 of the MGA (as defined below) authorizes a council of a municipality to pass bylaws for municipal purposes respecting the safety, health and welfare of people and the protection of people and property;

AND WHEREAS Section 8 of the MGA authorizes the Council (as defined below) to prepare bylaws restricting, mitigating and abating activities which give rise to unnecessary noise in the Summer Village (as defined below), especially during hours normally used for sleeping;

AND WHEREAS the intent of this Bylaw is that all Noise (as defined below) shall be reduced as much as possible to be compatible with the normal activities of urban life while recognizing the recreational nature of the Summer Village, and that unnecessary Noise shall be eliminated;

NOW, THEREFORE, the Council, duly assembled, enacts as follows:

1. SHORT TITLE

1.1 This Bylaw shall be known as the "Control of Noise Bylaw."

2. DEFINITIONS

2.1 Definitions used in this Bylaw, if not defined in this Bylaw, shall have the same meanings attributed to those definitions in the MGA.

2.2 In this Bylaw:

- a) **"Bylaw Enforcement Officer"** means (i) a person who is an employee of the Summer Village or a third party and who has been appointed to carry out the duties of enforcing its Bylaws, (ii) a person who is a community peace officer as defined under the *Peace Officer Act, Statutes of Alberta, 2006 Chapter P-3.5*, or (iii) a person who is a member of the Royal Canadian Mounted Police;
- b) **"Construction Equipment"** means any equipment of any type used in connection with construction activities including, without limitation, a dump truck, riveting machine, concrete mixer, gravel crusher, steam shovel, dragline, backhoe, air or steam compressor, jackhammer or pneumatic drill, tractor, bulldozer, front-end loader, motor scraper, motor grader or any other tool, device, or machine of a noisy nature;
- c) **"Council"** means the Council of the Summer Village;

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- d) **"Fireworks"** means those fireworks listed in the *Explosives Act, R.S.C., 1985, c.E-17* and its Regulations and, for the purposes of this Bylaw, "Fireworks" includes consumer fireworks (as described by Natural Resources Canada NR Can);
 - e) **"Household Equipment"** means any equipment or device of any type used in, on or around any Property including, without limitation, lawnmowers, trimmers, blowers, tillers, chain saws, snow blowers, vacuums, televisions, stereos, musical instruments, computers, sound equipment and electronic devices;
 - f) **"MGA"** means the *Municipal Government Act, Revised Statutes of Alberta, 2000 Chapter M-26*;
 - g) **"Municipal Tag"** means a ticket issued by the Summer Village pursuant to the MGA for breach of its Bylaws;
 - h) **"Noise"** means any sound or noise which, in the reasonable opinion of the Bylaw Enforcement Officer or a designated officer, disturbs or could reasonably be expected to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any Person in the Summer Village including, without limitation, any sound or noise which is, or could reasonably be considered to be, unreasonably loud, annoying, shrill, piercing or explosive;
 - i) **"Occupant"** means a Person, other than an Owner or a User, who (i) is in possession or control of a Property, or (ii) has the right to use and occupy a Property, in each case whether under a lease, tenancy, rental arrangement, easement, license, agency arrangement or otherwise;
 - j) **"Owner"** means the registered owner of a Property located in the Summer Village;
 - k) **"Person"** means an individual and includes partnership, corporation, trustee, executor, joint venture, proprietorship, association, society and any other legal entity;
 - l) **"POPA"** means the *Provincial Offences Procedure Act, Revised Statutes of Alberta, 2000 Chapter P-34*;
 - m) **"Property"** means any land, buildings, improvements or personal property which is located in the Summer Village and which is (i) privately owned, (ii) owned or controlled by the Summer Village,
 - n) **"Remedy Order"** means an order issued in accordance with Section 545 of the MGA;
 - o) **"Right of Access"** means the right of a Bylaw Enforcement Officer or a designated officer, to enter onto a Property to inspect the Property, in accordance with Section 542 of the MGA, and determine if there are conditions that may contravene or fail to comply with the provisions of this Bylaw;

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- p) **“Source”** means any source of any type from which any Noise emits or emanates including, without limitation, any individual, dog, cat, other animal, bird, motor vehicle, watercraft, Construction Equipment or Household Equipment;
 - q) **“Summer Village”** means the Summer Village of Argentia Beach;
 - r) **“User”** means a Person, other than an Owner or an Occupant, who has the right to use or occupy a Property, whether as a guest, relative or otherwise; and
 - s) **“Violation Ticket”** means a ticket issued pursuant to Part 2 or Part 3, as applicable, of the POPA.

3. GENERAL INTERPRETATION

- 3.1 All schedules attached to this Bylaw form part of this Bylaw.
- 3.2 Headings or subheadings in this Bylaw are inserted for ease of reference and guidance purposes only and do not form part of this Bylaw.
- 3.3 Words in the singular include the plural and words in the plural include the singular.
- 3.4 Where this Bylaw cites or refers to any act, regulation, code or other bylaw, the citation or reference to the act, regulation, code or other bylaw includes any amendments thereto before or after the commencement of this Bylaw, and includes reference to any act, regulation, code or other bylaw that may be substituted in its place.
- 3.5 Each provision of this Bylaw is independent of, and severable from, all other provisions and if any provision is declared invalid or unenforceable for any reason by a court of competent jurisdiction, all other provisions of this Bylaw remain valid and enforceable.
- 3.6 Nothing in this Bylaw relieves a Person from complying with any provision of any federal, provincial or municipal law or regulation or any requirement of any lawful permit, order or license.

4. PROHIBITION

- 4.1 Except as permitted under this Bylaw, no Person shall make, cause, permit or allow any Noise to be made from any Source in the Summer Village.
- 4.2 Without restricting the generality of section 4.1 above, except as permitted under this Bylaw, an Owner, Occupier or User of a Property shall not make, cause, permit or allow any Noise to be made from any Source in, or around such Property.

4.3 Notwithstanding sections 4.1 and 4.2 above, the following Noises shall be permitted under this Bylaw:

- a) Noises which warn or are intended to warn individuals of danger or emergencies;
- b) Noises which are made while performing work of an emergency nature for the preservation or protection of life, health or property;
- c) Noises which are made by Fireworks provided that such Noises are made during the time period from 6:00 p.m. to 12:30 am; and
- d) Noises which are made by Household Equipment provided that such Noises are made during the time period from 8:00 am to 10:00 pm.
- e) Noises which are made by Construction Equipment provided that such Noises are made during the time period from 8:00 am to 8:00 pm.

5. FINES AND ENFORCEMENT

5.1 A Person who contravenes any provision of this Bylaw is guilty of an offence pursuant to this Bylaw.

5.2 A Bylaw Enforcement Officer or a designated officer is hereby authorized to have the Right of Access to enter any Property for the inspection of conditions that may contravene or fail to comply with the provisions of this Bylaw.

5.3 Any Person who contravenes any of the provisions of this Bylaw may be issued a Remedy Order by a Bylaw Enforcement Officer or a designated officer to remedy the contravention in any manner deemed necessary in the circumstances.

5.4 When a condition exists which contravenes any of the provisions of this Bylaw, a Bylaw Enforcement Officer or a designated officer may:

- a) issue a warning notice to the Owner, Occupant or User of the Property in question, advising of the condition and directing as to what conditions are to be rectified within 14 days from the date of issuing the warning notice or as determined by the Bylaw Enforcement Officer or the designated officer; and/or
- b) issue a Remedy Order to the Owner, Occupant or User of the Property in question and direct that the condition be remedied within 14 days from the date of issuing the Remedy Order.

5.5 If any Owner, Occupant or User fails, neglects or refuses to remedy the condition as directed by a Bylaw Enforcement Officer or a designated officer, the Summer Village may cause the work to be performed to remedy the condition and, with respect to the costs of such work:

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- a) recover such costs from the Owner, Occupant or User as a debt due to the Summer Village; or
 - b) charge the costs against the Property in question as taxes due and owing in respect of the Property and recover the costs as such.
- 5.6 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 the amount established in accordance with section 5.7 below for each separate offence.
- 5.7 Notwithstanding whether a Remedy Order has been issued under this Bylaw, any Person who is guilty of an offence under this Bylaw is liable for a fine not less than the amount established in this section and not more than \$10,000. The following fine amounts are established for use in Municipal Tags and Violation Tickets (which offer a voluntary payment option):
- a) \$200 for any offence under this Bylaw; and
 - b) double the fine amount described above for any subsequent offence (which means an offence committed by a Person within one year after that Person has already been convicted of the same offence or has voluntarily paid a fine for the same offence).
- 5.8 With respect to an offence under this Bylaw, a Bylaw Enforcement Officer may issue a Municipal Tag or a Violation Ticket specifying the amount of the fine established in accordance with section 5.7 of above.
- 5.9 When a Municipal Tag is issued, the amount of the fine indicated therein may be paid in accordance with the Municipal Tag in lieu of prosecution.
- 5.10 When a Violation Ticket is issued with a specified penalty, the amount of the fine indicated therein may be paid in accordance with the Violation Ticket in lieu of prosecution.
- 5.11 Nothing in this Bylaw shall preclude a Bylaw Enforcement Officer from issuing a Violation Ticket for a mandatory court appearance to any Person who contravenes any provision of this Bylaw.
- 5.12 Nothing in this Bylaw shall preclude a Bylaw Enforcement Officer from laying charges under any alternate governing legislation.
- 6. REPEAL**
- 6.1 This Bylaw shall replace Bylaws 157 and 162 and Bylaws 157 and 162 are hereby repealed.

7. SEVERABILITY

Should any part of this Bylaw be found to have been improperly enacted, then such section or part shall be regarded as being severable from the rest of this Bylaw and the Bylaw remaining after such severance shall be effective and enforceable as if the section found to be improperly enacted had not been enacted as part of this Bylaw.

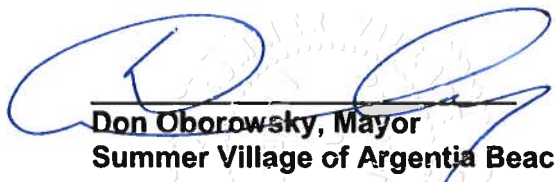
8. COMING INTO FORCE

7.1 This Bylaw shall come into full force and effect upon final passing.


Read a first time this 28st day of September, 2021.

Read a second time this this 28th day of September, 2021.

Read a third time and passed this this 2nd day of November 2021.



Don Oborowsky, Mayor
Summer Village of Argentia Beach



Sylvia Roy, Chief Administrative Officer
Summer Village of Argentia Beach