THE SUMMER VILLAGE OF SEBA BEACH
IN THE
PROVINCE OF ALBERTA

BY-LAW NO. 390

BEING A BY-LAW TO CONTROL NUISANCES

WHEREAS the Municipal Government Act, being Chapter M-26 of the Revised Statutes of Alberta, 1980, and amendments thereto, pursuant to Section 160 provides that the Council may pass by-laws to prevent and compel the abatement of nuisances generally; to regulate untidy and unsitely premises; to prohibit, eliminate or abate noise, and to establish permissable noise levels;

NOW THEREFORE, the Municipal Council of the Summer Village of Seba Beach, duly assembled, enacts as follows:

1. That By-law No. 364 is hereby repealed.

2. This By-law may be cited as the "Nuisances Control By-law" of the Summer Village of Seba Beach.

RESPONSIBILITIES OF OWNER, LESSEE, TENANT OR AGENT

3. Every person who is the owner, lessee, tenant or agent of the owner, of any land or premises within the Summer Village of Seba Beach, shall maintain the lands and premises of which he is the owner, lessee, tenant or agent, of the said lands or premises, in a clean, tidy and attractive condition, free from refuse, junk, or other unsitely or offensive materials.

4. No person being the owner, lessee, tenant, or agent of the owner of land or premises within the Summer Village of Seba Beach, shall permit the land or premises of which such person is the owner, lessee, tenant, or agent, to be or to remain a nuisance.

NO PILING, STORING MATERIAL OR EQUIPMENT ON VILLAGE PROPERTY

5. No person shall place, pile or store any material or equipment on village property. Any person placing or causing to be placed, any dirt, gravel, concrete equipment or any obstruction on village property shall remove or cause the removal thereof within twenty-four (24) hours. If the person fails to remove such matter within 24 hours after being notified to do so, Council may authorize the removal of the obstruction and completion of any necessary repairs, and charge the costs thereof to the person causing the obstruction.

AUTHORITY OF COUNCIL OF THE SUMMER VILLAGE OF SEBA BEACH

6. Council may, by resolution, declare that a condition on land or premises constitutes a nuisance or that the land or premises are in an untidy or unsitely condition and may require the owner, lessee, tenant, agent or person causing the nuisance to:

(a) remove any litter or unsitely materials causing or contributing to the untidy or unsitely condition of the land or premises;

(b) construct a fence, wall, screen or similar structure to prevent the untidy and unsitely land or premises from being viewed from any highway or any public place;

(c) cut the grass on a boulevard which abuts or flanks a property occupied by him, where such grass exists in an untidy or unsitely condition;

(d) eradicate excessive dandelions and/or noxious weeds or plants, existing on lands which abut or flank the property occupied by him, and to cut his grass on such abutting or flanking lands or on his own lands or premises, where the condition of the grass has become untidy or unsitely;

(e) to remove or prune trees or shrubs on the individual's lands or otherwise, that in any way interfere with or endanger the lines, poles, conduits, pipes, sewers, or other works of the Summer Village of Seba Beach, or of any public utility, or;

(f) remedy the condition in such other manner as Council may direct;

Within the time period specified in the Resolution.

7. In the event that an owner, lessee, tenant, or agent of the owner, fails, neglects or refuses to comply with the Resolution passed by Council pursuant to Subsection (1), Council may:

(a) cause any work necessary to remedy the condition to be done; and

(b) Charge the cost of the work to be done to the owner, lessee, occupier or agent, and in default of payment the council may:

(i) recover the cost as a debt due to the municipality;

or

(ii) charge the cost against the land concerned as taxes due and owing in respect of that land and recover the cost as such.

8. Council hereby authorizes the Summer Village of Seba Beach By-law Enforcement Officer to enter any lands, building or premises to inspect conditions that may constitute a nuisance, or contravene or fail to comply with the provisions of this by-law.

NOISE CONTROL

9. No person, corporation, partnership, association or society, shall allow property under his control or owned by him to be used so that there originates from that property any noise which disturbs the peace, comfort or repose of other persons within the limits of the Summer Village of Seba Beach.

10. No owner, lessee, tenant, or agent of the owner shall allow or cause to be created at any time within the Summer Village of Seba Beach, either by the exercise of his own vocal powers, or by the use of any mechanical or artificial means, which noise disturbs the peace, comfort or repose of other persons within the Summer Village of Seba Beach, or which can be considered excessive under the circumstances; excepting therefrom, the use of a public address system, which use has been authorized by the Council of the Summer Village of Seba Beach.

11. A court may enter a conviction against a person for violating the noise provisions of this by-law, notwithstanding the fact that the noise complained of did not exceed the DBA permitted for that area, where the Court is satisfied that the noise complained of disturbed peace, comfort or repose of any person or persons within the Summer Village of Seba Beach.

12. A person may be found guilty of violating this part of the by-law whether or not the noise level has been measured by an approved device.

13. The Summer Village of Seba Beach may direct any person or eliminate any noise contravention of this by-law by service of a Notice of Abatement upon the person. Any person served with a Notice of Abatement shall comply with the notice.

NOTICE

14. The Council of the Summer Village of Seba Beach, or a By-law Enforcement Officer authorized by the Council of the Summer Village of Seba Beach, shall provide every owner, lessee, tenant or agent of the owner, charged under this by-law, with written notice of the charge by serving this notice personally upon the individual, or by sending the notice, by single registered mail to his last known address.

APPEAL

15. Any owner, lessee, tenant, or agent of the owner who receives a direction requiring him to abate a nuisance, or remedy any condition that constitutes, or who contravenes or fails to comply with this by-law, and who thinks himself aggrieved, may appeal the direction provided for within the notice, to the Council, within ten (10) days of the date of which the direction was served on the individual, by delivering in person, or sending by certified mail, to the municipal secretary, the individual's Notice of Appeal.

PENALTIES

16. Any owner, lessee, tenant, or agent of the owner of land or premises within the Summer Village of Seba Beach:

(a) who fails to remedy in such a manner as Council may direct, a condition of his land or premises that fails to comply with the provisions of this By-law, or

(b) who contravenes or fails to comply with the provisions of this by-law,

(i) may, be issued with an offence ticket, tag, notice or summons, charging the owner, agent, lessee, occupier of any land or premise, with an offence pursuant to this by-law;

(ii) The offence ticket, tag, notice or summons, may be issued by personally serving it upon the alleged offender or by leaving it at the residence of the alleged offender, or by sending it to the alleged offender by registered mail to his last known post office address.

(iii)The offence ticket, tag, notice or summons shall specify the fine payable for the offence which shall be a minimum of Twenty-five Dollars but shall in no event exceed the sum of Five Hundred Dollars.

(iv) Upon production of the offence ticket, tag, notice or summons, pursuant to this section, within ten (10) days from the date of issue, together with payment, to the Summer Village of Seba Beach Administration Office, of the fine, as specified, upon the offence ticket, tag, notice or summons, the person to whom the offence ticket was issued shall not be liable for prosecution for the contravention in respect of which the offence ticket, tag, notice or summons was issued.

(v) Notwithstanding the provisions of this Section, a person to whom an offence ticket, tag, notice or summons, has been issued pursuant to this Section may exercise his right to defend any charge of committing a contravention of any of the provisions of this by-law.

SUMMARY CONVICTION

17. A person who contravenes a provision of this By-law is guilty of an offence, and liable upon summary conviction to a fine, which shall be a minimum of Twenty-five Dollars but shall not exceed Five Hundred Dollars, together with the cost of summary conviction proceedings, and upon failure to pay the fine and costs, to imprisonment for a period not exceeding Thirty (30) days, unless such fine and costs of committal are sooner paid.

18. The levying and payment of any fine or the imprisonment for any period provided in this By-law shall relieve a person from the necessity of paying any fees, charges, or costs for which he is liable under the provisions of this by-law.

SEVERABILITY OF BY-LAW PROVISIONS

19. It is the intention of the Council of the Summer Village of Seba Beach that each separate provision of this by-law shall be deemed independent of all other provisions, and it is further the intention of the Council of the Summer Village of Seba Beach that if any provisions of this By-law be declared invalid, all other provisions shall remain valid and enforceable.

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READ A FIRST TIME THIS 26TH DAY OF NOVEMBER A.D. 1991

READ A SECOND TIME THIS 26TH DAY OF NOVEMBER A.D. 1991

READ A THIRD TIME AND DULY PASSED THIS 20TH DAY OF DECEMBER A.D. 1991

Robert M. Newson, Mayor

Susan H. Dzus, Administrator