

Bylaw No. 384-17

COMMUNITY STANDARDS BYLAW

BEING A BYLAW OF THE TOWN OF PONOKA IN THE PROVINCE OF ALBERTA TO REGULATE NEIGHBOURHOOD NUISANCE, SAFETY AND LIVABILITY ISSUES

WHEREAS the *Municipal Government Act*, R.S.A. 2000, c. M-26, authorizes a council to pass bylaws for municipal purposes respecting the safety, health and welfare of people and the protection of people and property;

AND WHEREAS the *Municipal Government Act* authorizes a council to pass bylaws for municipal purposes respecting nuisances, including unsightly property;

AND WHEREAS Council believes the regulation of nuisances through a Community Standards Bylaw would benefit the community as a whole;

AND WHEREAS the *Municipal Government Act* authorizes a council to pass bylaws for municipal purposes respecting people, activities and things in, on or near a Public Place or a place that is open to the public;

AND WHEREAS the *Municipal Government Act* authorizes a council to pass bylaws for municipal purposes respecting the enforcement of bylaws made under the *Municipal Government Act* or any other enactment;

AND WHEREAS Council deems it desirable for regulations which affect community standards to be located, as much as possible, in one Bylaw;

AND WHEREAS section 66(2) of the *Safety Codes Act*, R.S.A. 2000, c. S-1, authorizes a Council to pass bylaws respecting minimum maintenance standards for buildings and structures and unsightly or derelict buildings or structures; and

NOW THEREFORE, Council of the Town of Ponoka, in the Province of Alberta, duly assembled, enacts:

PART I – PURPOSE, DEFINITIONS AND INTERPRETATIONS

BYLAW TITLE

1. This Bylaw shall be known as the “Community Standards Bylaw”.

DEFINITIONS

2. In this Bylaw, unless the context otherwise requires:
- a. **“Boulevard”** means that part of a highway that:
 - i. is not a roadway; and
 - ii. is that part of the sidewalk that is not especially adapted to the use of or ordinarily used by pedestrians;
 - b. **“Bullying”** means repeated verbal or physical abuse, threats, taunts, teasing, name calling or repeated abusive communication, direct or through any medium whatsoever;
 - c. **“Bylaw Enforcement Officer”** means a Bylaw Enforcement Officer appointed by the Town pursuant to the *Municipal Government Act* to enforce Town Bylaws, and includes a member of the Royal Canadian Mounted Police and, when authorized, a Community Peace Officer appointed under the *Peace Officer Act*, S.A. 2006, c. P-3.5;
 - d. **“Graffiti”** means words, figures, letters or drawings scribbled, scratched or sprayed on a surface and stickers or other adhesive materials affixed on a surface with or without the consent of the Person who Owns or Occupies the Property on which they are placed;
 - e. **“Graffiti Instruments”** mean any tool, instrument, article, solution or compound designed or commonly used to scribble, scratch, spray or otherwise mark a surface.
 - f. **“Highway”** has the same meaning as in the *Traffic Safety Act*, R.S.A. 2000, c. T-6;
 - g. **“Loiter”** means to linger aimlessly in or about a place, or remain in an area for no obvious reason;
 - h. **“Motor Vehicle”** has the same meaning as in the *Traffic Safety Act*;
 - i. **“Municipal Tag”** means a tag or similar document issued by the Town pursuant to the *Municipal Government Act* that alleges a bylaw offence and provides a person with the opportunity to pay an amount to the Town in lieu of prosecution for the offence;
 - j. **“Occupy”** or **“Occupies”** means residing on or to be in apparent possession or control of Property;

- k. **“Own” or “Owns”** means
- i. in the case of land, to be registered under the Land Titles Act, R.S.A. 2000, c. L-4, as the owner of the fee simple estate in a parcel of land; or
 - ii. in the case of personal property, to be in lawful possession or have the right to exercise control over it or to be the registered owner of it;
- l. **“Panhandling”** means to ask for a gratuitous donation of money, food, or goods of any kind, whether by spoken or printed word, or bodily gesture, but does not include the solicitation of charitable donations allowed or authorized pursuant to the *Charitable Fundraising Act*, R.S.A. 2000, c. C-9, or any other legislation permitting the solicitation of charitable donations;
- m. **“Person”** means any individual, firm, partnership, association, corporation, trustee, executor, administrator or other legal representative;
- n. **“Pesticide”** means any herbicide, insecticide or fungicide or other product regulated under the Environmental Protection and Enhancement Act, RSA 2000, Chapter E-12.
- o. **“Property”** means:
- i. In the case of land, a parcel of land including any buildings; or
 - ii. In other cases, personal property;
- p. **“Public Place”** means any Property, whether publicly or privately owned, to which members of the public have access as of right or by express or implied invitation, whether on payment of any fee or not;
- q. **“Sidewalk”** means that part of the highway especially adapted to the use of or ordinarily used by pedestrians and includes that part of a highway between the curb line or, where there is no curb line, the edge of the roadway, and the adjacent property line whether or not it is paved or unpaved;
- r. **“Town”** means the Town of Ponoka.
- s. **“Town Manager”** means the Chief Administrative Officer for the Town or his delegate.
- t. **“Violation Ticket”** has the same meaning as in the *Provincial Offences Procedure Act*, R.S.A. 2000, c. P-34.
- u. **“Weapon”** means any item used, designed to be used or intended for use in causing death or injury to any other person, or for the purpose of threatening or intimidating any person.
- v. **“Youth”** means a person of 12 to 17 years of age.

RULES FOR INTERPRETATION

3. Nothing in this bylaw relieves a person from complying with any provision of any Federal or Provincial legislation or regulation, other bylaw or any requirement of any lawful permit order or license.
 - 3.1 The headings of this bylaw are for guidance purposes and convenience only.
 - 3.2 Every provision of this bylaw is independent of all other provisions and if any provision of this bylaw is declared invalid by a Court of competent jurisdiction, all other provisions of this bylaw shall remain valid and enforceable.
 - 3.3 Any reference to a provision of a statute of Alberta is a reference to that statute as amended from time to time.

PART II – PUBLIC BEHAVIOURS

LITTERING

4. No Person shall leave any garbage, litter or other refuse in a Public Place except in a receptacle designated and intended for such use.

FLYERS

5. No Person shall place, deposit or throw upon or into any Motor Vehicle any leaflet, pamphlet, poster, handbill, flyer or any paper containing printed or written matter, whether advertising or not, with the exception of a Municipal Tag or Violation Ticket issued pursuant to lawful authority.
6. No Person shall deposit or post any leaflet, pamphlet, poster, handbill, flyer or any paper containing printed or written matter, whether advertising or not on a Property where signs or notices have been posted and are clearly visible at the entrance to a dwelling unit, indicating that such material is not wanted.

SPITTING/URINATING

7. No Person shall urinate or defecate in any Public Place except in a facility designed and intended for such use.
8. No Person shall spit at any Person or on any Public Place or private Property they do not own.

DANGEROUS ACTIONS

9. No Person shall throw or propel an object, or act in any other way, in a Public Place that is reasonably likely to cause injury to another Person or damage Property that they do not own.

FIGHTING

10. No Person shall participate in a fight or other similar physical confrontation in a Public Place. This section does not apply to participants of an organized sporting event who are governed by the rules of conduct of that sporting event.

BULLYING

11. No Person shall participate in or encourage by verbal or other means in the Bullying of any other Person in any Public Place.

WEAPONS

12. No Person shall possess a Weapon in any Public Place.

LOITERING

13. No Person shall Loiter in a Public Place so as to obstruct or harass any other Person.

PANHANDLING

14. No Person shall engage in Panhandling.

GRAFFITI

15. A Person shall not place Graffiti or cause it to be placed on any Property.
16. No Person shall possess Graffiti Instruments.
17. Every Owner or Occupant of Property shall, within a reasonable time, ensure that Graffiti placed on their Property is removed, painted over, or otherwise permanently blocked from public view.

PART III – PROPERTY MAINTENANCE

DEFINITIONS

18. In this Part:
- a. **“Building”** includes a structure and any part of a building or structure placed in, on or over land whether or not it is so affixed to become transferred without special mention by a transfer or sale of that land;
 - b. **“Unsightly” or “Untidy”** means:
 - i A Property that because of its condition or the accumulation of refuse is detrimental to the use and enjoyment of the surrounding area or neighboring properties;
 - ii In respect of a structure, includes a structure whose exterior shows signs of significant physical deterioration, serious disregard for general maintenance, upkeep or repair, or which constitutes a Nuisance;
 - iii In respect of land, includes land that shows signs of a serious disregard for general maintenance or upkeep, or which constitutes a Nuisance; or
 - iv. In an unsightly condition within the meaning of S. 546 of the *Municipal Government Act*.

NUISANCE

19. No Person shall cause or permit a nuisance to exist on Property they Own or Occupy.
20. For the purpose of greater certainty a nuisance means Property that shows sign of a serious disregard for general maintenance and upkeep, whether or not it is detrimental to the surrounding area, examples of which include:
- (a) excessive accumulation of material including but not limited to building materials, appliances, household goods, boxes, tires, vehicle parts, whether of any apparent value or not;
 - (b) any loose litter, garbage, construction debris or refuse whether located in a storage area or elsewhere on the land;
 - (c) damaged, dismantled or derelict Motor Vehicles or trailers, whether insured or registered or not;
 - (d) production of any generally offensive odors;

- (e) creation of any condition that attracts animals, pests or other vermin;
- (f) smelly or messy compost heaps;
- (g) grass higher than 20 centimetres;
- (h) excessive weeds;
- (i) production of excessive dust, dirt or smoke;
- (j) use of any pesticide or any similar substance which has significant detrimental or environmental effects on surrounding areas;
- (k) any tree, shrub, other type of vegetation or any structure;
 - (i) that interferes or could interfere with any public work or utility;
 - (ii) that obstructs any Sidewalk adjacent to the Property;
 - (iii) that impairs the visibility required for safe traffic flow at any intersection adjacent to the Property; or
 - (iv) that has any rot or other deterioration;
- (l) any accessible excavation, ditch, drain or standing water that could pose a danger to the public;
- (m) exterior damage, rot or other deterioration to a Building, including but not limited to peeling, unpainted or untreated surfaces, missing siding, shingles, windows or doors, or any other hole or opening in the Building; or

SIDEWALKS

- 21. A Person shall remove snow and ice from any Sidewalk adjacent to Property they Own or Occupy within 48 hours after the snow or ice has been deposited.
- 22. If a Person fails to comply with Section 24 the Town may arrange to have the Sidewalk cleared and the expenses incurred by the Town for removing the snow and ice shall be paid upon demand and, if unpaid, may be added to the tax roll of the adjacent Property.
- 23. A Person shall not deposit snow, ice dirt, debris, or other material upon any Highway, Public Place or Property that is not their own, except where authorized by the Town Manager or his designate.

BOULEVARDS

- 24. A Person shall maintain any Boulevard adjacent to land they Own or Occupy by:

- a. keeping any grass on the Boulevard cut to a length of no more than 20 centimetres;
- b. removing any accumulation of fallen leaves or other debris; and
- c. notifying the Town if tree maintenance is required.

UNOCCUPIED BUILDINGS

25. If a Building normally intended for human habitation is unoccupied then any door or window opening in the Building may be covered with a solid piece of wood but only if the wood is:
 - a. installed from the exterior and fitted within the frame of the opening in a watertight manner;
 - b. of a thickness sufficient to prevent unauthorized entry into the Building;
 - c. secured in a manner sufficient to prevent unauthorized entry into the Building; and
 - d. coated with an opaque protective finish in a manner that is not detrimental to the surrounding area.

CONSTRUCTION WASTE

26. Each construction site shall have a waste container to ensure that waste construction materials are placed in the container to prevent the material from being blown away from the construction site.
27. No Person shall allow loose construction material to be stored or accumulated on a construction site they Own or Occupy unless it is:
 - a. stacked or stored on the Property in an orderly manner; and
 - b. not capable of being blown around the construction area or off the construction site.

REPAIR OF MOTOR VEHICLES

28. A Person shall not conduct any repair work on Motor Vehicles, including mechanical repairs, auto body work, frame repair, collision repair, auto painting, auto detailing or modifications to the body or rebuilding of a Motor Vehicle, on any land in a residential district.
29. This prohibition shall not apply to routine maintenance work performed on any Motor Vehicles owned, operated or registered in the name of the Person who Owns or Occupies the Property on which the work is being performed, provided that:
 - a. the work is done in a garage that is capable of having the doors and windows closed;

- b. the activity does not create a Nuisance or noise complaints from neighbors;
- c. there is no escape of offensive, annoying or noxious odors, fumes or smoke from the Property;
- d. vehicle fluids oil, gasoline products or other hazardous materials are properly stored and disposed of and not swept or washed into lanes, streets, or down storm sewers;
- e. all discarded vehicle parts and materials are properly stored and disposed of from the Property;
- f. no power washing of motor or power train is performed on the Property; and
- g. all building and fire code regulations are met.

REFRIGERATORS AND FREEZERS

- 30. No Person shall place, cause or permit to be placed a refrigerator freezer or other similar appliance on land they Own or Occupy unless effective measures have been taken to prevent the opening and closing of the appliance.
- 31. Without limiting the generality of the foregoing section, measures considered to be effective may include, but are not limited to, the following:
 - a. the removal of the door from the appliance;
 - b. The removal of the door handle mechanism if this prevents opening and closing of the door;
 - c. the removal of the door hinges;
 - d. the locking of the appliance; or
 - e. otherwise wrapping or containing the appliance so that the interior is inaccessible.

PART IV – NOISE CONTROL

DEFINITIONS

- 32. In this Part:
 - a. **“Noise”** means any sound that is reasonably likely to disturb the peace of others;

PROHIBITED NOISE

33. No Person shall cause or permit any Noise that disturbs the peace of any other Person.
34. No Person shall cause or permit Property they Own or Occupy to be used so that Noise from the Property disturbs the peace of any other Person.

CRITERIA

35. In determining what sound is reasonably likely to disturb the peace of others the following criteria may be considered:
 - a. type, volume, and duration of the sound;
 - b. time of day and day of week; and
 - c. nature and use of the surrounding area.

CONSTRUCTION ACTIVITY

36. No Person shall cause or permit any construction activity on Property they Own or Occupy before 7:00 a.m. or after 10:00 p.m.

GARBAGE COLLECTION

37. No Person shall collect, cause or permit the collection of garbage with a Motor Vehicle on or adjacent to any Property zoned for residential use before 7:00 a.m. or after 10:00 p.m.

ENGINE RETARDER BRAKES

38. No Person shall use engine retarder brakes to slow or stop a Motor Vehicle at any time.

MOTOR VEHICLES

39. If a Motor Vehicle is the cause of any sound that contravenes a provision of this Bylaw, the Owner of that Motor Vehicle is liable for the contravention.

This section does not apply if the Owner, on a balance of probabilities, satisfies the court that, at the time the Motor Vehicle was involved in the contravention, the Owner did not have care and control of the Motor Vehicle and no other person was operating the Motor Vehicle with the Owner's expressed or implied consent.

EXCEPTIONS

40. Nothing in this Part prohibits:
- a. a person who is an employee or authorized agent of the Town from producing certain sounds while acting within the scope of their functions, duties or powers; or,
 - b. situations where the Town Manager has issued a permit allowing the production of certain sounds on whatever conditions the Town Manager deems appropriate.

PART V – CURFEW

41. DEFINITIONS

In this bylaw, unless the context otherwise requires:

- a) “*Child*” shall mean a person who is or who appears to be under 16 years of age.
- b) “*Curfew Period*” shall mean the period of time between 11:00 p.m. one day and 6:00 a.m. the following day.
- c) “*Parent or Guardian*” shall mean the Parent, Guardian or foster Parent of a child or shall include any other person 18 years of age or over having the care and control of a child.
- d) “*Public Place*” shall mean any place to which the public have or are permitted to have access including, but not limited to streets, public lanes, public buildings or any private property to which the public has access.

GENERAL

42. No Child shall be in a Public Place during the Curfew Period unless accompanied by a Parent or Guardian.
43. No Parent or Guardian shall suffer, permit or allow any Child who is in his or her custody, care or control to be in a Public Place during the Curfew Period unless that Child is accompanied by a Parent or Guardian.
44. Notwithstanding anything contained herein, it shall not be an offence under this bylaw for a Child to be in a Public Place during the Curfew Period while acting in the interests of an employer or voluntary organization or while returning home as soon as reasonably practical from an organized recreation or other event which has been supervised by an adult.

PART VI – ENFORCEMENT

OFFENCE

45. Any Person who contravenes any provisions of this Bylaw is guilty of an offence and liable upon summary conviction:
- a. for the first offence, to a specified penalty as set out in Schedule “A” attached hereto and forming part of this Bylaw;
 - b. for the second or subsequent offence occurring within one year of the date of conviction for a first offense, a specified penalty of double the original penalty as set out in Schedule “A” attached hereto and forming part of this Bylaw;
 - c. where no specific penalty is specified, a penalty of not less than One Hundred (\$100.00) Dollars and not more than Two Thousand Five Hundred Dollars (\$2,500.00) may be imposed by the Court.
 - d. When a Youth is convicted of Bullying and before sentencing, the prosecutor shall, instead of or in addition to seeking a fine be imposed, request the Court for a probation order with a condition that the convicted Youth attend, with or without a Parent or Guardian, anti-bullying training or similar counselling or education program for a period as is appropriate.

MUNICIPAL TAG

46. A Bylaw Enforcement Officer is hereby authorized and empowered to issue a Municipal Tag to any Person who the Bylaw Enforcement Officer has reasonable and probable grounds to believe has contravened any provisions of this Bylaw.
47. Where a Municipal Tag is issued pursuant to this Bylaw, the Person to whom the Municipal Tag is issued may, in lieu of being prosecuted for the offence, pay the Town the penalty specified on the Municipal Tag.

VIOLATION TICKET

48. If the penalty specified on the Municipal 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 Procedure Act*.
49. Notwithstanding anything else in this Bylaw, a Bylaw Enforcement Officer is hereby authorized and empowered to immediately issue a Violation Ticket pursuant to the *Provincial Offences Procedures Act* to any Person who the Bylaw Enforcement Officer has reasonable grounds to believe has contravened any provisions of this Bylaw.

50. If a Violation Ticket is issued in respect of an offence, the Violation Ticket may;
- a. Specify the fine amount established by this Bylaw for the offence; or
 - b. Require a Person to appear in court without the alternative of making a voluntary payment.

CONTINUING OFFENCE

51. In the case of an offence that is of a continuing nature, a contravention of a provision of this Bylaw 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 that established by this Bylaw for each such day.

VICARIOUS LIABILITY

52. For the purposes of this Bylaw, an act or omission by an employee or agent of a Person is deemed also to be an act or omission of the Person if the act or omission occurred in the course of the employee's employment with the Person, or in the course of the agent exercising the powers or performing the duties on behalf of the Person under their agency relationship.

CORPORATIONS AND PARTNERSHIPS

53. When a corporation commits an offence under this Bylaw, every principal, director, manager, employee or agent of the corporation who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence whether or not the corporation has been prosecuted for the offence.
54. If a partner in a partnership is guilty of an offence under this Bylaw, each partner in that partnership who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence, is guilty of the offence.

OBSTRUCTION

55. No Person shall obstruct or hinder any Person in the exercise or performance of the Person's powers pursuant to this Bylaw.

PART VI – GENERAL

AUTHORITY OF THE TOWN MANAGER

56. Without restricting any other power, duty or function granted by this Bylaw, the Town Manager may:
- a. carry out any inspections to determine compliance with this Bylaw;
 - b. take any steps or carry out any actions required to enforce this Bylaw;
 - c. take any steps or carry out any actions required to remedy a contravention of this Bylaw;
 - d. establish investigation and enforcement procedures with respect to residential, commercial, industrial or other types of property and such procedures may differ depending on the type of property in question;
 - e. establish areas where activities restricted by this Bylaw are permitted;
 - f. establish forms for the purposes of this Bylaw;
 - g. issue permits with such terms and conditions as are deemed appropriate;
 - h. establish the criteria to be met for a permit pursuant to this Bylaw;
 - i. delegate any powers, duties or functions under this Bylaw to an employee of the Town; and

PERMITS

57. A Person to whom a permit has been issued pursuant to this Bylaw, and any Person carrying out an activity otherwise regulated, restricted or prohibited by this Bylaw pursuant to such permit, shall comply with any terms or conditions forming part of the permit.
58. No Person shall make any false or misleading statement or provide any false or misleading information to obtain a permit pursuant to this Bylaw.
59. If any term or condition of a permit issued pursuant to this Bylaw is contravened or if a false or misleading statement or false or misleading information was provided to obtain the permit, the Town Manager may immediately cancel the permit.

PROOF OF PERMIT

60. The onus of proving a permit has been issued in relation to any activity otherwise regulated, restricted or prohibited by this Bylaw is on the Person alleging the existence of such a permit on a balance of probabilities.

CERTIFIED COPY OF RECORD

61. A copy of a record of the Town, certified by the Town Manager as a true copy of the original, shall be admitted in evidence as prima facie proof of the facts stated in the record without proof of the appointment or signature of the person signing it.

PART VII – TRANSITIONAL PROVISIONS

REPEALS

62. The following bylaws, and their amendments where applicable, are repealed upon passage of this Bylaw:
- a. Bylaw No. 025-98 Noise
 - b. Bylaw No. 089-00 Nuisance (unsightly & untidy premises)
 - c. Bylaw No. 248-08 Curfew

ENACTMENT

63. This Bylaw shall come into force and effect when it receives Third Reading and is duly signed.

First Reading:

Second Reading:

Third Reading:

MAYOR

CHIEF ADMINISTRATIVE OFFICER

Section	Description of Offence	Penalty 1st Offence	Penalty 2nd Offence	Penalty 3rd Offence
4	Littering	250	500	1000
5	Distributing Flyers on Vehicles	75	150	300
6	Distributing Flyers at Property	75	150	300
7 & 8	Urinating or Defecating in Public	250	500	1000
9	Throwing or Propelling an object in Public	350	500	1000
10	Fighting in Public	250	500	10008
11	Bullying	250	500	1000
12	Possessing a Weapon	500	1000	2500
13	Loitering in Public	250	500	1000
14	Panhandling outside approved hours	250	500	1000
15	Applying or Creating Graffiti	500	1000	2500
16	Possessing Graffiti Instruments	250	500	1000
17	Failing to Remove Graffiti	250	500	1000
19	Nuisance Property	250	500	1000
20(a)	Accumulation of building materials, household goods, tires, parts	250	500	1000
20(b)	Accumulation of any loose litter or construction materials	250	500	1000
20(c)	Accumulation of damaged, dismantled or derelict Motor Vehicles or trailers	250	500	1000
20(d)	Production of offensive odors	250	500	1000
20(e)	Condition that attracts, animals, pests or other vermin	250	500	1000
20(f)	Smelly or messy compost heaps	250	500	1000
20(g)	Grass higher than 20 centimetres	250	500	1000
20(h)	Excessive weeds	250	500	1000
20(i)	Production of excessive dust, dirt or smoke	250	500	1000
20(j)	Use of pesticide with detrimental effects on surrounding area	250	500	1000
20(k)	Obstructive trees, shrubs and vegetation	250	500	1000
20(l)	Ditches/standing water causing public danger	250	500	1000
20(m)	Exterior building deterioration including rot, peeling paint, holes	250	500	1000
21/22	Failing to remove Snow and Ice Sidewalks	250	500	1000
23	Placing now, dirt, debris or other materials upon any portion of the highway or any other Public Place	250	500	1000
24	Failing to Maintain Boulevards	250	500	1000
25	Failing to Secure Unoccupied Building	250	500	1000
26	No Waste Container on Construction Site	250	500	1000

27	Construction Material Not Neatly Stacked or Stored	250	500	17 1000
27	Waste Material Blown Off Construction Site	250	500	1000
28/29	Repairing Motor Vehicles in a residential district	250	500	1000
30/31	Failing to Secure Appliances	250	500	1000
33/34	Person causing excessive noise	250	500	1000
36	Prohibited Construction Activity	250	500	1000
37	Prohibited Garbage Collection	250	500	1000
38	Engine Retarder Brakes	250	500	1000
39	Motor Vehicle Noise	250	500	1000
45-47	Breach of curfew	100	200	200
55	Obstruction of Enforcement	500	1000	1500