

TOWN OF PENHOLD

BYLAW NUMBER 650/10

COMMUNITY STANDARDS BYLAW

Being a Bylaw of the Town of Penhold in the Province of Alberta to prohibit certain activities in order to prevent and compel the abatement of noise, nuisances, unsightly premises and public disturbances.

The Council of the Town of Penhold, in the Province of Alberta, duly assembled, enacts the following:

SECTION 1~ SHORT TITLE:

This Bylaw will be cited as the “Community Standards Bylaw”.

SECTION 2 ~ DEFINITIONS:

“**Bullying**” means verbal or physical abuse, threats, taunts, teasing, name calling or abusive communication, direct or through any medium whatsoever;

“**Chief Administrative Officer**” means the person appointed to act in the position Chief Administrative Officer for the Town or a person designated to act on the Chief Administrative Officer’s behalf;

“**Child**” means an individual who is under 15 years of age.

“**Development Authority**” means the person, commission or organization authorized to exercise development powers and perform duties on behalf of the Town.

“**Graffiti**” means the defacement or disfigurement of any property or object, through the performance of any of the following acts:

- a) the application of any substance, including paint, ink, stain or whitewash to any surface; or
- b) the affixing of any substance, including paper, fabric or plastic, by any form of adhesion that does not remove cleanly when pulled away from the applied surface; or
- c) the marking, scratching, etching or other alteration or disfigurement of any surface.

“Guardian” means the actual parent, guardian or foster parent of a child and shall include any other person, 18 years of age or over, having the care and control of a child.

“Peace Officer” means a Community Peace Officer, Bylaw Enforcement Officer, RCMP Officer or other person appointed and authorized by the Town to enforce Bylaws of the Town;

“Public Place” means any place, including privately owned or leased property, to which the public reasonably has or is permitted to have access.

“Premises” means any land situated in whole or in part within the Town;

“Provincial Offences Procedure Act” means the Provincial Offences Procedure Act, R.S.A. 2000, c. P-34, and the regulations thereof, as amended or replaced from time to time;

“Youth” means an individual 12 to 17 years of age;

SECTION 3- NOISE

- (1) No person shall cause or permit any noise that annoys or disturbs the peace of any other person.
- (2) No person shall permit property that they own or control to be used so that noise from the property annoys or disturbs the peace of any other person.
- (3) No person shall yell, scream, or swear in any public place.
- (4) In determining what constitutes noise likely to annoy or disturb the peace of other persons, consideration may be given, but is not limited to:
 - (a) type, volume and duration of the sound;
 - (b) time of day and day of the week;
 - (c) nature and use of the surrounding area.
- (5) No owner or manager or other person in charge of premises where liquor is served to the public shall permit any noise to emanate from such premises such that it annoys or disturbs any person outside the boundary of the premises. Section 3(4) of this Bylaw applies to this provision.
- (6) No person may activate or apply engine retarder brakes in the Town, except persons operating Town Emergency Services vehicles in the course of responding to an emergency situation or training drivers in the use of retarder brakes.

SECTION 4 ~ INDUSTRIAL NOISE

- (1) Nothing in this Bylaw shall prevent the continual operation or carrying on of an industrial activity where the activity is one which:
 - a. is a permitted use; or
 - b. is an approved discretionary use.
- (2) In the operation or carrying on of an industrial activity, the person operating or carrying on that activity shall make no more noise than is necessary in the normal method of performing or carrying on that activity

SECTION 5 ~ CONSTRUCTION NOISE

- (1) Unless permission from the Town Development Authority is first obtained, no person shall carry on the construction of any type of structure which involves hammering, sawing or the use of any mechanical tools or equipment capable of creating a sound which may be heard beyond the boundaries of the site on which the activity is being carried on in any district, other than the district designated in the Land Use Bylaw as an industrial district, between the hours of 10:00 p.m. and 7:00 a.m. on any day except Sunday, and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays.
- (2) Unless permission from the Town Development Authority is first obtained, no person shall use, operate or allow to be used or operated any machinery or equipment so as to create a noise, or disturbance which may be heard in a residential building between the hours of 10:00 p.m. and 7:00 a.m. on any day except Sunday, and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays.

Exceptions:

- (3) The provisions in Section 5(1) and (2) do not apply to work carried on by the Town, or by a contractor carrying out the instructions of the Town.
- (4) The provisions in Section 5(1) and (2) do not apply to contractors carrying out snow removal from commercial or industrial sites which are not adjacent to residential districts.
- (5) In the case of snow removal from commercial or industrial sites located adjacent to residential districts, and where in the reasonable opinion of the Development Authority it is necessary to ensure the peace and quiet of residents, the Development Authority may require noise abatement practices including one or both of the following conditions:
 - (a) a requirement that snow not be removed between 12:00 a.m. and 06:00 a.m.;

- (b) a requirement that snow be removed from a site in a sequence which is least disruptive to the peace and quiet of residents.

SECTION 6~NUISANCE & UNSIGHTLY PROPERTY

- (1) Nuisance and unsightliness for the purpose of this Bylaw includes any use of, or activity upon, any property such that the condition of the property is offensive to any person, or shows signs of disregard for general maintenance and upkeep, or is unsightly, or has or may have a detrimental impact upon any person or other property in the neighbourhood, and without limiting the generality of the foregoing, includes the following:
 - (a) the failure to maintain grass, weeds, shrubs, trees or other landscaping features incidental to a landscaped area;
 - (b) the failure to destroy restricted weeds, control noxious weeds, or prevent the spread or scattering of nuisance weeds;
 - (c) the growth of trees or shrubs in such a manner that they interfere with or endanger visibility to street signage or sidewalk roadway clearance;
 - (d) the storage or accumulation of any material, that creates unpleasant odours, any material that attracts pests, or any animal remains, parts of animal remains or animal feces;
 - (e) the storage or accumulation of, or failure to dispose of, discarded or dilapidated furniture or household appliances, loose garbage, rubbish, packaging material, scrap metals, scrap lumber, tires, parts of disassembled machinery, equipment or appliances and motor vehicle parts;
 - (f) the causing of opaque or dense smoke and permitting such smoke to be emitted into the atmosphere for a period in excess of 6 minutes in any one hour, or at a point other than the opening to the atmosphere of the flue, stack or chimney, unless specifically authorized by the Chief Administration Officer;
 - (g) the generation of excessive dust and permitting such dust to escape from the property;
 - (h) the use of any pesticide or herbicide which has significant detrimental or environmental effects on surrounding areas;
 - (i) the storage or accumulation of any damaged, dismantled, dilapidated or derelict vehicle or motor vehicle, whether registered or insured or not, on any residential or commercial site, except vehicles that are stored in an approved accessory or temporary building;

- (j) the failure to maintain an accessory building, structure or fence such that it deteriorates, becomes unsightly or becomes a safety hazard;
 - (k) the failure to fence or secure an excavation, culvert, ditch or other depression so that it does not become a danger to public safety;
 - (l) the posting or exhibiting of posters, signs, billboards, placards, writings or pictures upon any fence or wall on any property, where the same are dilapidated and in an unsightly condition;
 - (m) the burning of anything other than dry, untreated, clean wood in a residential wood fireplace or an approved fire pit.
- (2) No person being an owner, agent of the owner, lessee or occupier of any property within the Town shall permit such property, or the activities upon such property to be or remain a nuisance, unsightly or a safety hazard.

Construction Waste

- (3) (a) Each construction site shall have a waste container to ensure that waste construction materials are placed in the container and completely covered over when not in use to prevent the material from being blown away from the construction site.
- (b) No loose construction material is to be stored or accumulated on a construction site unless it is not capable of being blown around the construction area.

Repair of Motor Vehicles

- (4) (a) No person may 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 site in a residential district;
- (b) This prohibition shall not apply to routine maintenance work, such as oil changes, done on any vehicles owned, operated and registered in the name of the owner or occupant of premises, provided that:
- (i) the work is done in a garage that is capable of having the doors and windows closed;
 - (ii) the activity does not create a nuisance or noise complaints from neighbourhood;
 - (iii) there is no escape of offensive, annoying or noxious odours, fumes or smoke from the site;

- (iv) 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;
- (v) all discarded vehicle parts and materials are properly stored and disposed of from the site;
- (vi) no power washing of motor or power train is performed on the site; and
- (vii) all environmental, building and fire code legislation is complied with.

SECTION 7 ~ NUISANCE & UNSIGHTLY PROPERTY ENFORCEMENT

- (1) A Designated Officer may, after giving reasonable notice to the owner or occupier of the property, enter upon the said property and carry out an inspection;
- (2) Upon completion of the inspection, the Designated Officer may direct the owner or occupant of the property to:
 - (a) cease the activity which causes the nuisance or unsightly property;
 - (b) change the way in which such person is carrying out any activity;
 - (c) direct any person to take any action or measure necessary to compel the elimination or abatement of the nuisance or unsightly property, including, but not limited to:
 - (i) the removal of any thing or matter from the property, which constitutes the nuisance or unsightliness;
 - (ii) the construction or installation of a garbage bin or enclosure, or the repair of an existing garbage enclosure;
 - (iii) enter into a cleanliness agreement in a form to the satisfaction of the Designated Officer.
 - (d) specify the time within which such person must comply with the directions contained in the notice; and
 - (e) notify the owner or occupant that, if compliance with the notice is not effected within a specified time, the municipality will take the actions or measures specified in the notice to abate the nuisance or unsightly property, at the expense of the owner or occupier;
 - (f) offer the owner or occupant of the property an opportunity to enter into any other voluntary agreement with the Town to keep the premises clean, tidy and free of nuisances.

- (3) Any person who refuses to allow an inspection of the premises under Section 7(1) is guilty of an offence.
- (4) Any person who fails to comply with a direction made under Section 7(2) is guilty of an offence.
- (5) No person shall cause or permit or undertake any activity upon any Town property which is a nuisance.

SECTION 8 ~ GRAFFITI

- (1) No person shall place graffiti or cause it to be placed on any property.
- (2) Every property owner shall ensure that graffiti placed on their premises is removed, painted over, or otherwise permanently blocked from public view.
- (3) A property owner who breaches the provisions of Section 8(2) and who has failed to comply with an Order issued under Section 545 of the Municipal Government Act, is guilty of an offence.
- (4) In prosecuting an offence under this Part, the consent of the property owner of any premises to place graffiti thereon shall not be a defence under this Bylaw.

SECTION 9 ~ LITTERING

- (1) No person shall place, deposit or throw or cause to be placed, deposited or thrown upon any Town property, including any street, lane, sidewalk, parking lot, park, public transportation vehicle, public transportation shelter, or other public place or water course:
 - (a) a cardboard or wooden box, carton, container, or receptacle of any kind;
 - (b) a paper, wrapper, envelope, or covering of any kind, whether paper or not, from food or confectionery;
 - (c) paper of any kind, whether or not containing written or printed matter thereon;
 - (d) any human, animal or vegetable matter or waste;
 - (e) any glass, crockery, nails, tacks, barbed-wire or other breakable or sharp objects;
 - (f) scrap metal, scrap lumber, tires, dismantled, wrecked or dilapidated motor vehicles or parts there from;
 - (g) any motor vehicle or any part of any motor vehicle which may, in whole or in part, obstruct any highway, street, lane, alley or other public place;
 - (h) dirt, filth or rubbish of any kind whether similar or dissimilar to the foregoing.

- (2) A person who has placed, deposited or thrown, or caused to be placed or thrown anything or any matter mentioned in Section 9(1) upon any street, lane, sidewalk, parking place, park, public transportation vehicle, public transportation shelter, or other public transportation facility or other public place or water course shall forthwith remove it.

Authority to Remove

- (3) The Chief Administrative Officer may authorize any Town employee, or other person, to remove and put in storage or destroy anything placed upon Town property in contravention of this Bylaw.

SECTION 10 ~ SPITTING/URINATING

- (1) No person shall urinate or deposit any human waste in any public place other than a public washroom.
- (2) No person shall spit at any person or on any public or private property that they do not own.

SECTION 11 ~ FIGHTING, ASSEMBLY of PERSONS, and LOITERING

- (1) No person shall participate in a fight or any physical confrontation in any public place.
- (2) No person shall be a member of an assembly of three or more persons in any public place or any place to which the public is allowed access where a peace officer has reasonable grounds to believe the assembly will disturb the peace of the neighbourhood, and any such person shall disperse as requested by a peace officer.
- (3) No person shall loiter and thereby obstruct any other person in any public place.

SECTION 12 ~ BULLYING

- (1) No person shall bully any person in any public place.
- (2) No person shall participate in, or encourage, by verbal or public means, in the bullying of any person in any public place.
- (3) Any person who contravenes sections 12(1) or 12(2) is guilty of an offence.

SECTION 13 ~ CURFEW

- (1) No child shall be in a public place after 11:00 p.m. on any day or before 6:00 a.m. on any day unless accompanied by a parent or guardian.
- (2) Any child who is found in a public place without being accompanied by a parent or guardian after 11:00 p.m. on any day or before 6:00 a.m. on any day may be taken by a Peace Officer to the child's home, the Town Office or the nearest RCMP Detachment.
- (3) No parent or guardian shall allow any child who is in her or his custody, care or control to be in a public place after 11:00 p.m. on any day or before 6:00 a.m. on any day unless such child is accompanied by a parent or guardian.
- (4) Notwithstanding anything contained herein, it shall not be an offence under this Bylaw for a child to be in a public place after 11:00 p.m. on any day or before 6:00 a.m. on any day if it is in the course of his or her employment or while returning home as soon as reasonably practical from an organized sporting or other event that has been supervised by an adult.

SECTION 14 ~ OBSTRUCTION OF A PEACE OFFICER

No person shall obstruct, interfere with or hinder any Peace Officer in the carrying out of their duties and responsibilities under this Bylaw

SECTION 15 ~ PENALTIES:

- (1) Any person who contravenes any provision of this Bylaw is guilty of an offence and shall be liable to payment of the penalty:
 - (a) specified in Schedule "A" hereto; or
 - (b) for any offence for which there is no penalty specified, to a penalty of not less than \$200.00 and not more than \$10,000.00;and in default of payment of any penalty, to imprisonment for up to 6 months.
- (2) A Peace Officer is hereby authorized and empowered to issue a violation ticket pursuant to the Provincial Offences Procedure Act to any person who the Peace Officer has reasonable grounds to believe has contravened any provision of this Bylaw.
- (3) 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) summons a person to appear in Court without the alternative of making a voluntary payment.

- (4) If a violation ticket is issued with respect to an offence and that violation ticket specifies the fine amount established by this Bylaw for the offence, a person may make a voluntary payment equal to the specified fine by delivering the violation ticket and the specified fine to the Provincial Court Office specified on the violation ticket.

SECTION 16 ~ SEVERABILITY AND TRANSITION

- (1) The invalidity of any provision of this Bylaw shall not affect the validity of the remainder.
- (2) The Noise Bylaw #639/07, the Unsightly Bylaw 647/09 and the Curfew Bylaw #530/96 are hereby repealed.

The Bylaw shall come into force and effect upon final passing.

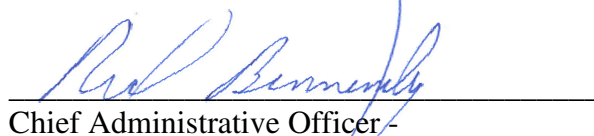
Read a first time this 22nd day of February, 2010

Read a second time this 10th day of May, 2010

Read a third time this 28th day of June, 2010



Mayor - Julia King



Chief Administrative Officer -

Schedule A

COMMUNITY STANDARDS BYLAW FINES

Section 1

Cause noise	3(1)	\$ 250.00
a) second offence within 1 year		\$ 500.00
b) third and subsequent offences with in 1 year		\$ 750.00
Permit noise from property	3(2)	\$ 250.00
a) second offence within 1 year		\$ 500.00
b) third and subsequent offences with in 1 year		\$ 750.00
Yell, scream or swear in public	3(3)	\$ 150.00
a) second offence within 1 year		\$ 250.00
b) third and subsequent offences with in 1 year		\$ 500.00
Noise from premises where liquor is served	3(5)	\$ 1,000.00
a) second offence within 1 year		\$ 2,000.00
b) third and subsequent offences with in 1 year		\$ 5,000.00
Activate or apply engine retarder brakes	3(6)	\$ 250.00
Industrial or construction noise	4(2), 5(1) or 5(2)	\$ 150.00
a) second offence within 1 year		\$ 300.00
b) third and subsequent offences with in 1 year		\$ 600.00
Permit a nuisance on private property or Permit unsightly property	6(2)	\$ 250.00
a) second offence within 1 year		\$ 500.00
b) third and subsequent offences with in 1 year		\$ 750.00
Failure to contain or properly store construction waste	6(3)(a) or 6(3)(b)	\$ 250.00
a) second offence within 1 year		\$ 500.00
b) third and subsequent offences with in 1 year		\$ 1,000.00
Automobile repairs in residential area	6(4)(a)	\$ 250.00
a) second offence within 1 year		\$ 400.00
b) third and subsequent offences with in 1 year		\$ 600.00

Refuse to allow an inspection	7(3)	COURT
Failure to comply with an order	7(4)	\$ 500.00
a) second offence within 1 year		\$ 750.00
b) third and subsequent offences with in 1 year		\$ 1,000.00
Nuisance upon Town property	7(5)	\$ 500.00
Place graffiti on property	8 (1)	\$ 500.00
a) second offence within 1 year		\$ 1000.00
b) third and subsequent offences with in 1 year		\$ 2,500.00
Failure to comply with graffiti order	8 (3)	\$ 150.00
a) \$150.00 each day that the breach continues		
Litter on Town property	9(1)(a)- (h)	\$ 150.00
a) second offence within 1 year		\$ 250.00
b) third and subsequent offences with in 1 year		\$ 500.00
Failure to remove litter on Town property	9(2)	\$ 150.00
a) second offence within 1 year		\$ 250.00
b) third and subsequent offences with in 1 year		\$ 500.00
Urinating or depositing human waste in a public place	10(1)	\$ 150.00
a) second offence within 1 year		\$ 250.00
b) third and subsequent offences with in 1 year		\$ 500.00
Spitting	10(2)	\$ 150.00
a) second offence within 1 year		\$ 250.00
Fighting in a public place	11(1)	\$ 500.00
a) second offence within 1 year		\$ 750.00
b) third and subsequent offences with in 1 year		\$ 1,000.00
Failure to disperse	11(2)	\$ 250.00
a) second offence within 1 year		\$ 500.00
b) third and subsequent offences with in 1 year		\$ 750.00
Loitering	11(3)	\$ 150.00
a) second offence within 1 year		\$ 250.00
b) third and subsequent offences with in 1 year		\$ 500.00

Bullying	<i>12(1)</i> <i>or</i> <i>12(2)</i>	
a) first offence by a youth		\$ 150.00
b) second and subsequent offences by a youth		\$ 250.00
c) first offence by an adult		\$ 500.00
d) second and subsequent offences by an adult		\$ 1,000.00

Curfew	<i>13(1)</i> <i>or</i> <i>13(3)</i>	\$ 50.00
a) second and subsequent offence		\$ 100.00
b) third and subsequent offences with in 1 year		\$ 300.00

Obstruct A Peace Officer	<i>14</i>	
a) first offence		\$ 250.00
b) second offence		\$ 500.00