

BYLAW No. 559-17
THE COMMUNITY STANDARDS BYLAW

**BEING A BYLAW OF THE VILLAGE OF MARWAYNE, IN THE PROVINCE OF ALBERTA, TO
REGULATE NEIGHBORHOOD NUISANCE, SAFETY AND LIVABILITY ISSUES.**

WHEREAS, pursuant to the *Municipal Government Act*, a council may pass bylaws for municipal purposes respecting the following matters:

- (a) the safety, health and welfare of people and the protection of people and property;
- (b) nuisances, including unsightly property;
- (c) people, activities and things in, on or near a public place or a place that is open to the public; and
- (d) the enforcement of bylaws;

AND WHEREAS, pursuant to the *Safety Codes Act*, a council may pass bylaws respecting the following matters:

- (a) minimum maintenance standards for buildings and structures; and
- (b) unsightly or derelict buildings or structures;

NOW THEREFORE the Council of the Village of Marwayne, in the Province of Alberta, duly assembled, enacts as follows:

PART 1 – PURPOSE, DEFINITIONS AND INTERPRETATION

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) "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;
- (c) "Chief Administrative Officer" means the chief administrative officer of the Village or their delegate;
- (d) "Highway" has the same meaning as in the *Traffic Safety Act*;
- (e) "Holiday" means New Year's Day, Alberta Family Day, Good Friday, Victoria Day, Canada Day, Heritage Day, Labour Day, Thanksgiving Day, Remembrance Day, and Christmas Day of every year;
- (f) "Motor Vehicle" has the same meaning as in *Traffic Safety Act*;
- (g) "Municipal Tag" means a tag or similar document issued by the Village pursuant to the *Municipal Government Act* that alleges a bylaw offence and provides a Person with the opportunity to pay an amount to the Village in lieu of prosecution for the offence;
- (h) "Noise" means any sound that is reasonably likely to disturb the peace of others;

Bylaw No. 559-17
Community Standards Bylaw

- (i) "Occupy" or "Occupies" means residing on or to be in apparent possession or control of Property;
- (j) "Own" or "Owns" means:
 - (i) in the case of land, to be registered under the *Land Titles Act* 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;
- (k) "Peace Officer" means a Bylaw Enforcement Officer appointed by the Village to enforce Village Bylaws, and includes a member of the Royal Canadian Mounted Police;
- (l) "Person" means any individual, firm, partnership, association; corporation, trustee, executor, administrator or other legal representative;
- (m) "Property" means a parcel of land including any Buildings;
- (n) "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;
- (o) "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;
- (p) "Street Furniture" includes items such as poles, traffic control devices, waste receptacles, benches, bus enclosures, trees, plants, grass, utilities, planters, bicycle racks, newspaper boxes or any other similar property placed on a Highway or Public Place;
- (q) "Village" means the municipal corporation of the Village of Marwayne and includes the geographical area within the boundaries of the Village where the context so requires;
- (r) "Violation Ticket" has the same meaning as in the *Provincial Offences Procedure Act*.

Rules of Interpretation

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

PART 2 – PUBLIC BEHAVIOURS

Littering

- 7** A Person shall not leave any garbage, litter or other refuse in a Public Place except in a receptacle designated and intended for such use.

Urination and Defecation

Bylaw No. 559-17
Community Standards Bylaw

- 8** A Person shall not urinate or defecate in a Public Place except in a facility designed and intended for such use.

Dangerous Actions

- 9** A Person shall not 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 to Property.

Street Furniture

- 10** A Person shall not climb on, overturn, alter, deface, damage, destroy, tamper or otherwise interfere with any Street Furniture.

Fighting

11

- (1) A Person shall not participate in a fight or other similar physical confrontation in a Public Place.
- (2) Subsection (1) does not apply to participants of an organized sporting event who are governed by the rules of conduct of that sporting event.

PART 3 – PROPERTY MAINTENANCE

Nuisance on Property

12

- (1) A Person shall not cause or permit a nuisance to exist on Property they Own or Occupy.
- (2) 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) smelly or messy compost heaps;
 - (e) grass higher than 25 centimeters excluding naturalized areas on public property;
 - (f) excessive weeds;
 - (g) production of excessive dust, dirt or smoke;
 - (h) production of any general offensive odours;
 - (i) 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;

Bylaw No. 559-17
Community Standards Bylaw

- (j) any accessible excavation, ditch, drain or standing water that could pose a danger to the public; or
- (k) 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.

Unoccupied Buildings

13

- (1) 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.

Sidewalks

14

- (1) 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.
- (2) If a Person fails to comply with subsection (1) the Village may arrange to have the Sidewalk cleared and the expenses and costs incurred by the Village 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.
- (3) A Person shall not deposit snow or ice upon any Highway, Public Place or Property that is not their own.
- (4) A Person shall remove dirt, debris or other obstruction from any Sidewalk adjacent to Property they Own or Occupy within 48 hours after the dirt, debris or other obstruction was formed or deposited.
- (5) If a Person fails to comply with subsection (4) the Village may arrange to have the Sidewalk cleared and the expenses and costs incurred by the Village for removing the dirt, debris or other obstruction shall be paid upon demand and, if unpaid, may be added to the tax roll of the adjacent Property.

Roofs and Awnings

- 15** A Person shall maintain any roof or awning that extends over a Sidewalk from a Building they Own or Occupy free of snow and ice.

Boulevards

- 16** A Person shall maintain any Boulevard and Highway adjacent to Property they Own or Occupy by:
 - (a) keeping any grass on the Boulevard and Highway cut to a length of no more than 25 centimeters; and
 - (b) removing any accumulation of fallen leaves or other debris.

PART 4 – NOISE CONTROL

Prohibited Noise

17

- (1) A Person shall not cause or permit any Noise that disturbs the peace of any other Person.
- (2) A Person shall not 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

18 In determining if a 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;
- (c) nature and use of the surrounding area; and
- (d) any other relevant factor.

Construction Activity

19 A Person shall not cause or permit any construction activity on Property zoned for residential use, or situated adjacent to residential, before 7:00 a.m. or after 9:00 p.m. Monday through Saturday or before 9:00 a.m. or after 7:00 p.m. on a Sunday or Holiday.

Garbage Collection

20 A Person shall not 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 9:00 p.m. Monday through Saturday or before 9:00 a.m. or after 7:00 p.m. on a Sunday or Holiday.

Engine Retarder Brakes

21 A Person shall not use engine retarder brakes to slow or stop a Motor Vehicle at any time.

Motor Vehicles

22

- (1) 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.
- (2) Subsection (1) 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

23 Nothing in this Part prohibits:

- (1) An employee or authorized agent of the Village from producing certain sounds while acting within the scope of their functions, duties or powers; or
- (2) Situations where the Chief Administrative Officer has issued a permit allowing the production of certain sounds on whatever conditions the Chief Administrative Officer deems appropriate.

PART 5 – ENFORCEMENT

Offence

24 A Person who contravenes any provision of this Bylaw is guilty of an offence.

Bylaw No. 559-17
Community Standards Bylaw

Vicarious Liability

25 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

26

(1) 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.

(2) 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.

Fines and Penalties

27

(1) A Person who is guilty of an offence is liable to a fine in an amount not less than that established in this section, and not exceeding \$10,000.00, and to imprisonment for not more than 6 months for non-payment of a fine.

(2) Without restricting the generality of subsection (1) the fine amounts set out in Schedule "A" are established for use on Municipal Tags and Violation Tickets if a voluntary payment option is offered.

Municipal Tag

28

(1) A Peace Officer is hereby authorized and empowered to issue a Municipal Tag to any Person who the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.

(2) A Municipal Tag may be issued to such Person:

- (a) either personally; or
- (b) by mailing a copy to such Person at his or her last known post office address.

(3) The Municipal Tag shall be in a form approved by the Chief Administrative Officer and shall state:

- (a) the name of the Person;
- (b) the offence;
- (c) the specified penalty established by this Bylaw for the offence;
- (d) that the penalty shall be paid within 14 days of the issuance of the Municipal Tag; and
- (e) any other information as may be required by the Chief Administrative Officer.

Payment in Lieu of Prosecution

29 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 to the Village the penalty specified within the time period indicated on the Municipal Tag.

**Bylaw No. 559-17
Community Standards Bylaw**

Violation Ticket

30

- (1) If a Municipal Tag has been issued and if the specified penalty has not been paid within the prescribed time, then a Peace Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to the *Provincial Offences Procedure Act*.
- (2) Notwithstanding subsection (1), a Peace Officer is hereby authorized and empowered to immediately issue a Violation Ticket pursuant to the *Provincial Offences Procedure Act* to any Person who the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.

31 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.

Voluntary Payment

32 A Person who commits an offence may:

- (a) if a Violation Ticket is issued in respect of the offence; and
- (b) if the Violation Ticket specifies the fine amount established by this Bylaw for the offence;

make a voluntary payment by submitting to a Clerk of the Provincial Court, on or before the initial appearance date indicated on the Violation Ticket, the specified penalty set out on the Violation Ticket.

Obstruction

33 A Person shall not obstruct or hinder any Person in the exercise or performance of the Person's powers pursuant to this Bylaw.

PART 6 - GENERAL

Powers of Chief Administrative Officer

34 Without restricting any other power, duty or function granted by this Bylaw, the Chief Administrative Officer 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; and
- (i) delegate any powers, duties or functions under this Bylaw to an employee of the Village;

**Bylaw No. 559-17
Community Standards Bylaw**

Permits

35

- (1) 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.
- (2) A Person shall not make any false or misleading statement or provide any false or misleading information to obtain a permit pursuant to this Bylaw.
- (3) 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 Chief Administrative Officer may immediately cancel the permit.

Proof of Permit

- 36** 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

- 37** A copy of a record of the Village, certified by the Chief Administrative Officer 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.

Severability

- 38** Every provision of this Bylaw is independent of all other provisions and if any provision of this Bylaw is declared invalid for any reason by a Court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable.

PART 7 – TRANSITIONAL

Repeals

- 39** The following bylaws are repealed:

- (a) 490-10 Community Standards;
- (b) 456-06 and 461-06 Streets and Public Places;
- (c) 448-05 Noise

Enactment

- 40** This Bylaw shall come into force and effect when it has received third reading and has been duly signed.

READ A FIRST TIME IN COUNCIL THIS 10TH DAY OF OCTOBER, 2017.

READ A SECOND TIME IN COUNCIL THIS 10TH DAY OF OCTOBER, 2017.

READ A THIRD TIME IN COUNCIL AND FINALLY PASSED THIS 10TH DAY OF OCTOBER, 2017.

MORGAN WOOD, Mayor

JOANNE HORTON
Chief Administrative Officer

**Bylaw No. 559-17
Community Standards Bylaw**

**Schedule "A"
Specified Penalties**

OFFENCE	SECTION	Municipal Tags		Violation Tickets	
		First Offence	Subsequent Offence	First Offence	Subsequent Offence
Littering	7	\$125	\$250	\$175	\$350
Urinating or Defecating	8	\$125	\$250	\$175	\$350
Participating in Dangerous Actions	9	\$125	\$250	\$175	\$350
Removing, defacing or damaging fixtures/furniture on Public Land	10	\$125	\$250	\$175	\$350
Fighting	11(1)	\$200	\$400	\$300	\$600
Allowing a nuisance to exist on Land	12	\$125	\$250	\$175	\$350
Allowing a nuisance to exist with respect to a Building	13	\$125	\$250	\$175	\$350
Failing to clear snow or ice from a sidewalk within 48 hours	14(1)	\$125	\$250	\$175	\$350
Depositing snow or ice onto a Highway, Public Place or private Property	14(3)	\$125	\$250	\$175	\$350
Failing to remove dirt, debris from a sidewalk within 48 hours	14(4)	\$125	\$250	\$175	\$350
Failing to maintain a roof or awning over a Sidewalk	15	\$125	\$250	\$175	\$350
Failing to maintain a Boulevard adjacent to Property	16	\$125	\$250	\$175	\$350
Creating a noise that disturbs the peace	17(1)	\$125	\$250	\$175	\$350
Owner or Occupier permitting Property to create a noise that disturbs the peace	17(2)	\$125	\$250	\$175	\$350
Allowing construction activity outside permitted hours	19	\$125	\$250	\$175	\$350
Garbage collection outside permitted hours	20	\$200	\$400	\$300	\$600
Use of Engine Retarder Brakes	21	\$200	\$400	\$300	\$600
Create a noise with a Motor Vehicle that disturbs the peace	22	\$200	\$400	\$300	\$600
Obstruct a Person	33	\$200	\$400	\$300	\$600