



TOWN OF BENTLEY

By-law No. 165/2013

Being a By-law of the Town of Bentley, in the Province of Alberta, for the purpose of prohibiting certain activities in order to prevent and compel the abatement of nuisances, unsightly property, weed control and public disturbances.

WHEREAS, under the authority and subject to the provisions of the *Municipal Government Act, Chapter M-26, RSA 2000*, and amendments thereto, a Council may pass a by-law for the purpose of prohibiting certain activities in order to prevent and compel the abatement of nuisances, unsightly property, weeds and public disturbances within the corporate limits of the Town of Bentley.

WHEREAS, under the authority and subject to the provisions of the *Municipal Government Act*, a Council may pass By-laws preventing and compelling the abatement of nuisances generally and regulating untidy and unsightly properties, and

WHEREAS, Bentley Town Council wishes to improve the safety and beauty of the Town of Bentley through the regulation and control of nuisances in order to benefit the Town, overall, and

WHEREAS, the *Municipal Government Act* authorizes a municipality to pass By-laws regarding the remedying of contraventions of by-laws, and

WHEREAS, it is desirable for regulations affecting the community standards of property within the Town of Bentley to be located, as much as possible, in one by-law,

NOW THEREFORE, the Council of the Town of Bentley, in the Province of Alberta, duly assembled, enacts as follows;

SECTION A – TITLE

This By-law may be cited as the “**Community Standards By-law**”


Initial

SECTION B – DEFINITIONS

In this By-law;

1. **“Approved”** means acceptable to the Appeal Board or Designated Officer or designate
2. **“Automobile Parts”** includes, but is not limited to, any vehicle part or collection of vehicle parts, or vehicles that are dilapidated, derelict or not in operation.
3. **“CAO”** means the Chief Administrative Officer of the Town of Bentley, or designate
4. **“Community Standards Appeal Board”** means the Council of the Town of Bentley
5. **“Construction”** means the temporary process of demolishing or building any structure or repairing or improving a building that already exists, including landscaping, home repair, property improvements and any work in connection with that process
6. **Derelict Vehicle”** means a vehicle, whether or not in operating condition, which
 - (i) is unlicensed for the current year
 - (ii) has all or part of its superstructure removed or
 - (iii) is in a dilapidated or unsightly condition.
7. **“Guardian”** shall mean a person who is eighteen (18) years of age or older and responsible for a youth, child or minor.
8. **“Good Repair”** means maintaining the condition of an object or structure such that it does not become derelict, untidy, unsightly or dangerous and such that the object or structure can continue to be used in the means that it was originally intended
9. **“Graffiti”** means one or more letters, symbols, figures, etchings, scratching, inscriptions, stains or other markings or things that disfigure a structure or thing, but for greater certainty, does not include an art mural
10. **“Highway”** means a highway as defined the *Traffic Safety Act, Chapter T-6, RSA 2000*, and amendments thereto


Initial

11. **“Litter”** means;

- Any solid or liquid material or product or combination of solid or liquid materials or products, including but not limited to;
- Rubbish, refuse, garbage, paper, package containers, bottles, cans, manure, human or animal excrement or sewage of the whole or part of an animal carcass, or
- The whole or part of any raw or processed material, motor vehicle or parts or other machinery that is disposed of or that is not currently in use.

12. **“Non-residential”** means the use or occupancy of a building or land or part thereof for any purpose other than residential

13. **“Nuisance”** means any act or deed or omission or thing, which is or could reasonably be expected to be annoying or troublesome, harmful, hazardous or injurious to another person and /or his property from which complaints are received by the Bentley Town Office.


14. **“Occupant”** means any owner of any of the premises who resides or carries on any kind of business therein or any person or Corporation residing therein and / or carrying on business therein as a lessee or the owner or the owner of any vacant premises

15. **“Owner”** means the person(s) who is registered under the Land Titles Act as the owner of the land or, in the case of a vehicle, the person who owns the vehicle and includes any person renting a vehicle or have the exclusive of a vehicle under a lease, pursuant to the *Traffic Safety Act, RSA 200 Chapter T-5*.

16. **“Peace Officer”** means a member of the Royal Canadian Mounted Police, a Peace Officer or a By-law Enforcement Officer who has been appointed by the Town of Bentley

17. **“Person”** shall mean and include a corporation, other legal entities and an individual having charge or responsibility or control of a premises

18. **“Pest”** means any animal, bird, reptile or insect which causes or could reasonably be expected to cause annoyance or damage or injury to any person or animal or plant




Initial

19. **“Property or Premises”** means the whole or part of any building and / or land, including land immediately adjacent to any building or building, situated in whole or in part within the Town
20. **“Public Place”** means a place to which the public have or are permitted to have access including;
- i. Municipally owned or leased property and without restricting the generality of the forgoing includes streets, sidewalks, lanes, parks and recreation areas, and
 - ii. Privately owned or leased property and without restricting the generality of the foregoing includes places of business
21. **“Rubbish”** means and includes any paper product, fabric, wood, plastic, glass, metal or any matter or substances of any kind which have been discarded or in any way disposed of
22. **“Standards”** means the standards set out in this by-law
23. **“Town”** means the Town of Bentley
24. **“Untidy or Unsightly”** means any property or premises, in whole or in part, on which there are uncontrolled weeds, uncut grass, litter and /or rubbish, refuse, garbage, paper, yard material or the accumulation of same, which causes the property or any part of it to look untidy, unsightly, unpleasant or offensive to look at
25. **“Violation Ticket”** has the same meaning as in the *Provincial Offenses Procedure Act*
26. **“Yard Material”** means any waste material of an organic nature formed as a result of horticultural activities including grass, tree and hedge cuttings, waste sod and decomposing plants, leaves and weeds

SECTION C – GENERAL

- 1 The owner of any real property, as registered on title at the Land Titles Office is responsible for all activities on the property which may constitute prohibition of this by-law.
2. Nothing in this by-lay relieves a person from complying with any Federal or Provincial law or regulation, other by-law of the Town or any requirements of any lawful permit


Initial


3. Every provision of this by-law is independent of all other provisions and if any provision of this by-law is found or declared invalid, the invalid provision shall be severed and all other provisions of this by-law shall remain valid and enforceable.
4. Where this by-law refers to another act, by-law, regulation or agency, it includes reference to any act, by-law, regulation or agency that may be substituted therefore.
5. All schedules attached to this by-law shall form part of the by-law

SECTION D – GENERAL PENALTY PROVISIONS

1. Any person who contravenes any provision of this by-law by
 - a) Doing any act or thing which the person is prohibited from doing or
 - b) Failing to do anything the person is required to do, is guilty of an offence
2. Any person who is convicted of an offence pursuant to this by-law is liable to a fine of not more than \$10,000.00 or to imprisonment for not more than one year, or both fine and imprisonment.

SECTION E – REMEDIAL ORDER AND COMMUNITY STANDARDS APPEAL BOARD

1. Every remedial Order written with respect to this by-law must:
 - a. Indicate the person to whom it is directed;
 - b. Identify the property to which the Remedial Order relates by municipal address and legal description
 - c. Indicate the date the Remedial Order is issued
 - d. Identify the property which fails to comply with this or another by-law
 - e. Identify the specific provisions of the by-law the property contravenes
 - f. Identify the nature of the remedial action required to be taken to bring the property into compliance
 - g. Identify the time within which the remedial action must be taken


Initial

- h. Indicate that if the required remedial action is not complete within the time specified, the Town may take whatever action or measures are necessary to remedy the contravention
 - i. Indicate that the expenses and costs of any action or measures taken by the Town under this Section are an amount owing to the Town by the person to whom the order is directed
 - j. Indicate that the expenses and costs referred to in this Section may be attached to the tax roll of the property if such costs are not paid by a specified time
 - k. Indicate that there lies an appeal from the Remedial Order to the Community Standards Appeal Board, if a notice of appeal is filed in writing with the Town within fourteen (14) days of the receipt of the Remedial Order
2. A remedial Order written pursuant to this By-law may be served personally upon the owner of the property to which it relates or it may be left with a Person apparently over the age of 18 years at the property.
3. If, in the opinion of a Peace Officer, service of the Remedial Order cannot be reasonably affected or if a Peace Officer believes that the owner of the property is evading service, a Peace Officer may post the Remedial Order in a conspicuous place on the Property to which the Remedial Order relates or on the private dwelling place of the owner of the property, as registered at the Land Titles Office or on the Municipal Tax Roll of the property and the Remedial Order shall be deemed to be served upon the expiry of three (3) days after the Remedial Order is posted.
4. Every person who fails to comply with the Remedial Order issued pursuant to this By-law within the time set out in the Remedial Order commits an offence.
5. Appeal of Remedial Orders;
- a. A person to whom a Remedial Order is directed may seek a review of the Remedial Order by filing an appeal in writing with the Town within fourteen (14) days of receiving the Order issued under the provisions of Section 545 of the Municipal Government Act and within seven (7) days of receiving the Order issued under Section 546 of the Municipal Government Act
 - b. Each notice of appeal shall be in writing and shall;
 - i) State with reasonable detail the grounds of appeal


Initial

- ii) State the name, address, telephone contact number and address at which documents in relation to the appeal may be delivered and the interest of the appellant in the property
 - iii) Be in the form determined by the Chief Administrative Officer and must be accompanied by the appropriate fee;
 - iv) Be dated and signed by the appellant or on his behalf by his agent and if signed by an agent, shall state the name and address of the agent as well as that of the appellant
- c. The Community Standards Appeal Board shall;
- i) Hold a hearing within thirty (30) days after receipt of the Notice of Appeal
 - ii) Ensure that the notice of hearing is mailed to the appellant at least five (5) days prior to the date of the hearing
 - iii) Consider each appeal having due regard to the circumstances and merits of the case and to this by-law
- d. When hearing an appeal, the Appeal Board shall
- iv) Not be bound by the rules of evidence applicable to courts of civil or criminal jurisdiction
 - v) Afford to every person concerned the opportunity to be heard, to submit evidence of others and
 - vi) Make and keep a written record of its proceedings which shall be in the form of a summary of the evidence presented to it at the hearing.
- e. In determining an appeal, the Community Standards Appeal Board
- i) may confirm, revoke or vary the Notice of Appeal
 - ii) shall render its decision in writing to the appellant with fifteen (15) days from the date of decision
 - iii) may confirm, revoke or modify the decision of the Chief Administrative Officer



Initial

SECTION F– PENALTIES and ENFORCEMENT

1. Any person who contravenes any provision of this by-law by doing any act or thing which the person is prohibited from doing or failing to do any act or thing the person is required to, is guilty of an offence and is liable upon summary conviction, to a specified penalty for that offence as set out in Schedule “A” of this by-law.
2. A Peace Officer is hereby authorized and empowered to issue Violation Tags to any person who the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this by-law.
3. A Violation Tag may be issued to such person either
 - i) Personally or
 - ii) By mailing a copy to such person at his or her last-known post office or civic address
4. A Violation Tag issued pursuant to this by-law shall be in a form approved by the Chief Administrative Office and shall state;
 - i) The name of the person
 - ii) The offence
 - iii) The appropriate penalty for the offence, as specified in Schedule “A”
 - iv) The time period in which the specified penalty must be paid in order to avoid prosecution of the offence
 - v) Any other information as may be required
5. Where a Violation Tag has been issued pursuant to this by-law, the person to whom the Violation Tag has been issued may, in lieu of being prosecuted for the offence, pay to the Town, within 20 days, the penalty specified on the Violation Tag.
6. Where the Violation Tag has been issued and the penalty specified on the Violation Tax has not been paid within the prescribed time as set out in 5, the Peace Officer is hereby authorized and empowered to issue a Violation Ticket.
7. A Violation Ticket issued with respect to a contravention of this by-law shall be served upon the person responsible for the contravention in accordance with the Provincial Offences Procedure Act.


Initial


8. The person to whom the Violation Ticket is issued may plead guilty by making a voluntary payment in respect to the summons by delivery to the Provincial Court, on or before the initial appearance date, the Violation Ticket, together with an amount equal to the specified penalty for the offence as provided for in Schedule "A" of this by-law.
9. When a Clerk of the Provincial Court records the receipt of a voluntary payment, the act of recording constitutes acceptance of the guilty plea and constitutes the conviction and imposition of a fine in the amount of the specified penalty.

SECTION G – UNSIGHTLY PROPERTIES

1. No occupant and/or owner of any property shall cause, allow or permit the property to become or to continue to be untidy or unsightly as defined in this by-law.
2. No occupant and/ or owner of any property shall dump or cause to be dumped any rubbish, garbage, waste, either solid or liquid, petroleum products, industrial or commercial waste products or by-products or to dispose of any material whatsoever in, about, near or upon any property within the Town, except at such place or places specifically designated for the receiving of said rubbish, garbage and waste.
3. No occupant and/or owner of any residential property shall allow the accumulation of building material, whether new or used, unless that person or owner can establish that a construction or renovation undertaking is being carried out on the premises and that
 - a) The project has begun or the beginning of the work is within thirty (30) days;
 - b) The materials on the property relate to the project taking place in a quantity reasonable to complete the project, and
 - c) The work on the project has not been suspended for a period in excess of one hundred and twenty (120) days
 - d) All the project building material stored on the property are stacked or stored in an orderly manner
4. Every occupant and/or owner of any property within the Town of Bentley shall:
 - a) not permit any building structures or erections of any kind whatsoever, or any excavation, depression, surface water or other matter or thing to remain a nuisance and/or dangerous and/or a fire hazard to the public safety or health,


Initial

- b) cut the grass and control the weeds on property they own or occupy and cut the grass on any boulevard which abuts, flanks or adjoins such property and this shall include lanes or alleys at the rear or side of such property
- c) prune, remove or otherwise maintain trees and shrubs that are adjacent to and interfere with or endanger lines, poles, pipes, sewers, sidewalks, streets and alleyways or other works of the Town of Bentley.
- d) not allow to go unchecked any blight or disease of trees or shrubs or other plant life that is liable to spread to other trees or shrubs or plant life within the Town.
- e) ensure that branches, roots, stems or trunks of trees or shrubs, whether on private property or otherwise, shall not in any way interfere with or endanger traffic control devices, lines, poles, conduits, pipes, sewers or other works of a utility system, serving or owned by the Town of Bentley.
- f) Ensure that trees and shrubs, whether on private property or otherwise, shall not in any way interfere with sidewalks, streets and alleyways, or other works of the Town of Bentley, within or on such property;
 - i) Trees whose branches overhang a road, lane or alley or interfere with the sightline at an intersection, shall be pruned to a height of 3.66 meters (12 feet) over any roadway and shall not encroach over the property line so as to obstruct the sightline and flow of traffic through an intersection.
 - ii) Trees whose branches overhang a sidewalk shall be pruned to a height of 2.63 meters (8 feet) over the sidewalk so as not to encroach onto or over the sidewalk or obstruct or prevent the flow of pedestrian traffic
- g) not permit the accumulation of dirt, stones, old implements, automobiles or parts of automobiles, scrap iron, lumber, building materials or any other litter or rubbish so as to cause any untidy or unsightly appearance or cause any hazard or risk of hazard within or on such property
- h) not permit the proliferation of any insect or other pest that is likely to spread disease, be destructive or dangerous or otherwise become a nuisance


Initial

- i) not permit the accumulation of animal feces within or on a property
 - j) remove any dead grass or brush or other rubbish which may be untidy or unsightly or may harbor pests
 - k) when requested to do so by written notice from the Town, clean up any untidy or unsightly property within the time period set out in the notice.
5. Any vehicle, automobile parts or mechanical equipment or object on any non-residential land which is in a wrecked or dismantled condition shall be removed from the land, unless a storage area is defined and enclosed with an approved fence or visually screened which prevents the object(s) from being viewed from any neighboring or public areas, to the satisfaction of the CAO or designated officer.
6. All residential property shall be kept free of any vehicle, trailer or object which is in a wrecked, dismantled, discarded or abandoned condition.
7. An occupant or owner may allow a dilapidated vehicle to remain on the occupant or owners property, provided that the vehicle is wholly contained within a structure, approved pursuant to the Land Use By-law of the Town and cannot be viewed from any neighboring property or public area,
8. No occupant or owner of a property shall allow a refrigerator or freezer to remain outside on the property without first ensuring the hinges or latches or lid or doors of the unit has been removed and no occupant or owner shall allow any appliance to remain on the property if such appliance can be viewed from any neighboring property or public area.
9. Every occupant or owner of a property shall ensure the following areas shall be maintained in good repair;
- a) Fences and their structural members
 - b) Structures and their structural members, including;
 - i. Foundations and foundation walls
 - ii. Exterior walls and their components
 - iii. Roofs
 - iv. Windows, doors and their casings/frames
 - v. Exterior stairs, landings, porches, balconies and decks
 - vi. Protective or decorative finishes of all exterior surfaces
10. No person shall create or apply graffiti.


Initial

SECTION H – DRAINAGE

1. No person shall alter surface elevations or surface grades of any property that may cause or have the potential to cause a nuisance, hazard, drainage problem or damage to an adjacent property.
2. No occupant or owner of a property shall allow a flow of water from a hose or rainwater downspout or similar device to be directed towards an adjacent property if it is likely that the water from the device will enter the adjacent property.

SECTION I – AIR QUALITY

1. No person shall engage in any activity that is likely to allow smoke, dust or other airborne matter to disturb other people located in adjacent or near-by properties.

SECTION H – FIGHTING, ASSEMBLY of PERSONS and LOITERING


1. No person shall participate in a fight or any physical or verbal confrontation in any public place or any place to which the public is allowed access.
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 neighborhood 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 I – 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.

SECTION J– CURFEW

1. No child fifteen (15) years of age or under who is unaccompanied by a parent or guardian shall be in any public place between the hours of 11:00 p.m. and 6:00 a.m.


Initial

2. If a child to whom this by-law applies is found in a public place during the hours so fixed, they may be verbally warned to go home by a Peace Officer and if after the warning the child refuses or fails to go home, he may be taken to his home or to a shelter, by the Peace Officer.
3. Any parent or guardian who permits a child to contravene this By-law is guilty of an offence and liable upon summary conviction as set out in is "Schedule A", attached to and forming part of this by-law.

SECTION K – SPITTING/URINATING

1. No person shall urinate or deposit any human waste in any public place or in any place to which the public is allowed access, 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 L – CIVIC ADDRESSING

1. All occupants or owners of a property must display the assigned civic address number to their land, building, units or sub-units

SECTION M – BY-LAW REPEALS AND COMING INTO FORCE

1. By-law No. 28/97 and all amendments thereto, are hereby repealed.
2. This by-law shall come into force and effect on the date of the final passing thereof.

Read a first time this 12th day of February, 2013.

Read a second time this 12th day of February, 2013

Read a third and final time this 12th day of February, 2013.



Mayor



Chief Administrative Officer

Schedule A

Community Standards By-law Penalties

Section E.	Failure to comply with a Remedial Order	\$ 500.00
Section G.1.	Allow untidy or unsightly property	\$ 500.00
Section G.2.	Dump rubbish, garbage, waste, petroleum products, Industrial or commercial waste	\$ 500.00
Section G.3	Accumulation of building material	\$ 250.00
Section G.4.	Failure to maintain building, yard, trees, shrubs, As set out in Section G.4	\$ 500.00
Section G.5, 6., 7.	Failure to remove or visually screen vehicle, parts, equipment in a wreck or dismantled condition	\$ 300.00
Section G.8	Appliance on property which can be viewed by Public and refrigerator or freezer left with lid on	\$ 200.00
Section G.9.	Failure to maintain fence, foundations, exterior walls, roofs, porches, decks, etc	\$ 300.00
Section G.10	Creation or applying graffiti	\$ 300.00
Section H.1.	Alter surface elevation or surface grades	\$ 500.00
Section H.2.	Allow flow of water from hose or downspout to enter another property	\$ 500.00
Section I.1.	Allow smoke, dust or other airborne matter to disturb other people	\$ 300.00
Section H.1.	Participate in fight, physical or verbal confrontation in public place	\$ 500.00
Section H.2.	Participate in assembly causing disturbance	\$ 500.00
Section I	Bully or participate in bullying another person	\$ 500.00
Section J.3	Parent or guardian permitting child to contravene Curfew	\$ 500.00
Section K	Spitting or urinating or depositing of human waste	\$ 500.00
Section L	Failure to display civic address number	\$ 100.00