

BY-LAW NO. 736
OF THE
TOWN OF STAVELY

BEING A BY-LAW OF THE TOWN OF STAVELY, IN THE PROVINCE OF ALBERTA, TO PROVIDE FOR THE REGULATION OF COMMUNITY STANDARDS.

WHEREAS, Section 7 of the *Municipal Government Act*, being chapter M-26.1 R.S.A. and amendments thereto, the Council of the Town of Stavelly may pass a By-law respecting nuisances, unsightly property; weed control, scavenging and disposal of waste and refuse, maintenance of boulevards and sidewalks, state of repairs and maintenance of residential and non-residential property, fires and burning regulations, within the Town, and

AND WHEREAS, the Council of the Town of Stavelly, in the Province of Alberta, deems it expedient to pass such a By-law;

NOW THEREFORE, THE COUNCIL OF THE TOWN OF STAVELY DULY ASSEMBLED HEREBY ENACTS AS FOLLOWS:

PART 1 – INTERPRETATION AND DEFINITIONS

1. This By-law shall be cited as the “Community Standards By-law”.
2. (a) This By-law applies to all property within the corporate boundaries of the Town of Stavelly.

(b) This By-law shall apply to all buildings, dwelling units and land which are now or may become in the future, sub-standard with respect to structure, equipment, facilities, maintenance, light, heating, air, sanitation, occupancy and protection against fire or chemical hazard, or otherwise may be deemed to affect the safety, health or welfare of their occupants.

(c) No building standard in this By-law shall be more restrictive than the building requirements, dealing with the same subject matter, contained in the Alberta Building Code and Regulations.

(d) Any property that does not conform to the prescribed standards of this By-law shall be required to be repaired and maintained in a manner to comply with such prescribed standards.
3. In this By-law, unless the context otherwise requires:
 - (a) “Act” means the *Municipal Government Act*;
 - (b) “Accessory Building” means a detached building situated on the same lot or lots on which the principal building is located, or is being constructed, and the use of which is normally subordinate and incidental to that of the principle building,

- (c) "Animal Material" means any human or animal excrement and the whole or any part of an animal carcass and includes all material accumulated on premises from pet pens, yards, stable, veterinary clinics or hospitals, kennels or feed lots;
- (d) "Approved" means acceptable to the Building Inspector, Fire Chief, and/or Bylaw Enforcement Officer, CAO or other officers appointed by Council.
- (e) "Ashes" means the powdery residue accumulated on premises left after the combustion of any substance and includes any partially burnt substances;
- (f) "Building" means any structure used or intended for supporting or sheltering any use or occupation,
- (g) "Building Material" means all construction and demolition material accumulated on premises arising from the construction, alteration, repair or demolition of any structure and includes, but is not limited to, earth, vegetation or rock displaced during such construction, alteration, repair or demolition;
- (h) "Building Refuse (Burnable)" means waste material resulting from the renovation, repair, maintenance or construction of any building or structure and consists of wood or wood products and includes cardboard, paper or other similar material.
- (i) "Building Refuse (Non-Burnable)" means waste material resulting from the renovation, repair, maintenance or construction of any building or structure that may not be disposed of by burning and shall include plaster board, insulation material, plastic, or other similar materials.
- (j) "Business" means any firm, corporation, office building, hotel, motel, public or private institution, retail, wholesale or service outlet,
- (k) "By-law Appeal Committee" means a committee to hear appeals arising from Orders issued pursuant to this By-law and is composed of 4 members at large and one Town Council member.
- (l) "Commercial Container" means a metal container supplied by a contractor or the Waste Authority.
- (m) "Contractor" means the person, firm or corporation hired or appointed by the Council of the Town of Stavely to collect and dispose of any and/or all garbage or refuse referred to in this By law.
- (n) "Council" means the elected officials forming the Municipal Council of the Town;

- (o) "Development Officer" means the Development Officer of the Town of Stavely appointed pursuant to the Land Use By-law No. 654, of the Town of Stavely.
- (p) "Dry Rubble" means soil, rock, brick, stone, concrete or cinder block, concrete, sand, gravel or other similar material,
- (q) "Dwelling" means a building or structure or part of a building or structure occupied or capable of being occupied in whole or in part for the purposes of human habitation and includes the land and premises appurtenant thereto and all out buildings, fences, or erections thereon or therein,
- (r) "Enforcement Officer" means:
 - (a) A By-law Enforcement Officer as appointed by the Town of Stavely;
 - (b) A Special Constable as appointed under the Police Act; or
 - (c) A member of the Royal Canadian Mounted Police.
- (s) "Fire Pit" includes a permanently affixed outdoor fire receptacle and a portable fire receptacle.
- (t) "Fire Place" means an enclosed and permanently affixed outdoor fire receptacle which incorporates a permanently affixed chimney or flue, and is constructed of brick, rock or other masonry.
- (u) "Portable Fire Receptacle" means an outdoor fire receptacle which is not permanently affixed.
- (v) "Garbage" means material composed of organic matter which is or may become decomposed, including the by-products from the preparation, consumption or storage of food;
- (w) "Garden Refuse" means grass clippings, shrubbery and tree pruning, weeds, trees, turf, earth waste, tree stumps, roots, fruit and vegetable matter,
- (x) "Householder" means any owner occupant, tenant, lessee, or any other person inhabiting, or in charge of a dwelling, lodging or boarding house, apartment, row housing, mobile home, duplex or other building or portion thereof,
- (y) "Highway" means any thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, square, bridge, causeway, trestle way or other place, whether publicly or privately owned, any part of which the public is ordinarily entitled or permitted to use for the passage or parking of vehicles and includes:
 - (i) a sidewalk (including a boulevard portion thereof);

- (ii) where a ditch lies adjacent to and parallel with a roadway, the ditch; and
- (iii) where a highway right of way is contained within fences or between a fence and one side of a roadway all the land between the fences or all the land between the fence and edge of the roadway as the case may be, but does not include a place declared within this By-law not to be a highway;
- (z) “Metal” means care and truck bodies and their parts or components, machinery, household appliances, metal barrels, wire, metal pails, metal sheathing or other similar metal products,
- (aa) “Occupant” means a person occupying or exercising control or having the right to occupy or exercise control over premises, including but not restricted to a lessee, occupant, or agent of an owner;
- (bb) “Open Fire” means a fire that is not confined within a non-combustible container or structure.
- (cc) “Order” means a written notice of a contravention of this By-law directing the actions an owner or occupant is to take regarding the contravention;
- (dd) “Owner” means a person registered as owner of Premises under the *Land Titles Act*;
- (ee) “Premises” means any land, building, or property, whether real or personal;
- (ff) “Public Health Inspector” means a Public Health Inspector appointed by the Health Region, of which the Town is a member.
- (gg) “Refuse” means tin cans, food containers, glass, paper, clothing, plastic or other similar material,
- (hh) “Town” means the Municipal Corporation of the Town of Stavely, in the Province of Alberta or, where the context requires, a duly authorized official of the Municipal Corporation of the Town of Stavely or, where the context requires, the area that is contained in the boundaries of the Town of Stavely;
- (ii) “Unightly Premises” means any premises or part thereof which is detrimental to the surrounding area due to its unsightly condition as characterized by visual evidence of a lack of general maintenance and upkeep by the excessive accumulation on the premises of:
 - (i) any rubbish, refuse, trash, papers, packages, containers, bottles, cans, sewage, dirt, soil, gravel, rocks, sod, petroleum products, hazardous recyclables, substances and wastes as defined in the *Environmental Protection and Enhancement Act*, household dishes and utensils, boxes, cartons, fabrics or household goods;

- (ii) the whole or part of any motor vehicle as defined under the *Traffic Safety Act* as amended, as well as any tractor or implement of husbandry:
 - (a) which has no current license plate attached to it and in respect of which no registration certificate has been issued for the current year; or
 - (b) which is inoperative by reason of disassembly, age or mechanical condition;
- (iii) equipment or machinery which has been rendered inoperative by reason of disassembly, age or mechanical condition including household appliances;
- (iv) Animal Material, Yard Material, Ashes, Building Material and Garbage;
- (v) all forms of waste, refuse and litter; and
- (vi) Weeds.
- (jj) "Violation Ticket" means an offence notice issued by means of a Violation Ticket as described in Part 2 of the *Provincial Offences Procedure Act*;
- (kk) "Weeds" means plants designated as noxious and nuisance weeds as defined in the Weed Control Act, RSA 2000 c W-5 and Alberta Regulation 171-2001, as amended or replaced from time to time.
- (ll) "Yard" means that portion of a lot or parcel of land contained within the property lines of the lot or parcel of land, building or buildings, and
- (mm) "Yard Material" means organic matter formed as a result of gardening or horticultural pursuits and includes sod, grass, tree and hedge cuttings and clippings.

PART 2 – REMEDIAL ORDERS

- 4. If Council considers any Premises to be in contravention of any section of this By-law, the Municipal Administrator shall cause a Remedial Order to be served upon the Owner or Occupant of such Premises directing that the Owner or Occupant remedy conditions as on said Premises.
- 5. (1) Service of an Order upon an Owner or Occupant shall be sufficient if it is:
 - (a) personally served upon the Owner or Occupant; or
 - (b) served by mail:
 - (i) to the mailing address of the Premises, and

- (ii) if the Premises is not occupied by the Owner of the Premises, to the mailing address noted on the Town's tax roll for the Premises;
 - (c) left with a competent person residing with said Owner or Occupant; or
 - (d) posted to the door of the Premises or in any other conspicuous place on the Premises.
- (2) Such Order shall be deemed to have been received:
- (a) five days from the date of mailing; or
 - (b) on the day it is left with a competent person residing with an Owner or Occupant or posted on the Premises.
- (3) Each Order shall:
- (a) describe the Property by its municipal address and legal description;
 - (b) identify the date that it is issued;
 - (c) state how the Premises contravenes the provisions of this By-law;
 - (d) give reasonable particulars of the extent of the clean up, removal, clearing or other actions required to be made;
 - (e) state the time within which the clean up, removal, clearing or other actions are to be done;
 - (f) state that if the required actions are not done within the time specified, the Town may:
 - (i) carry out the actions required and charge the cost thereof against the Owner or Occupant; or
 - (ii) cause a Violation Ticket to be served upon the Owner or Occupant pursuant to Part 2 of the *Provincial Offences Procedure Act*;
 - (g) state that an appeal lies from the Order upon the filing of a Notice of Appeal within the time specified in the Order for Compliance with the Order, or 14 days, whichever is less.
- (4) An Owner or Occupant served with an Order shall comply with the provisions of the Order or, with the decision of the By-law Appeals Committee upon appeal of the Order.

6. An Owner or Occupant served with an Order may comply with the Order by entering into a written agreement with Town, for the Town to carry out the actions required by the Order.
7. (1) An Owner or Occupant may appeal an Order issued pursuant to section 6 of this By-law by filing a Notice of Appeal.
 - (2) A Notice of Appeal shall be in writing, be signed by the appellant or by an agent on behalf of the appellant, and shall state:
 - (a) the date, the name and address of the appellant and the agent, if any; the interest of the appellant in the Premises;
 - (b) a copy of the Order in respect of which the appeal is being taken;
 - (c) the legal description of the Premises affected;
 - (d) the grounds for appeal.
 - (3) A Notice of Appeal shall be delivered personally or sent by double registered mail to the Town within the time specified in the Order for compliance with the Order, or ten days, whichever is less.
 - (4) A Notice of Appeal shall be accompanied by a deposit in the amount specified in Schedule "A".
 - (5) The deposit made under subsection (4) shall be refunded if the appellant is successful in their appeal.
8. The By-law Appeal Committee shall hear appeals arising from Orders issued pursuant to this By-Law.
9. (1) Within 15 days from the day of receipt of a Notice of Appeal the By-law Appeal Committee shall hear and determine the appeal.
 - (2) The By-law Appeal Committee may confirm, rescind, or vary the Order issued.
10. (1) If an Owner or Occupant served with an Order fails to comply with the provisions of the Order, or with the decision of the By-law Appeal Committee upon appeal of the Order, within the time fixed By the Order or the By-law Appeal Committee, an Enforcement Officer may cause a Violation Ticket to be served upon the Owner Or Occupant pursuant to Part 2 of the *Provincial Offences Procedure Act*.
 - (2) If an Owner or Occupant served with an Order fails to comply with the provisions of the Order, or with the decision of the By-law Appeal Committee upon appeal of the Order, within the time fixed By the Order or the By-law Appeal Committee, the Town may Comply with the Order at the expense of the Owner or Occupant served as per section 5(3)(f)(i).

11. If the expense and cost incurred by the Town pursuant to section 12 of this By-law is not paid by said Owner or Occupant, the Town may:
 - (a) recover the expense and cost by action in a court of competent jurisdiction; or
 - (b) charge the expense and cost against property of the Owner served with the Order as taxes due and owing and collectible in the same manner as taxes.
12. Every Person who fails to comply with a Remedial Order issued pursuant to this Bylaw within the time set out in the Remedial Order commits an offence.

PART 3 – ENFORCEMENT

13. Upon receiving a complaint or having a reasonable belief that there is a contravention of the By-law, a Development Officer, Fire Chief, Building Inspector, Public Health Inspector, or an Enforcement Officer may enter such Premises in order to inspect the Premises, pursuant to the *Municipal Government Act*, and shall produce a written or pictorial report pertaining to the complaint or belief and the results of the inspection.
14. (1) Any person who contravenes any provision of the Bylaw by;
 - a) doing any act or thing which the Person is prohibited from doing; or
 - b) failing to do any act or thing the Person is required to do;is guilty of an offence.
- (2) Any Person who is convicted of an offence pursuant to this Bylaw is liable on summary conviction to a fine not exceeding \$10,000.00 and in default of payment of any fine imposed, to a period of imprisonment not exceeding six (6) months.
15. (1) Where Council believes that a Person has contravened any provisions of the Bylaw, the Enforcement Officer may commence proceedings against the Person by issuing a violation ticket pursuant to the Provincial Offences Procedures Act, RSA 2000 C. P-24.
- (2) Where there is a specified penalty listed for an offence in Schedule “A” of this Bylaw, that amount is the specified penalty for the offence.
- (3) Where there is a minimum penalty listed for an offence in Schedule “A” of this Bylaw, that amount is the minimum penalty for the offence.

- (4) Notwithstanding specified and minimum penalties set out in Schedule "A" to this Bylaw:
 - a) if a Person is convicted twice of the same provision of the Bylaw within a 12 month period, the minimum penalty for the second conviction shall be the amount specified in Schedule "A"
 - b) if a Person is convicted three or more times of the same provision of this Bylaw within a 12 month period, the minimum penalty for the third and subsequent convictions shall be double the amount specified in Schedule "A".
- (5) This Section shall not prevent any Enforcement Officer from issuing a violation ticket requiring a court appearance of the defendant, pursuant to the provisions of the Provincial Offences Procedures Act, RSA 200 c. P-24, or from laying an information in lieu of issuing a Violation ticket.
- (6) The levying and payment of any fine or the imprisonment for any period provided in this Bylaw shall not relieve a Person from the necessity of paying any fees, charges or costs from which that Person is liable under the provisions of this Bylaw or any other bylaw.
- 16. The expense and cost incurred by the Town pursuant to section 12 of this By-law may be charged to an Owner or Occupant in addition to any payment made pursuant to section 14 or 15 of this By-law.

PART 4 – PROPERTY MAINTENANCE, UNTIDYNESS AND WEED CONTROL

- 17. The standards, requirements and prohibitions contained in this Part shall apply to:
 - a) residential properties;
 - b) commercial properties; and
 - c) vacant lots within residential and commercial areas.
- 17.1 (a) All yards and lots shall permit adequate access, and shall be kept clean and free from rubbish, debris, undergrowth and weeds.
- (b) No vehicles or trailers which do not bear a current license plate or household appliances, shall be stored, sited, or kept in any residential yard or lot area, nor shall junked or wrecked vehicles or trailers or parts thereof or any type of junk equipment or machinery be permitted to be stored, sited, or kept in any yard or lot without prior written consent of the Town of Stavelly.
- (c) The owner, lessee, tenant or agent of the owner is required to cut the grass and maintain all trees and plants on the boulevard adjoining the property owned or occupied by them.

- (d) The owner, lessee, tenant or agent of the owner is required to control dandelions, noxious weeds, grass or plants within their said property as well as one half of the width of the lane or alley adjoining the property owned or occupied by them.
- (e) No owner, lessee, tenant or agent of the owner shall cause or maintain an Unsightly Premises.

17.2 Accessory Buildings

- (a) Accessory buildings will be kept in good repair and free from hazards which may affect health, cause fires or accidents, and
- (b) Where an accessory building, or any building or the land is infested with vermin, insects or rodents, all necessary steps will be taken to eliminate the vermin, insects or rodents in order to prevent their re-infestation.

17.3 Exterior Walls and Roofs

- (a) Exterior wall finishing and roofs, including fascia board, soffit, cornices and flashing will be maintained in a water tight condition and shall be kept neat in uniformity with the aesthetic appearance of the community.

17.4 Fences and Accessory Structures

- (a) All fences, barriers and retaining walls around or upon the property shall be kept in a reasonable state of repair consistent with the aesthetic appearance of the community.

17.5 Safe Passage

- (a) Steps, walks, driveways, parking spaces, and similar areas will be maintained so as to afford the safe passage under normal use and weather conditions.

17.6 Signs

- (a) All signs and billboards will be maintained in good repair. Any signs or billboards which are excessively faded, weathered, paint cracked or peeled will be removed, repainted or replaced.

PART 5 – FIRE ON PREMISES

- 18. No Person shall burn, cause or allow to be burned, a fire on a Premises that does not comply with the requirements of this Bylaw.
- 19. Every Person who builds, ignites or allows a fire on a Premises must ensure that the fire is not left unsupervised at any time.
- 20. (1) No Person shall burn, at any time, on any Premises, the following materials:

- a) treated or painted lumber;
- b) lumber products containing glue or resin;
- c) wet or unseasoned wood;
- d) leaves, brush or yard waste;
- e) garbage;
- f) rubber, tires or plastic, or
- g) any animal carcass or part thereof.

(2) No Person shall ignite or allow a fire to burn on a Premise between midnight and eight o'clock the following morning.

21. A Person may build, ignite or allow a fire on a Premises in a Fire Pit as long as that Person ensures that the fire is contained in a Fire Pit that:

- a) is constructed of non-combustible material;
- b) has an open flame area that does not exceed 1 meter at its widest point;
- c) does not have walls which exceed 0.75 meters in height measured from the floor of the Fire Pit to the top of the wall of the Fire Pit excluding any chimney;
- d) is set upon or built into the bare ground or non-combustible material such as brick or stone;
- e) is situated at least 2 meters from any house, garage or similar structure including wooden decks, porches and similar amenity space attached to a structure measured from the part of the Fire Pit which is closest to the structure or amenity space;
- f) is situated at least 2 meters from any combustible material measured from the part of the Fire Pit which is closest to the combustible material;
- g) is not located under any tree or overhanging branches.

22. Notwithstanding Section 21(e) A Person may build, ignite or allow a fire in a Portable Fire Receptacle on a wooden deck as long as that Person ensures that:

- a) a non-combustible material such as brick or stone is placed between the Portable Fire Receptacle and the wooden deck; and

- b) the Portable Fire Receptacle is situated at least 2 meters from any house, garage or similar structure or other combustible material, measured from the part of the receptacle which is closest to the structure of combustible material.
- 23. Notwithstanding any provisions in this bylaw, the Fire Chief or Deputy Fire Chief may declare a complete ban of any burning of any kind within the Town of Stavelly.
- 24. No Person shall build, ignite or allow any kind of fire when a complete ban on burning has been declared by the Fire Chief or Deputy Fire Chief and is in effect.
- 25. A member of the Fire Department or an Enforcement Officer may direct a Person to immediately extinguish any fire when a fire ban is in place.
- 26. A Person who fails to comply with the direction of a member of the Fire Department or an Enforcement Officer to immediately extinguish a fire during a fire ban commits an offence, and the member of the Fire Department or the Enforcement Officer, as the case may be, may extinguish the fire.

PART 6 – REGULATION OF NOISE

- 27. No Person shall make, continue or cause to be made or continued any loud unnecessary or unusual noise or any noise whatsoever, which annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of other persons in the vicinity.
- 28. No Person, being the owner or occupier of a Premise, shall allow or permit such premises to be used so that there emanates there from any loud, unnecessary or unusual noise which annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of the other persons in the vicinity.
- 29. No Person shall operate a motor vehicle or motorcycle or leave the engine of such motor vehicle or motorcycle running at any time of the day or night, in such a manner as to disturb the peace, quiet, rest, enjoyment, comfort or convenience of other persons in the vicinity.
- 30. No Person shall own, keep or harbor any animal or bird which, by its cries, disturbs the peace, quiet, rest, enjoyment, comfort or convenience of other persons in the vicinity.
- 31. No Person shall on any day, between 11:00 PM and 7:00 AM on the following day, construct, erect, reconstruct, alter, repair or demolish any building, structure or thing or excavate or fill in land in any manner which disturbs the peace, quiet, rest, enjoyment, comfort or convenience of other persons in the vicinity.

32. No Person shall on any day, between 11:00 PM and 7:00 AM on the following day, operate a power lawn mower, power snow removal equipment or motorized model aircraft.
33. No Person shall on any day, between 11:00 PM and 7:00 AM on the following day, permit any loud parties, outdoor speaker systems, or any audio/video equipment which disturbs the peace, rest, enjoyment, comfort or convenience of other person in the vicinity.
34. Notwithstanding any provisions of this Bylaw, work crews of the Town of Stavelly or of utility companies serving the Town of Stavelly may perform work of an urgent or of an emergency nature, at any time of day or night.
35. No Owner or occupier of a Premise shall place or allow to be placed cat feces, dog feces, animal parts or animal meat on a composting pile or in a composting container on the Premises.
36. No Owner or occupier of a Premise shall allow an open composting pile on the Premises within ten (10) meters of an adjacent dwelling house, measured from the nearest part of the open composting pile to the nearest part of the adjacent dwelling house.
37. Every Owner or occupier who allows a composting container or a composting pile to remain on a Premise must ensure that it is maintained in such a manner that it does not become a nuisance by:
 - a) creating offensive odors; or
 - b) attracting pests.

PART 8 – NUISANCES ESCAPING PROPERTY

38. No owner or occupier of a Premises shall allow a flow of water from a hose or similar device on the Premises to be directed towards an adjacent Premises if it is likely that the water from the hose or similar device will enter the adjacent Premises.
39. An owner or occupier of a Premise shall direct any rainwater downspout of eaves trough on the Premises towards:
 - a) the front of the Premises;
 - b) the rear of the Premises;
 - c) a side yard which does not abut another Premises; or
 - d) a side yard which abuts another Premises only if there is a minimum of (six) 6 meters of permeable ground between the outfall of the downspout or eaves trough and the adjacent Premises.

40. Notwithstanding Section 39, no owner or occupier of a Premise shall allow a rainwater downspout or eaves trough to be directed towards a neighboring Premise if it is likely that the water from the downspout or eaves trough will enter the adjacent Premises.

PART 9 – PENALTIES AND FEES

41. As defined in Schedule “A”.
42. This Schedule “A” can be modified by resolution of Council.

PART 10 – REPELLANT

43. By-law No. 720, By-law No. 611 and By-law No. 466 or any other bylaws of the same effect are hereby repealed.

COMING INTO FORCE

44. The present bylaw will come into force on the day of its final reading.

READ a first time this 23rd day of June, AD 2008.

READ a second time this 23rd day of June, AD 2008.

READ a third and final time this 23rd day of June, AD 2008.


MAYOR – BARRY JOHNSON


MUNICIPAL ADMINISTRATOR – SHERYL FATH