

BYLAW 2009-1808

A BYLAW OF THE CITY OF ESTEVAN TO REGULATE, CONTROL AND PROHIBIT FIGHTING IN PUBLIC PLACES

WHEREAS section 8 of *The Cities Act*, S.S. 2002, c. C-11.1, provides, in part, as follows:

“8(1) A city has a general power to pass any bylaw for city purposes that it considers expedient in relation to the following matters respecting the city:

- (a) peace, order and good government of the city;
- (b) the safety, health and welfare of people and the protection of people and property;
- (c) people, activities and things in, on or near a public place or place that is open to the public;

(2) A city has the power to make bylaws respecting the enforcement of bylaws made pursuant to this or any other Act, including any or all of the following:

- (a) creating offences, including continuing offences;
- (b) for each offence committed by an individual, imposing a fine not exceeding \$10,000 or providing for imprisonment for not more than one year, or both;
- (c) providing that a specified penalty is reduced by a specified amount if the penalty is paid within a specified time;
- (d) providing that a person who contravenes a bylaw may pay an amount established by bylaw within a stated period and that, if the amount is paid, the person will not be prosecuted for the contravention;”

AND WHEREAS it is deemed expedient and in the public interest to regulate, control and prohibit fighting in public places in the City of Estevan;

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CITY OF ESTEVAN ENACTS AS FOLLOWS:

Short Title

1. This bylaw may be cited as the Fighting Bylaw.

Purpose

2. The purpose of this bylaw is to promote the safety, health and welfare of people through the regulating, controlling and prohibiting fighting in public places in the City of Estevan.

Definitions and Schedules

3(1) In this bylaw, in any amending bylaws, and in any schedules attached hereto, the following words and terms shall have the following meanings unless there is something in the subject matter inconsistent therewith:

- (a) the word “**City**” means the Municipal Corporation of the City of Estevan or, where the context requires, the geographical area within the city limits of the City of Estevan;
- (b) the word “” means with the willing participation of a person whether or not that person has a full appreciation of all the risks and whether or not that person consent is merely acquiescence to what the person believes to be an inevitable confrontation;
- (c) the term “**fight**” means any physical confrontation involving violent physical contact between two (2) or more willing participants;
- (d) the term “**public place**” means any place in the City that is open to the public and to which the public is customarily admitted or invited and includes, without limiting the generality of the forgoing:
 - (i) any enclosed portion of a building to which the public is ordinarily permitted access;
 - (ii) any vehicle used for the public transportation or a commercial vehicle for hire that is used to transport members of the public;
 - (iii) any street, highway, sidewalk, lane, alley, bridge, causeway or other place, whether publicly or privately owned, that is used or intended

for the passage of pedestrians or vehicles;

(iv) any parking lot or other place, whether publicly or privately owned, that is used for the parking of vehicles;

(v) any park or open space to which the public is ordinarily permitted access, whether upon payment or otherwise;

(d) the word “**Summons**” means a summons within the meaning of the Criminal Code of Canada, R.S., c.C-34;

(2) The following schedules, appendixes and forms are attached to, and form part of, this Bylaw:

Schedule “A” - Offences for which Notice of Violation may be issued.

Form “1” - Information.

Form “2” - Modified Criminal Code Summons (Front & Back).

Fighting prohibited

4(1) No person shall participate in a fight in or on any public place.

(2) This section does not apply to:

(a) the participants of sanctioned or amateur sporting events conducted in a public place provided the application for force is within the customary norms and rules of the game;

(b) contact between persons that is merely transient or trifling in nature.

(3) In any prosecution of an offence pursuant to this Bylaw, whether or not a fight was within the meaning of this Bylaw is a question of fact to be determined by the trial judge.

False Statement Prohibited

5. No person shall knowingly make a false or misleading statement to a peace officer or produce a false document or thing to a peace officer who is acting pursuant to the authority of this Bylaw.

Notice of violation

- 6(1) Where a person commits or is alleged to have committed an offence for which a penalty is set out in Schedule "A" of this Bylaw, a peace officer may issue a Notice of Violation to such person.
- (2) The Notice of Violation shall provide for the voluntary payment of a penalty in the amount set forth in Column A of Schedule "A" for the offence which the person is alleged to have committed.
- (3) Voluntary payment of a penalty specified in a Notice of Violation shall be made on or before the date indicated on the Notice of Violation. Voluntary payment shall be made in person at the front counter of the Finance Department at City Hall during normal business hours.
- (4) If payment of the amount specified on the Notice of Violation is made on or before the date indicated on the Notice of Violation, the person alleged to have committed the offence shall not be liable to prosecution for the offence indicated.
- (5) If payment of the amount specified on the Notice of Violation is not made on or before the date indicated on the Notice of Violation, a peace officer shall lay an information under oath as to the offence before a Justice of the Peace for the purpose of obtaining a Summons.
- (6) The Summons shall be in the form or substantially in the form of Form 2 and shall provide for the voluntary payment of a penalty in the amount set forth in Column B of Schedule "A" for the offence which the person is alleged to have committed. The Summons shall be issued by a Justice of the Peace and shall be served by a peace officer or other authorized person.
- (7) Voluntary payment of a penalty specified in a Summons shall be made on or before the date indicated on the Summons. Voluntary payment shall be made in person at the front counter of the Estevan Police Service at the Estevan Police Station during normal business hours.
- (8) If payment of the amount specified on the Summons is made on or before the date indicated on the Summons, the person alleged to have committed the offence shall not be liable to prosecution for the offence indicated.

(9) If payment of the amount specified on the Summons is not made on or before the date indicated on the Summons, the person to whom the Summons has been issued shall be liable to prosecution for the alleged contravention of the Bylaw.

(10) Nothing in this section shall be construed to prevent any person from exercising his or her right to defend a charge of contravention of any provision of this Bylaw.

Repeal

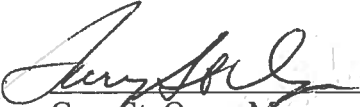
7. Bylaw #2007-1757 is hereby repealed.

Coming Into Force


8. This Bylaw shall come into force on the day of its final passing.

PASSED AND ENACTED ON THE 26th DAY OF OCTOBER 2009.

City of Estevan



Gary St. Onge, Mayor



Lyndon Stachoski, City Clerk

READ a first time this 26th day of October, 2009

READ a second time this 26th day of October, 2009

READ a third time this 26th day of October, 2009

SCHEDULE "A"
Bylaw 2009-1808, the Fighting Bylaw

Offences for which a Notice of Violation May be Issued

<u>Section #</u>	<u>Description of Offence</u>	<u>Column "A"</u>	<u>Column "B"</u>
4(1)	Fighting in a public place	\$250.00	\$350.00
5.	Providing false information to peace officer	\$150.00	\$250.00

FORM "1"
Bylaw 2009-1808, the Fighting Bylaw
Information

INFORMATION

Information No. _____

Ticket No. _____

Canada }
Province of Saskatchewan } **ON BEHALF OF HER MAJESTY THE QUEEN**
Provincial Court, City of Estevan }

THIS IS THE INFORMATION OF [insert name, address and occupation of informant]

(hereinafter called the Informant). The informant says that he/she has reasonable and probable grounds to believe and does believe that:

[insert name, address and birth date of accused] did;

on or about the _____ day of _____, A.D. _____ at the City of Estevan, in the Province of Saskatchewan, commit the following offence:

[insert description of offence]

contrary to the provisions of the Fighting Bylaw, being Bylaw 2009-1808 of the said City.

AND FURTHER the Informant says that a Notice of Violation for the above captioned offence was issued and that no payment has been received in accordance with the instructions contained in the said Notice.

SWORN BEFORE ME this _____ day of _____ A.D. _____, at Estevan in the Province of Saskatchewan.

Signature of Informant

A JUSTICE OF THE PEACE IN AND FOR THE
PROVINCE OF SASKATCHEWAN

FORM "2"

**Bylaw 2009-1808, the Fighting Bylaw
Modified Criminal Code Summons (Front)**

**SUMMONS TO A PERSON
CHARGED WITH A VIOLATION**

Ticket No. _____

Canada }
Province of Saskatchewan } **ON BEHALF OF HER MAJESTY THE QUEEN**
Provincial Court, City of Estevan }

TO _____ Date of Birth: ____/____/____

WHEREAS YOU HAVE THIS DAY BEEN CHARGED BEFORE ME that, on or about the _____ day of _____, A.D. _____ at the City of Estevan, in the Province of Saskatchewan, you did commit the following offence:

contrary to the provisions of the Fighting Bylaw, being Bylaw 2009-1808 of the said City.

AND WHEREAS a Notice of Violation for the above captioned offence was issued and our records indicate that no payment has been received in accordance with the instructions contained in the said Notice.

IF VOLUNTARY PAYMENT IN THE AMOUNT OF _____ IS NOT RECEIVED ON OR BEFORE _____, YOU ARE COMMANDED, IN HER MAJESTY'S NAME:

- (1) to appear before the presiding judge of **The Provincial Court of Saskatchewan at 1016 4th Street**, Estevan, Saskatchewan, on the _____ day of _____ A.D. _____ at _____ o'clock in the _____ noon (Estevan Time) or before any justice for the said Province who is there, and to attend thereafter as required by the Court in order to be dealt with according to law; and

YOU ARE WARNED THAT FAILURE WITHOUT LAWFUL EXCUSE TO ATTEND COURT IN ACCORDANCE WITH THIS SUMMONS IS AN OFFENCE UNDER SUBSECTION 145(4) OF THE CRIMINAL CODE (CANADA).

DATED this _____ day of _____ A.D. _____, at Estevan in the Province of Saskatchewan.

A JUSTICE OF THE PEACE IN AND FOR THE
PROVINCE OF SASKATCHEWAN

SUBMIT THIS STUB WITH PAYMENT

Payment Instructions on the Back

Ticket No. _____

Payment to:
The City of Estevan c/o The Estevan Police Service
301 11th Avenue
Estevan, Saskatchewan, S4A 1C7

FORM "2", continued

Bylaw 2009-1808, the Fighting Bylaw

Modified Criminal Code Summons (Back)

**SUMMONS TO A PERSON
CHARGED WITH A VIOLATION**

PAYMENT AND OTHER INSTRUCTIONS

1. Payment may be made in person at the front counter of the Estevan Police Station, 301 11th Avenue, during normal business hours.
2. Payment may also be made by mailing this Summons, together with the exact amount of the penalty specified therein for voluntary payment, to the following address:

The City of Estevan, c/o
The Estevan Police Service
301 11th Avenue
Estevan, Saskatchewan
S4A 1C7
3. **Payment must be received prior to the date specified in the summons. Voluntary payment can not, and will not, be accepted after the date specified for voluntary payment. If you choose to send your payment by mail, it is your responsibility to ensure that your payment is posted in sufficient time to be received prior to the date specified.**
4. **Avoid prosecution by paying promptly. If payment is not received by the City of Estevan in accordance with the instructions contained herein, a mandatory court appearance is required at the time and place specified herein.**
5. You are warned that failure, without lawful excuse, to attend court in accordance with this summons is an offence under subsection 145(4) of the Criminal Code (Canada), which provides as follows:

“(4) Every one who is served with a summons and who fails, without lawful excuse, the proof of which lies on him, to appear at a time and place stated therein, if any, for the purposes of the Identification of Criminals Act (Canada) or to attend Court in accordance therewith, is guilty of:

 - (a) an indictable offence and is liable to imprisonment for a term not exceeding two years; or
 - (b) an offence punishable on summary conviction.”

BYLAW 2010-1840

A BYLAW OF THE CITY OF ESTEVAN TO AMEND BYLAW 2009- 1808, BEING A BYLAW TO REGULATE, CONTROL AND PROHIBIT FIGHTING IN PUBLIC PLACES

WHEREAS the Council of the City of Estevan, in the Province of Saskatchewan has deemed it necessary to amend Bylaw 2009-1808 of the City of Estevan.

NOW THEREFORE, the Council of the City of Estevan in Open Meeting enacts as follows:

Bylaw 2009-1808, shall be amended by:

1. Adding Article **(vi)** to Section 3(1) (d) under **Definitions and Schedules** as follows;
 “(vi) any school, as defined in the Education Act, including school grounds.”

2. Adding Subsection **(e)** to Section 3(1) under **Definitions and Schedules** as follows;
 “(e) The Term ‘Bully’ means any person who engages in repeated or habitual behavior involving inappropriate or objectionable comments or conduct;
 - (i) directed at an individual, not of the same household and is intended to intimidate, humiliate, ridicule, or isolate; and**
 - (ii) which causes or is likely to cause physical or emotional distress.”**

3. Adding Subsection **(f)** to Section 3(1) under **Definitions and Schedules** as follows;
 “(f) The word ‘Bullying’ means performing the actions of a Bully as defined in Subsection (e).”

4. Adding Section 4.1 as follows;
 “4.1 Bullying
 - (a) No person shall bully another person in any public place.**
 - (b) No person shall bully another person through written or electronic communication.”**

5. Adding Section 6.1 as follows;

“6.1 Bullying Penalty

- (a) Any person who contravenes any provision pertaining to Bullying is guilty of an offense punishable on summary conviction and liable:
 - (i) to a fine of not more than \$2,000;
 - (ii) in addition, or as an alternative to a fine imposed pursuant to clause (a), the court may order the person, or young person and their legal guardian, to attend an anti-bullying course recommended by the prosecutor, or both.
- (b) When a police officer issues a summary ticket for a violation of Section 4.1 of this Bylaw, that police officer may enter on the ticket the amount of \$100 which, if paid within the time prescribed, will be accepted as a guilty plea to the offence.
- (c) Any person who is in default of payment of a fine imposed pursuant to this Section may be liable to a term of imprisonment not exceeding ninety days.”

6. Bylaw #2008-1788 is hereby repealed.

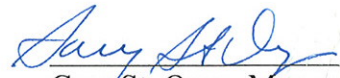
7. This Bylaw shall come into force on the day of its final passing.

This is the original document known as Bylaw 2010-1840 that was given three readings as shown in Motions 2010-717 2010-718 and 2010-721 and hereby annexed to the Council Meeting Minutes.


City of Estevan




Gary St. Onge, Mayor



Gary St. Onge, Mayor



Lyndon Stachoski, City Clerk



Lyndon Stachoski, City Clerk

READ a first time this 6th day of December, 2010

READ a second time this 6th day of December, 2010

READ a third time this 6th day of December, 2010