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# **A GUIDE TO THE LAW IN ALBERTA REGARDING**

## **HOMELESS RIGHTS**

**version: 2008**

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### **GENERAL**

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**INTRODUCTION**

According to a 2006 study by the Edmonton Joint Planning Committee on Housing, there are 2,618 people living without homes in Edmonton. Of these, 1,774 people were ‘absolute homeless’, which means that they did not have access or were turned away from homeless shelters. 844 people were classified as ‘sheltered homeless’, which means that they had access to emergency accommodation.

**INTERNATIONAL AND NATIONAL RIGHTS**

Universal Declaration of Human Rights, Article 25(1): You have the right to a standard of living adequate for the health and well-being of yourself and your family including food, clothing, housing, medical care, necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond your control.

International Covenant on Economic, Social and Cultural Rights, Article 11: You have the right to an adequate standard of living for yourself and your family; including adequate food, clothing, housing and you have the right to the continuous improvement of living conditions.

Canadian Charter on Rights and Freedoms, Section 7: You have the right to life, liberty and security of the person; and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

Alberta Bill of Rights, Section 1: It is hereby recognized and declared that in Alberta there exist without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms, namely:

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- a. the right of the individual to liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except by due process of law.

### RIGHTS IN RELATION TO PANHANDLING

You have the right to ask people for money. You are permitted to panhandle on public property, but there are a few bylaws to keep in mind. The most important thing to remember is to be respectful and avoid confrontations while panhandling. NOTE: Parking lots are NOT public property.

According to the sections 60 and 61 of Edmonton's Traffic Bylaw, it is an offense to obstruct and/or harass other pedestrians using the sidewalks or roads. This means that you cannot panhandle in areas that would block the flow of traffic. For example, standing at the entrance to a store and panhandling may be an obstruction. Also, you cannot crowd, jostle or harass other pedestrians. This means that panhandling should be limited to verbal questions ('spare some change?') and should not involve any physical contact or confrontation. The fine for obstruction or harassment is \$250.

Under the Public Places Bylaw, there is also a bylaw against 'bullying'. Bullying is defined as repeatedly communicating with a person **under the age of 18** in a way that makes that person feel harassed. Although it is not aimed directly at panhandling, it is possible to be charged with this offence. A 'bullying' ticket is a \$250 fine, which is doubled for subsequent offences.

The Parklands Bylaw regulates people's conduct in public parks. Under section 16 of the bylaw, no person shall do anything that is reasonably likely to disturb the peace or enjoyment of other persons using the parkland or interfere with any events that are going on in parklands. Panhandling may 'disturb the peace',

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depending on the circumstances, in which case you would face a \$100 fine.

Panhandling is expressly prohibited from city transit vehicles (buses or the LRT) and stations. If you are caught panhandling on Edmonton Transit Services, you may face a \$50 fine.

### RIGHTS IN RELATION TO SECURITY GUARDS

Security guards are employed by owners of PRIVATE property. Owners of private property can make their own rules about how the property is used, what activities are allowed and who can enter or remain on their property. Security guards can have the authority of the owner to enforce these rules on private property, but they have NO power to enforce rules on PUBLIC property (such as sidewalks and alleys).

Security guards generally cannot arrest or detain you. They can remove you from private property if you cause a disturbance, or can ban you from the property, provided they do so fairly and give you their reason for doing so. They cannot arrest you for refusing to identify yourself or for not showing ID.

Situations where security guards CAN arrest you are when they see you committing a crime, or if they see you trying to escape from the police. This is called 'Citizen's arrest' – this is the ONLY time a security guard can detain you.

Security guards can only search you in limited situations. They cannot search you unless you give them permission or they have arrested you. If they arrest you, they can only do a pat-down or quick search for weapons. They cannot search your bags or packages, but they can hold them until police arrive.

Security guards must treat people equally and should not discriminate. They have the right to judge you because of your

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actions, but not because of your appearance. You have the right to the same treatment and courtesy as anyone else. If a guard discriminates against you, or mistreats you, you can make a complaint. It is important to get the guard's name, and their company. You should write the complaint down, including the guard's name, company and the details of the situation, and mail it to:

Administrator, Security Programs  
10th Fl., 10365-97 Street  
Edmonton, AB, T5J 3W7

### **RIGHTS IN RELATION TO POLICE**

You are under no obligations if a police officer approaches you or wants to talk to you. You should be respectful, but you have a right not to answer their questions. If they ask to look through your belongings, you have the right to refuse. If a police officer is not arresting you, they are prohibited from searching or taking your belongings, and from detaining you for no reason.

If the police are arresting you, try to stay calm and remember your rights.

You have the right to remain silent. However, if the police are charging you with a crime, you are legally required to provide your real name, your address and date of birth (or any form of identification). You do not have to do anything more than that.

You have the right not to be unreasonably searched. If a police officer asks permission to search, saying 'NO' is NOT an indication that you have something to hide. If you are being strip-searched, you have the right to request that someone of the same sex do the search.

You have the right to know why you are being arrested. Police officers must inform you immediately what you are being arrested,

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if they do not, they are violating your rights. Police officers can ONLY arrest you without a warrant if they find you committing an offence or if they have reasonable grounds to believe that you have committed or will commit an offence. Police officers can only use as much force as is reasonably necessary when they are arresting you. Police should not use any force at all, as long as you do not make any threatening gestures and comply with their instructions when you are arrested.

You have the right to talk to a lawyer. Once you are arrested, you must be given a reasonable opportunity to talk to a lawyer. If you do not have a lawyer, the police must provide you with a phone book and numbers for Lawyer Referral Services, Legal Aid, and Law Line.

You have the right to make a complaint. Police officers should not abuse, threaten or discriminate against you. If you do feel like your rights have been violated, make sure you try and find out the officer's name and badge number, and write down what happened, making sure to point out the date, time and address of the problem. Please see our pamphlet 'How to Initiate a Complaint Against the Edmonton Police Services' for more information.

### **LOITERING**

Under section 175(1)(c) of the Criminal Code, loitering is an offence. However, the law holds that loitering is 'lack of purposeful activity'. You are not loitering if you are waiting for a friend, for example.

Note: under the Transit Conduct Bylaw, you are not allowed to loiter at bus stops. Here, loitering means staying at a transit station longer than the time period required to board the next vehicle headed to your destination. It is also a violation of the

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bylaw to ride a transit vehicle for longer than is required to reach your stop.

### **RIGHTS IN RELATION TO OUTDOOR CAMPING**

Sleeping outdoors is not permitted in Edmonton. Specifically, you can be ticketed anytime you set up a tent or any structure that could obstruct the flow of traffic on sidewalks or public places. It is an offence to make 'unauthorized use' of parkland, which is defined as exercising dominion or control over an area by placing any structure on parkland. You are prohibited from setting up any type of abode on parkland, and are not permitted on parkland between the hours of 11p.m. and 5a.m., or when a park is closed.

The safest choice is to stay in a shelter. However, if for any reason you are turned away from a shelter, and are given a ticket for sleeping outdoors, please seek legal help.

### **RIGHTS IN RELATION TO HEALTH CARE**

Under the Canada Health Act, the Government of Canada is responsible for providing you with reasonable access to health services without financial or other barriers. This applies across Canada and travels with you – if you have just moved to Alberta from another province, you will continue to be covered by your home province. You can apply for Alberta Health Insurance after being an Albertan resident for 3 months.

The **Boyle McCauley Health Center** is the only medical clinic in Edmonton that does not require patients to have a Health Care Card, and takes walk-in appointments from 1:00 pm – 9:00 pm on weekdays and from 9:00am – 12:30pm on Saturdays. They also have a Streetworks Needle Exchange program that runs throughout the week and has a van that provides a mobile exchange outreach.

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In an emergency, you will not require a health card to be treated at any hospital. Call 911 for an ambulance for yourself or anyone who needs urgent medical care.

### **RIGHTS IN RELATION TO SUBSIDIZED HOUSING**

There is no right to housing in Canada. However, there are programs to assist you in finding housing, and you have a right to welfare to pay for that housing. Please contact the organizations listed under the 'Housing Services and Shelters' in the References section. You can also contact the Minister of Municipal Affairs and Housing for more information.

### **RIGHTS IN RELATION TO WELFARE AND DISABILITY**

You have the right to income assistance. You have the right to be treated with respect at a welfare office. You can apply for welfare at various Alberta Service Centers, including:

- a. 10242 - 105 Street (ph: 780-415-4900)
- b. 200 13415 Fort Road (ph: 780-422-9440)
- c. 2000 Northgate Centre, 9499 - 137 Avenue (walk-in only)
- d. Argyll Centre, 6325 Gateway Boulevard (ph: 780-644-2888)
- e. 200 Westcor Building, 12323 Stony Plain Road (ph: 780-415-6500)
- f. 120 Meadowlark Shopping Centre, 15710 - 87 Avenue (ph: 780-415-8116)

If you are disabled, you have the right to disability services. There are also organizations available that can help you apply; see some of the organizations under the 'Welfare and Disability Services' section below.

If you are only receiving basic welfare but you

- a. have been unemployed for a long period of time
- b. have a long-term sickness like HIV, HEP C, or TB

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- c. have a mental health disability like depression or schizophrenia
- d. have a physical disability

Call one of the services listed below and ask if you would qualify for disability assistance, which will provide you with more money each month.

In a financial emergency, if you desperately need money to rent housing or buy clothing or food, ask the welfare worker for an “Emergency Needs Assessment.” Welfare has the ability to give you small grants in urgent situations.

### VOTING

If you are a Canadian citizen aged 18 or older, you have the right to vote. There are three types of elections: Federal, Provincial and Municipal. Each type requires that you register to vote. Usually registration requires identification and an address, however, each level of government has different policies to accommodate homeless electors.

#### 1. Federal Elections

Federal elections require voters to register and prove their identity and address. This can be accomplished in three ways:

- a. You can provide one original piece of identification issued by any level of Canadian government or an agency of that government that contains the elector's photo, name and address; *or*
- b. You can provide two original pieces of identification from a list authorized by the Chief Electoral Officer of Canada. Both must contain the name of the elector and one must also contain the elector's address; *or*
- c. You can be vouched for by an elector whose name appears on the list of electors in the same polling division as you and who has an acceptable piece or pieces of identification. Both you and the elector will be required to

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make a sworn statement. An elector cannot vouch for more than one person, and the person who has been vouched for cannot vouch for another elector.

#### 2. Provincial Elections

For Provincial Elections, the requirements are similar – you must have been an ordinary resident in Alberta for at least 6 months. To be registered on the elections list, you need only some form of identification (clinic card, driver's license) and a current, approximate address where you are residing. If possible, it is good to get a reference from a source, for example a letter from the Boyle St. Coop. You will then sign a document that says that you will only vote once.

#### 3. Municipal Elections

For Municipal Elections, you must be an ordinary resident of Alberta for at least six months prior to election day, and your place of residence is located in the area of the election.

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### **REFERRAL NUMBERS**

#### **Legal Services**

Student Legal Services . . . . .	780-492-2226
Legal Aid Society of Alberta . . . . .	780-427-7575
Lawyer Referral Services . . . . .	1-800-661-1095
Alberta Law Line . . . . .	780-644-7777
Edmonton Centre for Equal Justice . . . . .	780-702-1725
Edmonton Community Legal Centre . . . . .	780-702-1725

#### **Health Services**

Boyle McCauley Health Centre . . . . .	780-422-7333
Medical Clinic . . . . .	ext. 225
Dental Clinic . . . . .	ext. 261
Streetworks . . . . .	ext. 226

#### **Housing Services and Shelters**

Municipal Affairs and Housing . . . . .	780-427-2732
Homeless and Eviction Prevention Fund . . . . .	1-866-644-5135
Boyle Street Community Services . . . . .	780-424-4106
Bissell Center . . . . .	780-423-2285 ext. 110
Hope Mission/Herb Jamieson Centre . . . . .	780-429-3470
George Spady Center . . . . .	780-424-8335

#### **Welfare and Disability Services**

Alberta Works Contact Centre . . . . .	1-866-644-5135
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#### **Youth Services**

Youth Emergency Shelter . . . . .	780-468-7070
Old Strathcona Youth Society . . . . .	780-496-5947
iHuman . . . . .	780-421-8811