



Regulation of Material on Highways Bylaw No. 10226

WHEREAS Part 2, Division 5, Section 36 of the *Community Charter* confers upon the **City** authority to, by bylaw, regulate and prohibit in relation to all uses of or involving a highway or a part of a highway;

AND WHEREAS Part 2, Division 5, Subsections 46(2) & (3) of the *Community Charter* confers upon the **City** authority to, by bylaw, authorize the seizure of things unlawfully occupying a portion of a highway or public place;

NOW THEREFORE, the Council of the City of Richmond enacts as follows:

PART ONE: GENERAL PROVISIONS

1.1 Prohibition

1.1.1 No person shall cause, or permit, any things, including without limitation any **material** or **structure**, to occupy or be placed, left, dumped, abandoned, disposed of, installed, or constructed upon a **highway** or other **public space**, without the prior written consent of the **City** (including, without limitation, by way of license agreement, and as may be permitted under *Traffic Bylaw No. 5870*).

1.2 Seizure, Removal and Impoundment

1.2.1 Without notice to, or consent of, the owner of any **unauthorized thing, material or structure**, a **bylaw enforcement officer**, the **Fire Chief**, a **Police Officer**, the **General Manager, Community Safety**, the **General Manager, Engineering & Public Works**, or their designates, may direct **City** staff, or the **City's** agents and contractors, to seize, remove, and impound, or to cause the seizure, removal, and impoundment of, any **unauthorized thing, material or structure** occupying a portion of a **highway** or **public space**. The impoundment shall be in such a place as directed by the person issuing the direction.

1.2.2 Any **unauthorized thing, material or structure** so removed, impounded, or seized under this bylaw pursuant to Section 1.2.1 may be recovered by the owner by paying to the **City** the fees, costs and expenses in the amount set out from time to time in the *Consolidated Fees Bylaw No. 8636*. If such charges remain unpaid on or before December 31st in the year in which the charges are incurred, they may form part of the taxes payable on the person's related real property, as taxes in arrears.

- 1.2.3 Any **unauthorized thing, material or structure** seized under this bylaw may not be disposed by the **City** unless no person has within a fourteen (14) calendar day period following removal/seizure:
- (a) appeared who has established a claim to the **unauthorized thing, material or structure**;
 - (b) paid to the **City** the costs set out under section 1.3.2 above; and
 - (c) taken custody of it.
- 1.2.4 If the **unauthorized thing, material or structure** is not claimed by its owner within 30 calendar days of the date of removal/seizure, the **unauthorized thing, material or structure** maybe sold by the **City** at public auction, if applicable, or otherwise disposed of at the direction of the **General Manager, Finance and Corporate Services**. If the **unauthorized thing, material or structure** is put up for sale by public auction and is not sold, it may be sold by the **City** by private sale or otherwise disposed of at the discretion of the **General Manager, Finance and Corporate Service**.
- 1.2.5 Notwithstanding Section 1.2.3 and 1.2.4 above, if, in the opinion of the **General Manager, Finance and Corporate Services**, the **General Manager, Engineering and Public Works**, or the **General Manager, Community Safety**:
- (a) the **unauthorized thing, material or structure** is waste or refuse;
 - (b) the **unauthorized thing, material or structure** is perishable; or
 - (c) the impoundment of an **unauthorized thing, material or structure** involves unreasonable expense or inconvenience,
- the **City** may dispose of the **unauthorized thing, material or structure** at any time and in any manner.
- 1.2.6 The expenses incurred in the seizure, removal, impoundment, and disposal of any **unauthorized thing, material or structure** under Sections 1.2.4 or 1.2.5 of this bylaw, plus an administrative fee as set out from time to time in the **Consolidated Fees Bylaw No. 8636**, less the proceeds, if any, of the disposal are recoverable as a debt due to the **City**, or its contractors and authorized agents, from the owner of the **unauthorized thing, material or structure**. If such charges remain unpaid on or before December 31st in the year in which the charges are incurred, they may form part of the taxes payable on the person's related property, as taxes in arrears.
- 1.2.7 If upon the sale of any **unauthorized thing, material or structure** the proceeds exceed the expenses incurred in the seizure, removal and disposal, the balance of the proceeds of the sale will be held in trust by the **City** for the owner thereof. If such monies have been held by the **City** for a period of one (1) year and no lawful claim

has been made therefore, the monies shall be forfeited to the **City** and shall be transferred to the general revenue of the **City** and shall form part thereof.

- 1.2.8 In the exercise of the authority set out in this Section 1.2 no compensation shall be paid to the owner of the **unauthorized thing, material or structure**, or any other person, for the loss or damage resulting from the seizure, removal, impoundment, or disposal.

1.3 Order to Comply (Removal)

- 1.3.1 A **bylaw enforcement officer** may order the owner of any **unauthorized thing, material or structure** to remove or clear such **unauthorized thing, material or structure** from any **highway or public space**, subject to the directions set out in the **order to comply**.
- 1.3.2 A **bylaw enforcement officer** may enter, at all reasonable times, upon any real property to determine whether the provisions of this bylaw or the directions of an **order to comply** are being complied with.
- 1.3.3 If the owner of the **unauthorized thing, material or structure** fails to remove or clear the **unauthorized thing, material or structure** from the **highway or public space** as directed in an **order to comply**, **City** staff, or a contractor engaged by the **City**, may seize, remove or clear and dispose of the **unauthorized thing, material or structure** at the expense of the owner. In the exercise of this authority no compensation shall be paid to the owner of the **unauthorized thing, material or structure** or any other person for the loss or damage resulting from the seizure, removal, clearing, or disposal.
- 1.3.4 If the owner fails to remove or clear the **unauthorized thing, material or structure** from a **highway or public space**, as directed in an **order to comply**, to which access is required through adjacent real property, **City** staff, or a contractor engaged by the **City**, may enter on such real property adjacent to the **highway or public space** to, at reasonable times and in a reasonable manner, to seize, remove or clear the **unauthorized thing, material or structure** at the expense of the owner. In the exercise of this authority no compensation shall be paid to the owner of the **unauthorized thing, material or structure** or any other person for the loss or damage resulting from the seizure, removal, clearing, or disposal.
- 1.3.5 Where **unauthorized thing, material or structure** has been seized, removed or cleared in accordance with subsection 1.3.3 or 1.3.4 the costs incurred for such seizure, removal, or clearance, and disposal by the **City** of such **unauthorized thing, material or structure**, plus an administrative fee as set out from time to time in the *Consolidated Fees Bylaw No. 8636*, are recoverable as a debt due to the **City**, or its contractors and authorized agents, from the owner. If such charges remain unpaid on or before December 31st in the year in which the charges are incurred, they may form part of the taxes payable on the owner's related property, as taxes in arrears.

1.4 Ownership of Unauthorized thing, material or structure

1.4.1 In the absence of proof to the contrary:

- (a) the person who placed the **unauthorized thing, material or structure** on the **highway** or **public space**; and
- (b) in respect of **unauthorized thing, material or structure** placed upon unimproved **highways**, the owner or occupant of the real property adjacent to where such **unauthorized thing, material or structure** was placed on the **highway**,

shall be deemed to be the owner of such **unauthorized thing, material or structure** for the purposes of this bylaw.

1.5 Vehicles

1.5.1 Notwithstanding anything contained in this bylaw, the impoundment, seizure, sale in respect of any vehicle having a registered owner set out in the records of the Superintendent of Motor Vehicles unlawfully occupying any portion of a **highway** normally open to the use of the public for the passage of vehicles, shall be subject to the provisions of *Traffic Bylaw No. 5870*.

PART TWO: OFFENCES, PENALTIES AND ENFORCEMENT

- 2.1 (a) A violation of any of the provisions identified in this bylaw shall result in liability for penalties and late payment amounts established in Schedule A of the *Notice of Bylaw Violation Dispute Adjudication Bylaw No. 8122*, as amended or replaced from time to time; and
- (b) A violation of any of the provisions identified in this bylaw shall be subject to the procedures, restrictions, limits, obligations and rights established in the *Notice of Bylaw Violation Dispute Adjudication Bylaw No. 8122* in accordance with the *Local Government Bylaw Notice Enforcement Act, SBC 2003, c. 60*, as they may be amended or replaced from time to time.
- 2.2 Any person who gives false information required under this bylaw is deemed to have committed an infraction of, or an offence against, this bylaw, and is liable on summary conviction to a penalty of not more than \$10,000 in addition to the costs of the prosecution, and each day that such violation is caused or allowed to continue constitutes a separate offence.
- 2.3 Any person who contravenes or violates any provision of this bylaw, or who suffers or allows any act or thing to be done in contravention or violation of this bylaw, or who fails or neglects to do anything required to be done under this bylaw, commits an offence and upon conviction shall be liable to a fine of not less than One Thousand Dollars (\$1,000.00) and not more than Fifty Thousand Dollars (\$50,000.00), in addition to the

costs of the prosecution, and where the offence is a continuing one, each day that the offence is continued shall constitute a separate offence.

PART THREE: INTERPRETATION

3.1 In this bylaw, unless the context requires otherwise:

BYLAW ENFORCEMENT OFFICER

means an employee of the **City** with the job position or title of bylaw enforcement officer, or acting in another capacity on behalf of the **City** for the purpose of the enforcement of one or more of the **City's** bylaws, including without limitation a building inspector and a licensing inspector.

CITY

means the City of Richmond.

COMMUNITY CHARTER

means *Community Charter*, SBC 2003, c. 26, as amended or replaced from time to time.

CONSOLIDATED FEES BYLAW NO. 8636

means the **City's** *Consolidated Fees Bylaw No. 8636*, as amended or replaced from time to time.

COUNCIL

means the Council of the **City**.

FIRE CHIEF

has the meaning set out in the **City's** *Fire Protection and Life Safety Bylaw No. 8306*, as amended or replaced from time to time.

GENERAL MANAGER, COMMUNITY SAFETY

means the **City's** General Manager of Community Safety, and his/her designate(s).

GENERAL MANAGER, FINANCE AND CORPORATE SERVICES

means the **City's** General Manager of Finance and Corporate Services and his/her designate(s).

GENERAL MANAGER, ENGINEERING AND PUBLIC WORKS

means the **City's** General Manager of Engineering and Public Works and his/her designate(s).

HIGHWAY

means any street, road, lane, bridge, viaduct, and any other way open to public use, other than a private right of way on private property, whether or not it is improved. For greater certainty, **highway** includes land or improvement that:

- (i) becomes or has become **highway** by any of the means set out in the definition of "highway" in the *Transportation Act* and are within the control

of or under the jurisdiction of the **City**, including without limitation all such **highways** dedicated to the **City** upon a deposit of a subdivision or road dedication plan pursuant to the *Land Title Act* whether or not such **highway** is improved or open for public use;

(ii) becomes or has become **highway** by **City** bylaw or gazette; and

(iii) are secured for public use as road by way of statutory right of way in favour of the **City**.

LAND TITLE ACT

means *Land Title Act*, RSBC 1996, c. 250, as amended or replaced from time to time

MATERIAL

means any solid or semi-solid material, including, but not limited to, any chattels, trash, refuse, waste material, construction material, soil, discarded residential, commercial or industrial fixtures and appliances, metal scraps, lumber, yard cuttings, agricultural products, and agricultural equipment.

ORDER TO COMPLY

means a written order to remove or clear an **unauthorized thing, material or structure** from any **highway** or **public space**.

POLICE OFFICER

has the meaning set out in the **City's** *Municipal Ticket Information Authorization Bylaw No. 7321*, as amended and replaced from time to time.

PUBLIC SPACE

means any park, public plaza, public square, or other place which the public has access to as a right or by invitation, express or implied, and which is owned by, or within the control, of the **City**, including without limitation any such place secured by way of statutory right of way in favour of the **City**.

STRUCTURE

means any temporary or permanent structure, construction, or building, including without limitation any septic tank, deck, patio, swimming pool, trailer, storage unit, shed, house, warehouse, greenhouse, fixture, piping, and infrastructure.

TRAFFIC BYLAW NO. 5870 means the **City's Traffic Bylaw No. 5870**, as amended or replaced from time to time.

TRANSPORTATION ACT means *Transportation Act*, SBC 2004, c. 44, as amended or replaced from time to time.

UNAUTHORIZED THING, MATERIAL OR STRUCTURE means any thing, including without limitation any **material** or **structure** placed, left, dumped, abandoned, disposed of, installed, or constructed upon a portion of a **highway** or **public space** without the **City's** consent.

3.2 References in this bylaw to enactments, bylaws of the **City**, include those enactments, bylaws, and plans as they may be amended or replaced from time to time.

PART FOUR: SEVERABILITY AND CITATION

4.1 If any section, subsection, paragraph, clause or phrase of this bylaw is for any reason held to be invalid by the decision of a court of competent jurisdiction, such decision does not affect the validity of the remaining portions of this bylaw.

4.2 This Bylaw is cited as "**Regulation of Material on Highways Bylaw No. 10226**".

PART FIVE: FEES BYLAW

5.1 The *Consolidated Fees Bylaw No. 8636*, as may be amended from time to time, applies to this bylaw.

FIRST READING

SECOND READING

THIRD READING

ADOPTED

MAYOR

FEB 26 2024

FEB 26 2024

FEB 26 2024

CORPORATE OFFICE

