



General Purposes Committee

Council Chambers, City Hall
6911 No. 3 Road

Monday, October 19, 2020
4:00 p.m.

Pg. # ITEM

MINUTES

GP-4 *Motion to adopt the **minutes** of the meeting of the General Purposes Committee held on October 5, 2020.*

COUNCILLOR CAROL DAY

ADDED 1A. **ELECTION CAR SIGNS**
(File Ref. No.)

GP-52

See Page GP-52 for full report

RECOMMENDATION

Rescind Section 1.1.2 (G) of Bylaw 8713 car sign as it does not follow the Canadian Charter of Rights and Freedoms and the British Columbia Provincial Motor Vehicle Act.

FINANCE AND CORPORATE SERVICES DIVISION

1. **REPORT BACK ON EXPEDITED TEMPORARY PATIO PROGRAM**

(File Ref. No. 08-4150-01) (REDMS No. 6535929)

GP-12

See Page GP-12 for full report

Designated Speakers: Katie Ferland and Carli Williams

STAFF RECOMMENDATION

- (1) *That the Council endorsed Expedited Temporary Patio Program, as approved on May 25, 2020, be extended until October 31, 2021; and*
- (2) *That the Expedited Temporary Patio Program be expanded to consider applications for temporary coverings or other accessories necessary to operate patios in inclement weather.*



ENGINEERING AND PUBLIC WORKS DIVISION

2. **CITY OF RICHMOND CONCERNS ON RECENT CHANGES TO THE BC ENERGY STEP CODE**

(File Ref. No. 10-6125-07-02) (REDMS No. 6490970; 6539656)

GP-20

See Page GP-20 for full report

Designated Speakers: Norm Connolly and James Cooper

STAFF RECOMMENDATION

That a letter be sent to the BC Minister of Municipal Affairs and Housing stating the City's concerns about, and suggested improvements to, the December 2019 revision to the BC Building Code as outlined in the report titled "City of Richmond Concerns on Recent Changes to the BC Energy Step Code", dated September 16, 2020, from the Director, Building Approvals and Director, Sustainability and District Energy.



Pg. # ITEM

COMMUNITY SERVICES DIVISION

3. **ALEXANDRA GREENWAY INTEGRATED PUBLIC ART PROJECT CONCEPT**

(File Ref. No. 11-7000-09-20-281) (REDMS No. 6481812 v. 3, 6430688)

GP-29

See Page GP-29 for full report

Designated Speaker: Biliانا Velkova

STAFF RECOMMENDATION

That the artist concept proposal for "Water to Earth" by BAGUA Artist Association as detailed in the staff report titled, "Alexandra Greenway Integrated Public Art Project Concept" dated September 17, 2020, from the Director, Arts, Culture and Heritage Services, be endorsed.

PLANNING AND DEVELOPMENT DIVISION

4. **APPOINTMENT OF APPROVING OFFICERS**

(File Ref. No. 09-4100) (REDMS No. 6524552 v. 1A)

GP-49

See Page GP-49 for full report

Designated Speaker: Wayne Craig

STAFF RECOMMENDATION

- (1) *That the appointment of Barry Konkin as Approving Officer for the City, as per Item 16 of Resolution R13/19-5, adopted by Council on November 12, 2013, be rescinded; and*
- (2) *That the following be appointed as Approving Officers in the absence of both Wayne Craig, Director of Development and Reg Adams, Approving Officer/Supervisor, Utilities – Planning and Development:*
 - (a) *Joshua Reis, Program Manager – Development; and*
 - (b) *Suzanne Smith, Program Manager – Development.*

ADJOURNMENT



General Purposes Committee

Date: Monday, October 5, 2020

Place: Council Chambers
Richmond City Hall

Present: Mayor Malcolm D. Brodie, Chair
Councillor Chak Au
Councillor Carol Day (by teleconference)
Councillor Kelly Greene (by teleconference)
Councillor Alexa Loo
Councillor Bill McNulty (by teleconference)
Councillor Linda McPhail (by teleconference)
Councillor Harold Steves (by teleconference)
Councillor Michael Wolfe (by teleconference)

Call to Order: The Chair called the meeting to order at 4:00 p.m.

MINUTES

It was moved and seconded
That the minutes of the meeting of the General Purposes Committee held on September 21, 2020, be adopted as circulated.

CARRIED

COUNCILLOR KELLY GREENE

1. **WOMEN'S ADVISORY COMMITTEE**
(File Ref. No.:

It was moved and seconded
For staff to investigate and report back on the creation of a Women's Advisory Committee; and evaluate the additional strategy recommendations of the FCM Run, Win and Lead framework and report back.

CARRIED

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ENGINEERING AND PUBLIC WORKS DIVISION

**2. UBCM COMMUNITY EMERGENCY PREPAREDNESS FUND
2020/2021 APPLICATION**

(File Ref. No. 10-6060-01) (REDMS No. 6526672)

It was moved and seconded

- (1) *That the Box Culvert Repair project submission to the 2020 Union of BC Municipalities (UBCM) Community Emergency Preparedness Fund for Structural Flood Mitigation be endorsed; and***
- (2) *That, should the submission be successful, the Chief Administrative Officer and General Manager, Engineering and Public Works be authorized to negotiate and execute the funding agreement with UBCM.***

CARRIED

COMMUNITY SAFETY DIVISION

**3. SOIL USE FOR THE PLACEMENT OF FILL APPLICATION FOR
THE PROPERTY LOCATED AT 8511 NO. 6 ROAD (JIANG)**

(File Ref. No. 12-8080-12-01) (REDMS No. 6506278 v. 7)

By teleconference, Barry Mah, Westwood Topsoil Ltd., agent representing the property owner, provided background information regarding the subject site, and noted that (i) the owner has agreed to do whatever it takes to bring the soil back to farmable conditions, (ii) the application has been ongoing for approximately eight years, (iii) various professional analyses have been completed, and (iv) the owner has proposed to provide a \$30,000 bond to the City for implementation of the Farm Plan.

In reply to queries from Committee, Mr. Mah and Thomas Elliot, Agrologist (by teleconference), provided the following information:

- the applicant is agreeable to a minimum 10-year lease between the property owner and the farm operator;
- it is challenging to assure that the soil deposited on the subject site will be sourced from Richmond as there are few opportunities to obtain it locally;
- the removal of the wood waste from the subject site would be a big undertaking and therefore, if the City were to require its removal, there is no certainty that the soil remediation of the subject site would proceed;

2.

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- the disruption of the wood waste may lead to the generation of leachate and would damage the anaerobic state of the soil, thereby having a greater negative impact on the subject site; and
- as contractor for the applicant, Westwood Topsoil Ltd. works closely with source sites to ensure soil quality.

In reply to queries from Committee, Carli Williams, Manager, Business Licence and Bylaws, advised that if approved, the permit requirements will mirror that of previous soil deposit permits (notably the Kavanagh soil deposit permit) whereby an on-site monitor will be required to inspect each load of soil prior to deposition on the subject site and maintain an accurate daily log of trucks depositing soil on the site. Ms. Williams then spoke to performance bonds, noting that the City does not have the authority to require such bond to ensure that all required mitigation and monitoring measures are completed; therefore the proposed \$30,000 bond for the implementation of the Farm Plan is at the applicant's discretion.

Discussion took place and Committee commented on future soil deposit permits and the need to know where soil to be deposited is sourced.

It was moved and seconded

That the 'Soil Use for the Placement of Fill' application, submitted by Bohan Jiang (the "Applicant"), proposing to deposit soil on the property located at 8511 No. 6 Road for the purpose of remediating the property to develop a blueberry farm, be authorized for referral to the Agricultural Land Commission (ALC) for the ALC to review and determine the merits of the proposal from an agricultural perspective as the Applicant has satisfied all of the City's current reporting requirements.

The question on the motion was not called as discussion took place and Committee commented on (i) the need to know where soil is sourced from prior to Council consideration of soil deposit permits, (ii) the preference to require that soils be sourced solely from Richmond and/or Delta, and (iii) the need to apply soil permit requirements consistently.

In reply to a further query from Committee, Mr. Elliot and Mr. Mah stated that the availability of suitable top soil from Richmond and/or Delta is limited and thus it would be challenging to assure this; moreover, the anticipated two-year timeline to complete the project would likely be exceeded if soils deposited were required to be from Richmond and/or Delta.

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As a result of the discussion, the following **amendment motion** was introduced:

It was moved and seconded

That the main motion be amended to add “provided that the soil is sourced from Richmond and/or Delta.”

CARRIED

Opposed: Cllrs. Au
Loo
McPhail

The question on the main motion, as amended to read as follows:

“That the ‘Soil Use for the Placement of Fill’ application, submitted by Bohan Jiang (the “Applicant”), proposing to deposit soil on the property located at 8511 No. 6 Road for the purpose of remediating the property to develop a blueberry farm, provided that the soil is sourced from Richmond and/or Delta, be authorized for referral to the Agricultural Land Commission (ALC) for the ALC to review and determine the merits of the proposal from an agricultural perspective as the Applicant has satisfied all of the City’s current reporting requirements.”

was then called and it was **CARRIED** with Cllrs. Au and Wolfe opposed.

The Chair requested that staff provide information regarding permit conditions imposed on previous applications, notably a site on Westminster Highway being referred to as the “Kavanagh guidelines.” In addition, staff was requested to advise on the process for an applicant if soil for deposit cannot be sourced from Richmond and/or Delta.

PLANNING AND DEVELOPMENT DIVISION

4. **AMENDMENTS TO OFFICIAL COMMUNITY PLAN BYLAW PREPARATION CONSULTATION POLICY 5043 (UPDATE TO REFERRALS TO THE BOARD OF EDUCATION OF SCHOOL DISTRICT NO. 38 (RICHMOND)) AND NEW POLICY ON INDEPENDENT SCHOOL REFERRAL TO THE BOARD OF EDUCATION OF SCHOOL DISTRICT NO. 38 (RICHMOND)**

(File Ref. No. 08-4045-00) (REDMS No. 6510818; 5374035; 6401251; 6487486)

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It was moved and seconded

- (1) *That Council Policy 5043 “OCP Bylaw Preparation Consultation Policy” be amended to update the Board of Education of School District No. 38 (Richmond) referral process to lower the criteria for Richmond Official Community Plan Bylaw 9000 Amendment applications being forwarded to the Board of Education of School District No. 38 from 50 additional school-aged children to 25 additional school-aged children, and undertake minor administrative updates as outlined in the report dated September 14, 2020, from the Director of Policy Planning; and*
- (2) *That the new proposed Council Policy “Referrals to the Board of Education of School District No. 38 (Richmond) for Development Applications Involving Independent Schools” be approved to address referring Independent School proposals requiring a development application to the Board of Education of School District No. 38 (Richmond) as outlined in the report dated September 14, 2020, from the Director of Policy Planning.*

CARRIED

5. REFERRAL RESPONSE: REGULATING FENCING MATERIALS

(File Ref. No. 08-4430-01) (REDMS No. 647103 v. 12; 6404835; 6399777; 6399778; 6360541; 6400503)

In reply to queries from Committee, Barry Konkin, Director, Policy Planning and James Cooper, Director, Building Approvals (by teleconference) provided the following information:

- an amendment to Building Regulation Bylaw No. 7230 that would require a Building Permit application for all fences and elements requiring a concrete foundation would help ensure that fences – including masonry – are well built and constructed properly in all zones in urban areas; and
- dilapidated fences that encroach on City property can be remedied through the City’s bylaws, whereas such fences between two private properties are a civil matter between property owners.

It was moved and seconded

- (1) *That Richmond Zoning Bylaw No. 8500, Amendment Bylaw 10122, respecting changes to fence regulations (including the prohibition of masonry as a permitted fence material for lands regulated under Section 14.1 of the Agriculture Zone), be revised as outlined in this report;*

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- (2) *That Richmond Zoning Bylaw No. 8500, Amendment Bylaw 10122, respecting changes to fence regulations (including the prohibition of masonry as a permitted fence material for lands regulated under Section 14.1 of the Agriculture Zone), as revised, be given second reading; and*
- (3) *That staff be directed to maintain the current bylaw regulations for fence materials – including masonry – in all zones in urban areas that permit single detached residential uses.*

The question on the motion was not called as in reply to queries from Committee, staff advised that (i) agricultural property owners and the Food Security and Agricultural Advisory Committee were not consulted regarding this matter, (ii) a typical wood fence requiring a small concrete footing would not require a building permit, and (iii) if a homeowner is committed to a particular style of fence, they may apply for one through the Development Variance Permit process.

The question on Parts (1) and (2) of the motion was then called and it was **CARRIED** with Cllrs. Loo and McPhail opposed.

The question on Part (3) of the motion was then called and it was **CARRIED** with Cllrs. Day, Greene, Steves, and Wolfe opposed.

6. **APPLICATION BY KULBINDER DHESI, RAJBINDER AUJLA AND PAULVEER AUJLA FOR REZONING AT 10160 WILLIAMS ROAD FROM THE “SINGLE DETACHED (RS1/E)” ZONE TO THE “COMPACT SINGLE DETACHED (RC2)” ZONE**

(File Ref. No. RZ 19-881151) (REDMS No. 6525481 v. 4; 6511125; 6511133)

It was moved and seconded

That Richmond Zoning Bylaw 8500, Amendment Bylaw 10206, for the rezoning of 10160 Williams Road from the “Single Detached (RS1/E)” zone to the “Compact Single Detached (RC2)” zone, be introduced and given first reading.

CARRIED

Opposed: Cllr. Wolfe

7. **APPLICATION BY RAMAN KOONER FOR REZONING AT 3540 LOCKHART ROAD FROM THE “SINGLE DETACHED (RS1/E)” ZONE TO THE “SINGLE DETACHED (RS2/B)” ZONE**

(File Ref. No. RZ 20-898600) (REDMS No. 6522282 v. 4; 6526719; 6526711)

It was moved and seconded

That Richmond Zoning Bylaw 8500, Amendment Bylaw 10211, for the rezoning of 3540 Lockhart Road from the “Single Detached (RS1/E)” zone to the “Single Detached (RS2/B)” zone, be introduced and given first reading.

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CARRIED

Opposed: Cllr. Greene

Discussion took place on the demolition of two-unit dwellings as it relates to secondary suites and in response to Committee comments, Wayne Craig, Director, Development, advised that the subject site is zoned for a single-family home and not a two-unit dwelling; he provided background information and remarked that if a two-unit dwelling were to be constructed, a rezoning application would be required.

As a result of the discussion, the following **referral motion** was introduced:

It was moved and seconded

That staff investigate how to make non-conforming two-unit dwellings compliant where they already exist and report back.

CARRIED

Opposed: Cllr. Loo

COMMUNITY SERVICES DIVISION

8. **MASK WEARING IN CITY BUILDINGS**

(File Ref. No. 09-5125-01) (REDMS No. 6529829 v. 7)

Serena Lusk, General Manager, Community Services, referenced exceptions listed in Option 3 – Semi-Restricted Mark Use Requirements as described in Option 3 in the staff report titled, “Mask Wearing in City Buildings,” dated September 27, 2020, noting that an additional exception for children and caregivers in a childcare setting as per the BC Centre for Disease Control be added.

As a result, the following **motion** was introduced:

It was moved and seconded

That the wearing of masks in City buildings be required as described in Option 3 in the staff report titled, “Mask Wearing in City Buildings,” dated September 27, 2020 from the General Manager, Community Services, provided a further exception for children and caregivers in a child care setting as per the BC Centre for Disease Control.

In reply to queries from Committee, Ms. Lusk advised that (i) staff training will be provided, (ii) as per Option 3, refusal of service for non-compliance is recommended for those that do not fall under an exception category, however every opportunity to comply will be provided prior to refusal of service, and (iii) it is best practice to request that members of the public provide their own mask but a disposable mask will be supplied if required.

The question on the motion was then called and it was **CARRIED**.

7.

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ADJOURNMENT

It was moved and seconded
That the meeting adjourn (5:46 p.m.).

CARRIED

Certified a true and correct copy of the Minutes of the meeting of the General Purposes Committee of the Council of the City of Richmond held on September 5, 2020.

Mayor Malcolm D. Brodie
Chair

Hanieh Berg
Legislative Services Associate



City of Richmond

Report to Committee

To: General Purposes Committee **Date:** October 2, 2020
From: Cecilia Achiam **File:** 08-4150-01/2020-Vol 01
 General Manager, Community Safety
Re: Report Back on Expedited Temporary Patio Program

Staff Recommendation

1. That the Council endorsed Expedited Temporary Patio Program, as approved on May 25, 2020, be extended until October 31, 2021; and
2. That the Expedited Temporary Patio Program be expanded to consider applications for temporary coverings or other accessories necessary to operate patios in inclement weather.

Cecilia Achiam
 General Manager, Community Safety
 (604-276-4122)

Att.2

REPORT CONCURRENCE	
ROUTED TO:	CONCURRENCE
Customer Service	<input checked="" type="checkbox"/>
Building Approvals	<input checked="" type="checkbox"/>
Transportation	<input checked="" type="checkbox"/>
Richmond Fire-Rescue	<input checked="" type="checkbox"/>
Engineering	<input checked="" type="checkbox"/>
Development Applications	<input checked="" type="checkbox"/>
Policy Planning	<input checked="" type="checkbox"/>
Law	<input checked="" type="checkbox"/>
SENIOR STAFF REPORT REVIEW	INITIALS:
APPROVED BY CAO	

Staff Report

Origin

Ensuring public health and community safety continues to be the number one priority for the City during the COVID-19 pandemic, and is key to the City's economic recovery. To support this objective, the City has implemented initiatives to re-allocate outdoor areas and create additional space for businesses, residents and visitors.

At its meeting held on May 25, 2020, Council adopted the following resolution to implement an Expedited Temporary Patio Program to enable restaurants, cafes and pubs to expand their outdoor seating areas onto public and private property:

1. *That Council endorse a program to facilitate the creation of temporary patios as described in the staff report titled "Expedited Temporary Patios for Restaurants, Cafes and Pubs", dated May 22, 2020, from the General Manager of Community Safety, which would include:*
 - a. *the delegation of authority to the General Manager of Engineering and Public Works to approve and execute temporary license agreements permitting the temporary use and occupation of City owned property including portions of sidewalks and highways for the purposes of operating a temporary patio;*
 - b. *the temporary suspension of enforcement of the minimum on-site vehicle parking requirements specified in City of Richmond Zoning Bylaw No. 8500 to the extent any temporary patio created under the program impacts the ability to meet those requirements until November 1, 2020 or until a Council resolution to cancel; and*
 - c. *the temporary suspension of enforcement of the requirements to obtain a Heritage Alteration Permit within the Steveston Village Heritage Conservation Area to the extent any temporary patio created under the program would otherwise require a Heritage Alteration Permit, until November 1, 2020 or until a Council resolution to cancel.*
2. *That one pre-approval is provided to the Liquor and Cannabis Regulation Branch for all individual requests for temporary patios for liquor primary and manufacturer establishments; and*
3. *That staff provide regular updates on the number of applications and report back to Council at the conclusion of the program.*

This report provides an update and recommendations related to the Expedited Temporary Outdoor Patio Program.

Analysis

The City has implemented various initiatives to encourage the safe use of outdoor space by businesses, residents and visitors in order to help prevent the spread of COVID-19. The

Expedited Temporary Patio Program was established in response to requests from food and liquor retail establishments to create or expand outdoor seating areas. The results of this initiative are outlined below.

Temporary Patio Program – Restaurants, Cafes and Pubs

Following an order to close dine-in service by the Provincial Health Officer on March 20, 2020, food and liquor establishments were permitted to re-open for dine-in service on May 15, 2020 but with several restrictions including enhanced cleaning protocols and limits on capacity. While necessary to ensure public safety, these measures severely impacted businesses' viability.

A group of BC hospitality associations led by the BC Restaurant and Food Services Association sent letters to municipalities throughout the province in May requesting increased flexibility for patio types and sizes, expedited permitting, coordination with relevant bodies such as the BC Liquor Distribution Branch, and increased use of public space for dining. On May 25, 2020, Council endorsed an expedited temporary patio program as described below.

Implementation

Through the Temporary Patio program, businesses were encouraged to apply – at no cost – to expand their seating areas onto adjacent outdoor private or City-owned space. Other aspects of the program are as follows:

- The application process was expedited by staff from Transportation, Building Approvals, Richmond Fire-Rescue, Business Licences and Customer Service such that all applications were reviewed in less than a week, with most issued within two business days;
- The Province made amendments to the Liquor Control and Licensing Regulation to allow for Temporary Expanded Service Area (TESA) authorizations for existing businesses in order to avoid the usual six month approval process;
- Council approved suspension of enforcement of the requirement for heritage alteration permits for patios in Steveston Village for the duration of the program; and
- Council approved suspension of enforcement of the bylaw requirement for minimum on site parking spaces for the duration of the program.

The Council approvals required for this program and the amendments to the Liquor Control and Licensing Regulation were set to expire on October 31, 2020. However, the Province recently announced its intention to extend all TESA authorizations until October 31, 2021.

Public Engagement

The public was notified of the Expedited Temporary Patio Program through the City's online Business Support Centre, a City issued news release, social media posts and via stakeholders on the COVID-19 Community Task Force. Additionally, the following engagement activities were undertaken:

- On May 22, 2020, a virtual town hall was co-hosted by the Richmond Chamber of Commerce, the City's Economic Development Office and Tourism Richmond featuring the BC Restaurant and Food Services Association.
- Outreach was conducted to the Steveston Merchants Association and the BC Asian Restaurant Café Owners Association.
- Information was distributed through the Richmond Chamber of Commerce, Tourism Richmond and City of Richmond Economic Development Office e-news.
- A notice was hand delivered to merchants in Steveston Village encouraging them to apply for a temporary patio permit.
- Staff reached out to existing temporary patio permit holders in mid-September to gather their feedback on the existing and potential future expansion of the program.

A second letter from a group of BC hospitality associations, led by the BC Restaurant and Food Service Associations, dated August 26 (Attachment 2), was received thanking the City for implementing the Expedited Temporary Patio Program. The letter also requested that the City consider expediting applications for businesses to winterize patios, extending the program through summer 2021, and creating designated curbside pick up zones.

The Economic Development Office will continue to solicit input from the business community via the City's COVID-19 Business Support Center, the Economic Advisory Committee, the COVID-19 Community Task Force and key stakeholders including the Richmond Chamber of Commerce and Tourism Richmond in order to learn about the unique challenges being faced due to the current pandemic.

Outcome and Feedback

In total, the City issued 12 temporary patio permits representing 385 seats (a list of businesses with temporary permits is in Attachment 1). There were also additional patios that expanded in some areas that did not require City approval or permits. The new or expanded patios used space on private land and not City-owned property such as sidewalks with the exception of one business in Steveston Village that used part of a curb extension at First Avenue-Chatham Street for a table and chairs.

Staff reached out to existing permit holders for feedback, and they indicated that the additional outdoor seating capacity provided by the temporary patio expansions were critical in helping their businesses remain viable during the pandemic. All businesses contacted were interested in continuing to use the temporary patio program during periods of mild weather, and three have indicated they would like to add elements such as tents and heating that would allow their temporary patios to be used in the colder and wetter months.

Recommended Next Steps

It is recommended that the Expedited Temporary Patio Program be extended until October 31, 2021, in order to allow businesses sufficient time to plan ahead for next patio season. This date also aligns with the Provincial approvals related to liquor licences. For those businesses who wish to 'winterize' their temporary patio, it is recommended that the program be expanded to receive applications for temporary coverings or other accessories necessary to operate patios in

inclement weather. While staff expect that the addition of tents, enclosed spaces or heaters will add complexity to the review, and time for the approval process required to determine that adequate safety guidelines are met, there are no additional Council approvals required.

Staff have also assessed the need to create designated curbside pick-up zones to enhance contactless delivery. Because the majority of restaurants in Richmond have access to off-street parking areas, it was determined that this use can be accommodated in these areas. Requests from businesses to designate on-street curbside pick-up and delivery zones will be assessed on a case by case basis.

Installation of a patio in the Steveston Village Heritage Conservation Area (SVHCA) would typically require a Heritage Alteration Permit (HAP). The Expedited Temporary Patio Program, previously endorsed by Council, temporarily suspended enforcement of HAP requirements for temporary patios within the SVHCA. As these patios are temporary in nature, are not to involve modifications to any buildings/structures and are to be removed after a defined time period, staff believe there should be no long-term implications to the heritage character of the area should this approach be extended to October 31, 2021. Any permanent patios would be required to obtain a Council issued HAP.

Financial Impact

None.

Conclusion

Due to the unique challenges faced by businesses and the community as a result of the ongoing pandemic, the City has considered or implemented various measures to re-allocate outdoor space to provide more room for businesses, residents and visitors to move around safely.

It is recommended that the Expedited Temporary Outdoor Patio Program be extended until October 31, 2021 and be expanded to consider applications for temporary coverings or other accessories necessary to operate patios in inclement weather.



Carli Williams
Manager, Business Licence and Bylaws
(604-276-4136)



Katie Ferland
Manager, Economic Development
(604-247-4923)

- Att. 1: List of Temporary Patio Permits Issued
- 2: Letter titled "Request for Support for Expanded Patio Permissions"

List of Temporary Patio Permits Issued

Business Name	Business Address	# of Seats	Property Type	Liquor License
Milltown Bar and Grill	9191 Bentley St #101	76	Private	Yes
Steveston Built	12480 No 1 Rd #130	12	Private	Yes
Fuggles & Warlock	11220 Horseshoe Way #103	22	Private	Yes
Shady Island Seafood Bar	3800 Bayview St #112	28	Private	Yes
Lulu Island Winery	16880 Westminster Hwy	20	Private	Yes
Ichiro Japanese Restaurant	12011 2nd Ave #110	12	Private	Yes
Liu Yi Shou Hot Pot Restaurant	4731 Garden City Rd #150	18	Private	Yes
Country Meadows Golf Course	8482 No 6 Rd	20	Private	Yes
O'Hare's Pub	5031 Steveston Hwy	18	Private	Yes
Pioneer's Pub	10111 No 3 Rd #200	35	Private	Yes
Cadillac Fairview (Richmond Centre Food Court)	6551 No 3 Rd #1400	112	Private	No
Porthole Wine Bar*	12251 No 1 Road #130	12	Private	Yes

*business subsequently closed indefinitely due to COVID-19



ALLIANCE OF BEVERAGE LICENSEES
FOR A RESPONSIBLE LIQUOR INDUSTRY

August 26, 2020

VIA EMAIL

Your Worship and Council:

REQUEST FOR SUPPORT FOR EXPANDED PATIO PERMISSIONS

On behalf of the BC Restaurant and Foodservices Association, the Alliance of Beverage Licensees, and the BC Craft Brewers Guild, we are writing to thank you for expanding outdoor dining in your municipality and to request that you consider:

1. Expediting applications for businesses to winterize patios in public and private spaces to provide operators with the opportunity to capitalize on the confidence of outdoor space
2. Approving temporary patios for Summer 2021 now so operators are able to plan ahead; and
3. Creating a program for designated pick up zones so that businesses can enhance contactless curbside pick up in the fall and winter months.

Outside dining has been a significant benefit to operators and customers. It has helped build confidence in dining out and activated streets in new ways that have helped keep patrons and employees safe amid this global pandemic. We hope that we can work with you to build on this positive messaging going forward.

The financial pressures felt by British Columbia's hospitality industry as a result of the COVID-19 pandemic continue to be substantial.

British Columbia's 14,000 restaurants and pubs employ over 190,000 people and contribute \$13 billion dollars to the economy annually. Our craft beer and wine industries also play significant roles in the vibrancy, innovation, and economic impact of our industry and the province. At this point in the crisis, 15% of hospitality businesses have already closed. With the end of summer approaching combined with the end of temporary layoff and CERB as well as the extended closure of the border, the potential for additional businesses closing is significant.

The COVID-19 crisis has driven devastating declines in both sales and guest-count in the hospitality industry.

- 51% of British Columbians surveyed by Leger Marketing at the end of July felt that just leaving the house was stressful. 64% remain afraid of contacting the virus.

BC Restaurant and Foodservices Association 600-890 West Pender Street, Vancouver, BC, V6C 1J9

- Datassential survey of August 7 reports that the number of people concerned about eating out is rising: 47% are definitely avoiding eating out and 34% are nervous but will still eat out.

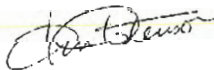
In face of real threats of business closures across the province, we ask you to consider extending your permissive licensing for restaurant, pub, bar, and brewery businesses around outdoor spaces. Extensions of the incredible support and creativity you have already offered would make a significant difference to the hospitality businesses that operate and employ people in your community:

- Extend approvals for short-term patios in public and private spaces to provide operators with the opportunity to capitalize on the confidence of outdoor space and expand the businesses ability to create physical distancing between tables.
- Support expedited applications for businesses to winterize temporary spaces, including by preapproving styles of canopies and heater units that meet your jurisdictions needs.
- Renew the extended patio program for 2021 now. This will ensure that operators plan to keep materials and generates cost savings.
- Create a program for businesses to apply for curbside pick up zones. We suggest that these include standardized signage that lists the businesses using the pick up stop and phone number for curbside pick up.
- Ensure coordinated communication and reduced red tape to make these changes possible.
- Support expanded permissions in discussions with the Provincial Government.
- Practice Sympathetic Administration and set new ways of doing streamlined business.

Our industry has never faced a crisis of this magnitude. It is our sincere hope that we can work with your council to find material and hard-hitting measures to ensure this industry survives. It will require bold and quick moves to help industry restore itself. We are working with the LCLB to extend their liquor service regulations in conjunction with this request.

Thank you in advance. We remain at your disposal to offer advice and perspective on these issues. Please do not hesitate to contact the undersigned at any time.

Sincerely,



Ian Tostenson, President and CEO cell: 604.986.1429
British Columbia Restaurant and Foodservices Association



Jeff Guignard, Executive Director cell: 604-499-2566
Alliance of Beverage Licensees



Ken Beattie, Executive Director cell: 604.306.1500
BC Craft Brewers Guild



City of Richmond

Report to Committee

To: General Purposes Committee

Date: September 16, 2020

From: James Cooper
Director, Building Approvals

File:

Peter Russell
Director, Sustainability and District Energy

Re: City of Richmond Concerns on Recent Changes to the BC Energy Step Code



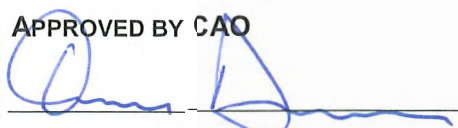
Staff Recommendation

That a letter be sent to the BC Minister of Municipal Affairs and Housing stating the City's concerns about, and suggested improvements to, the December 2019 revision to the BC Building Code as outlined in the report titled "City of Richmond Concerns on Recent Changes to the BC Energy Step Code", dated September 16, 2020, from the Director, Building Approvals and Director, Sustainability and District Energy.

James Cooper, Architect AIBC
Director, Building Approvals
(604-247-4606)

Peter Russell, MCIP RPP
Director, Sustainability and District Energy
(604-276-4130)

Att. 3

REPORT CONCURRENCE	
CONCURRENCE OF GENERAL MANAGER 	
SENIOR STAFF REPORT REVIEW	INITIALS: 
APPROVED BY CAO 	

Staff Report

Origin

In July 2018, Council adopted the BC Energy Step Code (ESC) into local regulation, with requirements entering into force for new Building Permit applications on September 1, 2018.

Revision 2 of the *BC Building Code (BCBC) 2018* took effect on December 12, 2019. This code change introduced two new ways for Part 9 Residential buildings (e.g. single detached houses, townhouses and small apartment buildings) to meet the thermal performance requirements of the Energy Step Code (ESC). One of these options includes a new “Percent Better than EnerGuide Reference House” metric for assessing envelope performance. Subsequent analysis by City staff indicates that this new metric allows significantly lower performance and increased energy consumption compared to the absolute thermal envelope metrics in the ESC, potentially undermining the ‘envelope first’ approach of the ESC.

This report supports Council’s Strategic Plan 2018-2022 Strategy #2 – A Sustainable and Environmentally Conscious City:

Environmentally conscious decision-making that demonstrates leadership in implementing innovative, sustainable practices and supports the City's unique biodiversity and island ecology;

2.2 Policies and practices support Richmond's sustainability goals.

Analysis

BC Energy Step Code – Overview

The Province has committed to increase the energy performance of all new construction in the coming years, such that the BC Building Code will require net-zero energy ready performance for all new buildings by 2032. Local authorities can utilize the Energy Step Code (ESC) as a regulatory tool to shift the construction industry toward high-performance envelope and mechanical systems, and show leadership in transitioning new buildings toward a Net Zero standard. Richmond Council recognizes the potential of the ESC to reduce community-wide energy consumption and GHG emissions, and our Official Community Plan sets out a timetable for proposed increases in ESC requirements, in which the highest Step level (i.e., Net Zero Energy ready) will be required by 2025, well in advance of the 2032 provincial target.

City of Richmond’s Leadership

Local builders have successfully transitioned to the ESC (see Attachment 1). The City of Richmond’s support of the subsidized Airtightness Training Program and blower door tests on homes under construction, as well as Richmond’s Builders Breakfast engagement series was critical to this success. Staff continue to engage builders by showcasing local projects, providing seminars on air barrier detailing, and reviewing proposed City policies with respect to energy and climate. Richmond builders have demonstrated they are able to meet enhanced performance requirements of the ESC.

The Energy Step Code was designed to use an “envelope first” approach

When the ESC was designed (2015-2017) and incorporated into the BC Building Code (2017-2018), it was strongly supported by building energy experts because of its “envelope first” approach, through the use of absolute targets for building energy use.

The envelope first approach aligns with expert opinions that the most cost-effective and long-lasting way to improve building energy efficiency is through the envelope. The advantage of this approach is especially critical when designing to the top levels of the ESC, as a high-performance envelope greatly reduces the demand for heating and cooling energy, making it possible to ‘right-size’ mechanical systems, as well as making the use of on-site renewable energy cost-effective – a key consideration for Net Zero Energy ready buildings.

The ESC’s “Thermal Energy Demand Intensity (TEDI)” metric sets out a maximum permissible amount of annual energy use per square meter of conditioned floor space. The absolute TEDI targets are straightforward to model, measure and verify, and are similar to the absolute performance targets used by other well-established high-performance building standards, such as Passive House.¹

December 2019 Revision 2 changes to ESC weaken its effectiveness

Staff are concerned that the new (Percent Better) envelope performance metric would allow new houses in Climate Zone 4 (where Richmond is) to achieve Steps 2 and 3 with as little as one-quarter of the envelope improvements previously required for a Step 2 or Step 3 house. This change reduces the effectiveness of Richmond’s energy efficiency and climate action policies with respect to Part 9 new residential buildings, and the utility of the ESC as a means of transitioning BC’s construction industry towards achieving net-zero energy ready buildings.

The Province adopted changes to the BCBC in December 2019 (i.e., Revision 2, 2018) in response to complaints from homebuilders in BC’s Interior and Kootenay region (Climate Zone 5 and 6) that the envelope targets for Step 2 and higher were too stringent. These changes added two new ways to satisfy the thermal envelope requirement for Part 9 residential buildings within all climate zones:

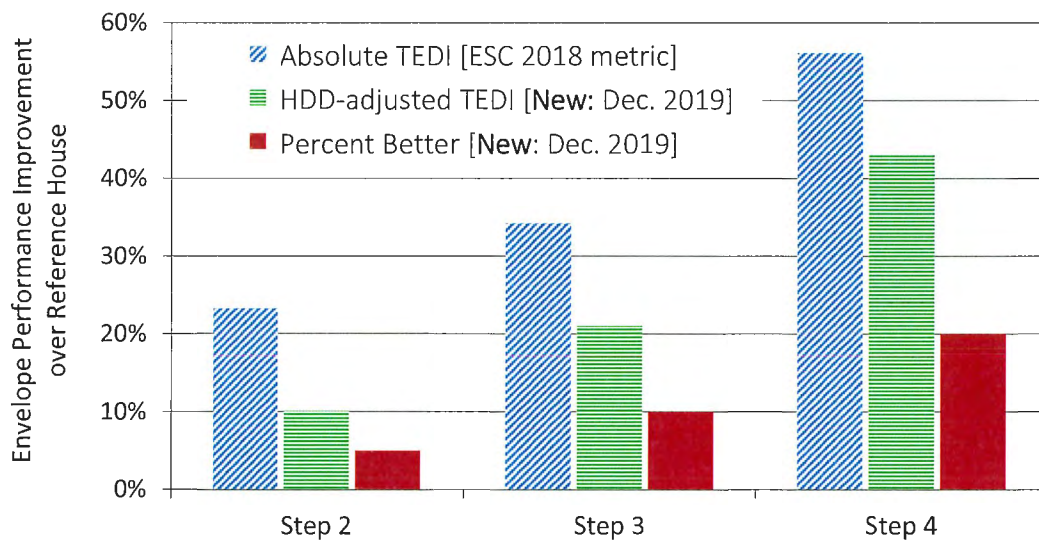
- **Heating Degree Day-adjusted (HDD-adjusted)** Thermal Energy Demand Intensity targets adjusted to specific ‘degree days’ within each Climate Zone. Staff have no concerns with this change, as the absolute TEDI targets are consistent with the overall approach of the ESC.²
- **Percent Better than Reference House** that staff have shown will result in lower thermal performance and increased energy consumption compared to the TEDI target, as it can be achieved with minimal or no thermal improvements, thereby eroding the envelope-first intentions of the ESC.

¹ The Passive House standard influenced the performance metrics of the ESC with respect to absolute targets.

² In Richmond, the new ‘Heating Degree Day-adjusted’ target effectively return the TEDI targets to where they were before the TEDI targets were made more stringent through Revision 1 to the ESC in December 2018.

To compare the effectiveness of these envelope metrics, staff have ‘translated’ the Part 9 Step Code absolute building envelope targets into relative targets, using data from 37 completed energy models from Step 1 detached homes in Richmond (see Figure 1). Results clearly demonstrate that absolute energy targets result in a much more energy efficient home than the relative performance target. Given that achieving the TEDI targets may entail a higher investment in the building envelope relative to Percent Better (at the same Step Code level), it is likely that most builders will choose to pursue the Percent Better option (see Attachment 2 and 3 for additional details).

Figure 1: Improvement of the building envelope performance over Reference House (prescriptive baseline) by achieving the absolute TEDI targets (2018, 2019) and the new relative targets (2019)³



City of Richmond’s response to date

City staff have verbally communicated concerns about the December 2019 changes to staff at the Ministry of Housing and Municipal Affairs, and to the Energy Step Code Council. Staff have also distributed these findings to other local governments implementing the ESC. Earlier this year, City of Vancouver staff informed the Energy Step Code Council that while Vancouver is committed to aligning its own building energy efficiency requirements with the ESC, it will exclude the “Percent Better than Reference House” pathway from the Vancouver Building Bylaw. To date, provincial staff have not made a commitment to addressing the concerns expressed by local governments.

Recently, there have been proposals to add a relative “Percent Better than Reference House” performance requirement to the National Building Code (NBC). Staff have provided feedback to Codes Canada highlighting the deficiencies of this approach. Given BC’s leadership in creating Canada’s first performance-based energy code, removal or revision to the relative performance path in the Step Code could also help prevent its inclusion in future updates to the National Energy Code for Buildings (NECB).

³ Figure 1 shows *average* gains. To enable comparison between the absolute and relative targets, absolute targets were converted to percentage improvement over the Reference House (i.e. relative targets) based on the average of the Step 1 houses in Richmond completed to date.

Next Steps

With Council approval, staff will prepare a letter from the City, to be sent to the BC Minister of Municipal Affairs and Housing with a copy of this report. The letter will suggest the following options to address problematic aspects of the new envelope performance pathway:

1. Remove the “Percent Better than Reference House” building envelope metric as a compliance option from the Energy Step Code; or
2. Remove the “Percent Better than Reference House” building envelope metric as a compliance option from the Energy Step Code for Climate Zone 4 only.

Financial Impact

None.

Conclusion

The Energy Step Code is one of the City’s most effective tools for achieving major energy efficiency improvements and significant GHG emission reductions in new buildings. However, in December 2019 revisions, the thermal efficiency for Part 9 residential buildings is compromised via the addition of a new, relative envelope performance metric. Staff are requesting that a letter be sent to Province of BC and the Energy Step Code Council relaying the results of analysis completed by the City of Richmond as well as suggestions to address the problem.



Sepehr Foroushani, Ph.D., P.Eng.
Building Energy Specialist
(604-204-8650)



Nicholas Heap
Sustainability Project Manager
(604-783-8050)

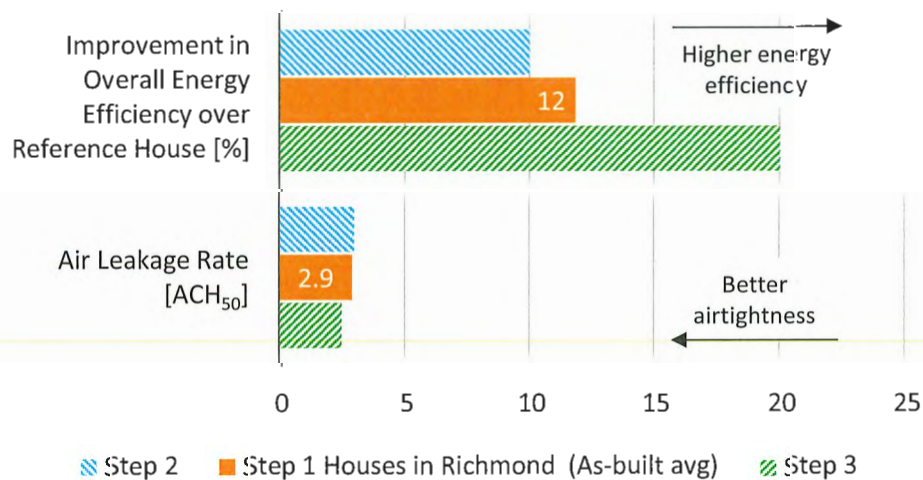
- Att. 1: Energy Step Code results for single detached houses in Richmond
2: Revisions to envelope performance requirements for Part 9 Residential buildings (December 2019)
3: Comparative analysis of Energy Step Code building envelope performance pathways

Attachment 1: Energy Step Code results for single detached houses in Richmond

As of September 1, 2018, all new single detached dwellings and duplexes must comply with Step 1 of the BC Energy Step Code.⁴ A Step 1 house is defined as a building that is at least as energy efficient as an identical house built to the minimum prescriptive requirements of the Building Code. The main difference between a Step 1 house and one built to prescriptive Code requirements (i.e. prior to the Energy Step Code) is that the airtightness of the Step 1 house has been tested and energy performance of the house has been evaluated using energy modeling tools.

More than 200 building permit applications for single detached dwellings and duplexes have been received. Early results from the 195 cases that have been reviewed and the 37 cases that have received occupancy thus far, suggested that homebuilders in Richmond have been successful in meeting, and exceeding, the requirements of Step 1. Builders in Richmond have successfully met the principal challenges of transitioning to the Energy Step Code at Step 1; namely integrating airtightness testing and building energy modeling into various stages of design and construction.

As shown in the figure below, Richmond builders have demonstrated particular success in building more airtight houses under the Energy Step Code. Whereas earlier studies suggested the average airtightness of new single detached houses in the Lower Mainland to be no better than 5.0 ACH₅₀, the completed Step 1 houses in Richmond have an average airtightness of 2.8 ACH₅₀, which is even better than the airtightness requirement of Step 2. The Step 1 single detached houses built in Richmond to date have, on average, 12% lower energy demand compared to the prescriptive Code minimum baseline.



⁴ Townhouses, apartments, and high-rise buildings with issued and in-stream Development Permit and Building Permit applications were exempted from the Energy Step Code if a completed Building Permit application was submitted prior to January 2020.

Attachment 2: Revisions to Envelope Performance Requirements for Part 9 Residential Buildings (December 2019)

The BC Energy Step Code (ESC) is a compliance path within the BC Building Code that defines tiered sets of building energy performance targets that local government may choose to adopt as building standards for new construction. The envelope performance requirements in the ESC are defined in tables for each of BC’s seven climate zones, with metrics adjusted according to each zone, in a step-wise fashion. Richmond is within Climate Zone 4, covering the Lower Mainland and southern Vancouver Island; including more than half of the province’s total population.

Revision 2 to BC Building Code 2018, which took effect on December 12, 2019, introduced the following new compliance options for the building envelope:

a) **“Heating Degree-Day Adjusted Thermal Energy Demand Intensity (HDD-Adjusted TEDI)”** metric factors in the relatively wide range of climate conditions within each “climate zone” defined by the Building Code. While the addition of this option makes it easier to achieve various levels of the ESC compared to the original TEDI targets, the adjusted metric and performance targets are consistent with the ESC’s overall approach.

b) **“Percent Better than EnerGuide Rating System Reference House (Percent Better)”** option, establishes *relative* improvement targets for the building envelope performance of the house, compared to how the same building would perform if built to the minimum prescriptive requirements of the Building Code (the so-called “Reference House”). This is a fundamentally different approach to measuring the energy performance of the building envelope.

The following table compares the new envelope performance criteria of the Energy Step Code.⁵

Table 1 – Energy Step Code Envelope performance targets for Climate Zone 4: BC Building Code 2018 vs. BC Building Code 2018 – Revision 2 (2019) Targets

	Maximum Thermal Energy Demand Intensity [kWh/m ² /year]		Minimum Envelope Performance Improvement Over Reference House
	BCBC 2018	BCBC 2018 - Rev 2 (Richmond, 2800 HDD)	BCBC 2018 - Rev 2
Step 1	N/A	N/A	0%
Step 2	35	41	5%
Step 3	30	36	10%
Step 4	20	26	20%
Step 5	15	18	50%

⁵ For more details, see “Summary of Changes to the BC Energy Step Code: Part 9 Residential Buildings. BC Building Code 2018 Revision 2”:

<http://energystepcode.ca/app/uploads/sites/257/2019/12/BCBC2018-Rev2-BCESC-Part9-vFIN-rev.pdf>

Attachment 3: Comparative Analysis of Energy Step Code Building Envelope Performance Pathways

The 37 single detached houses in Richmond built to meet Step 1 of the Energy Step Code were re-evaluated based on the new envelope performance targets introduced in *Revision 2 to BC Building Code 2018*. The performance metrics were calculated based on “As-built” airtightness measurements and energy modeling information submitted to the City during building inspections.⁶

If evaluated under the new performance target options introduced in December 2019, 17 of the 37 Step 1 houses would now qualify as Step 2 or Step 3 houses. Sixteen cases (43%) would qualify for a higher Step using the “Percent Better” relative envelope performance pathway, whereas only 3 cases (8%) qualify for a higher Step based on both the adjusted absolute TEDI targets and the relative envelope performance targets.

All these buildings were designed and built just to meet Step 1, and despite good airtightness, none exceeded the performance criteria of Step 1 (as defined prior to December 2019). Moreover, none of the houses that would now qualify as Step 3 under the relative “Percent Better” envelope performance pathway contain the features of a high-performance building envelope. Aside from good airtightness and the use of heat-recovery ventilators, improvements over the baseline (“Reference”) house are achieved through incremental upgrades to typical designs (e.g., using R24 batt insulation in walls instead of R20 batts). None of these “upgraded” houses have elements of energy efficient design (e.g. thicker walls, or optimization of house shape, orientation, and location of windows). The following table shows the details of the energy performance metrics and the thermal characteristics of the building envelope for the 37 houses evaluated in this study.

Staff are concerned that the use of the Percent Better than Reference House metric will lead to “Step Code inflation”; meaning that Step 3 houses built to the December 2019 version of the Code will be designed and built no more thermally efficiently than the Step 1 houses built under previous requirements. The new envelope performance metric in the ESC will widen the performance gap between lower / intermediate and higher Steps, effectively making it more challenging for the industry to transition to high-performance building techniques as the Building Code becomes more stringent in the lead-up to net-zero-energy ready (2032).

⁶ Note that instead of the cumbersome relative envelope performance calculation methodology laid out in the *Energy Step Code Instruction Manual: BC Energy Compliance Reports For Part 9 Residential Buildings* (December 12, 2019), a much simpler metric, namely the difference in TEDI, was used in this analysis to quantify the envelope performance relative to the Reference House. Analysis by staff has shown this to have generally negligible impact on the outcome.

Case	Building Envelope Characteristics*										HRV Efficiency			
	Heated Area [m ²]	Air Leakage Rate [ACH ₅₀]	Rated Energy Consumption [GJ/yr]	% Better EnerGuide rating	TEDI [kWh/m ² /yr]	% Better Envelope	Built as (2018)	ESC 2019 Classification		Effective RSI			Window USI	
								HDD-adj TEDI	% Better TEDI	Walls		Roof		Slab
1	348.1	2.5	88	12%	57	x	Step 1	Step 1	3.06	7.72	2.11	5.02	1.6	66%
2	190.1	2.1	42	17%	38	x	Step 1	Step 2	2.61	7.79	2.11	5.26	1.7	70%
3	292.7	2.9	109	10%	85	0%	Step 1	Step 1	2.78	7.02	2.32	4.98	1.8	80%
4	286.1	3.4	97	2%	76	5%	Step 1	Step 1	2.88	6.68	2.11	5.75	1.5	79%
5	446.0	2.8	141	3%	74	-35%	Step 1	Step 1	3.17	8.17	2.11	5.07	1.5	65%
6	301.0	3.1	93	3%	71	-4%	Step 1	Step 1	3.31	7.51	2.11	5.48	1.6	75%
7	336.0	3.2	96	3%	62	-8%	Step 1	Step 1	2.86	7.00	2.11	4.87	1.6	66%
8	377.4	3.2	111	7%	61	2%	Step 1	Step 1	3.18	6.60	2.11	5.99	1.3	61%
9	203.0	2.8	62	7%	61	10%	Step 1	Step 1	2.95	7.09	2.11	5.17	1.6	63%
10	282.0	2.3	77	10%	58	3%	Step 1	Step 1	2.89	6.92	2.11	4.85	1.6	65%
11	310.0	3.2	89	12%	57	6%	Step 1	Step 1	3.20	6.91	2.11	4.86	1.5	64%
12	290.3	3.4	78	13%	55	x	Step 1	Step 1	2.31	6.20	2.11	5.02	1.5	65%
13	212.0	2.6	62	7%	55	-10%	Step 1	Step 1	3.10	9.00	2.3	4.93	1.4	67%
14	291.3	2.8	77	10%	53	4%	Step 1	Step 1	3.04	6.81	2.11	5.07	1.6	72%
15	204.0	3.1	61	17%	53	2%	Step 1	Step 1	2.99	7.26	2.11	5.39	1.8	75%
16	200.0	3.5	54	6%	53	-11%	Step 1	Step 1	2.81	7.07	2.11	5.17	1.6	66%
17	241.0	3.2	66	13%	52	7%	Step 1	Step 1	2.86	7.26	2.11	4.89	1.4	63%
18	308.5	4.3	70	15%	51	-7%	Step 1	Step 1	2.95	8.89	2.11	5.02	1.7	65%
19	305.1	3.3	78	13%	51	11%	Step 1	Step 1	3.44	6.67	2.11	5.16	1.6	66%
20	167.0	3.3	48	12%	51	4%	Step 1	Step 1	2.74	8.40	2.11	5.10	1.7	71%
21	352.3	3.0	73	14%	39	0%	Step 2	Step 2	2.63	8.78	2.11	4.22	1.3	65%
22	284.8	2.3	81	13%	58	9%	Step 1	Step 1	3.28	6.85	2.11	5.05	1.6	65%
23	402.6	2.8	97	10%	56	9%	Step 1	Step 2	2.80	7.00	2.6	5.20	1.8	82%
24	288.5	3.0	76	19%	55	18%	Step 1	Step 2	2.98	8.70	2.11	4.96	1.4	65%
25	429.6	2.5	105	14%	53	11%	Step 1	Step 2	2.68	7.69	2.11	5.54	1.6	65%
26	328.7	2.9	84	13%	52	12%	Step 1	Step 2	3.10	6.66	2.11	5.09	1.7	66%
27	307.7	2.5	78	14%	52	21%	Step 1	Step 2	1.99	8.89	2.46	6.29	1.6	65%
28	167.0	2.6	44	11%	52	17%	Step 1	Step 2	2.74	8.40	2.11	5.10	1.7	71%
29	284.7	3.0	69	17%	50	16%	Step 1	Step 2	3.48	7.39	2.11	5.40	1.3	65%
30	200.0	3.0	54	5%	47	15%	Step 1	Step 2	2.80	5.81	2.11	5.21	1.8	75%
31	287.1	2.6	69	14%	45	9%	Step 1	Step 2	2.72	7.31	2.11	5.90	1.8	63%
32	301.8	3.1	65	19%	41	13%	Step 2	Step 2	2.91	6.71	2.32	5.02	1.8	65%
33	309.0	2.6	74	22%	50	23%	Step 1	Step 3	3.26	8.75	3.52	5.17	1.4	65%
34	285.0	2.2	70	23%	50	26%	Step 1	Step 3	2.76	8.34	2.11	5.30	1.5	66%
35	224.2	0.7	53	20%	46	21%	Step 1	Step 3	2.72	5.28	2.5	6.03	1.8	65%
36	197.3	2.0	43	19%	38	32%	Step 2	Step 3	2.96	7.31	2.11	5.17	1.7	63%
37	174.7	2.5	40	19%	37	18%	Step 1	Step 2	2.96	7.31	2.11	5.17	1.7	63%

x indicates missing data

* Characteristics better and worse than prescriptive Code requirements are shown by green and red highlights respectively.



City of Richmond

Report to Committee

To: General Purposes Committee **Date:** September 17, 2020
From: Marie Fenwick **File:** 11-7000-09-20-281/Vol
 Director, Arts, Culture and Heritage Services 01
Re: **Alexandra Greenway Integrated Public Art Project Concept**

Staff Recommendation

That the artist concept proposal for “Water to Earth” by BAGUA Artist Association as detailed in the staff report titled, "Alexandra Greenway Integrated Public Art Project Concept" dated September 17, 2020, from the Director, Arts, Culture and Heritage Services, be endorsed.

CM Fenwick

Marie Fenwick
 Director, Arts, Culture and Heritage Services
 (604-276-4288)

Att. 2

REPORT CONCURRENCE		
ROUTED TO:	CONCURRENCE	CONCURRENCE OF GENERAL MANAGER
Finance Department	<input checked="" type="checkbox"/>	<i>Severna</i>
Parks Services	<input checked="" type="checkbox"/>	
Transportation	<input checked="" type="checkbox"/>	
SENIOR STAFF REPORT REVIEW	INITIALS: <i>CF</i>	APPROVED BY CAO <i>[Signature]</i>

Staff Report

Origin

On March 9, 2020, Council approved the Alexandra Greenway Public Art Project Terms of Reference. The Call to Artists was posted in March 2020 and invited artists residing in Richmond to submit qualifications and an expression of interest to create a two dimensional (2D) artwork to be integrated into the asphalt paving of a multi-use corridor along May Drive, between Alexandra Road and Alderbridge Way.

This report presents the proposed artwork concept, “Water to Earth” by Richmond-based artist collective, BAGUA Artist Association, as recommended by a Selection Panel committee comprised of professional artists, heritage consultants and community representatives.

This report supports Council’s Strategic Plan 2018-2022 Strategy #2 A Sustainable and Environmentally Conscious City:

Environmentally conscious decision-making that demonstrates leadership in implementing innovative, sustainable practices and supports the City's unique biodiversity and island ecology.

This report supports Council’s Strategic Plan 2018-2022 Strategy #3 One Community Together:

Vibrant and diverse arts and cultural activities and opportunities for community engagement and connection.

This report supports Council’s Strategic Plan 2018-2022 Strategy #4 An Active and Thriving Richmond:

An active and thriving community characterized by diverse social and wellness programs, services and spaces that foster health and well-being for all.

Analysis

Artist Selection Process

On March 24, 2020, the Alexandra Greenway Integrated Public Art Call to Artists was posted to solicit applications from Richmond-based artists (Attachment 1). The deadline for the artist call was April 21, 2020. Six (6) Richmond-based artists responded to the Open Call to artists for the opportunity.

On May 4, 2020, following the Public Art Program administrative procedures for an artist selection process, Public Art Program staff with support from Parks Services and Transportation Services, convened the first Artist Selection Panel meeting comprised of the following members:

- Denise Cook, Heritage Consultant
- Jeanette G. Lee, Artist

- Bruce Pagnucco, Community Representative, Volunteer Member of Richmond Active Transportation Committee
- Jill Wright, Community Representative, Volunteer Coordinator, Paulik Park Community Gardens
- Carlyn Yandle, Artist

Two artists and one artist team were shortlisted and invited to attend an artist orientation session with City staff and professional consultants. The artist orientation provided an opportunity for the artists to ask questions and obtain additional information about specific design considerations, product material information, and production and installation processes of the project. Following the orientation session, artists were provided with a \$250 honorarium to develop a preliminary artwork concept and attend the final artist selection panel meeting to present their artwork concepts to the Selection Panel.

On June 4, 2020, the three shortlisted artists returned to present their concept proposals to the Selection Panel at a meeting facilitated by staff. In accordance with the Public Art Program Administration Procedures, the Selection Panelists reviewed the concept proposals presented by the shortlisted artists and engaged in a thorough adjudication and evaluation process. The Selection Panel recommended the concept proposal by BAGUA Artist Association for the commission and noted that the concept proposal responded well to the natural heritage and history of the Alexandra Neighbourhood and will serve to animate the multi-use corridor while providing a wayfinding feature for commuters and visitors alike. This work is consistent with the Council-Adopted Alexandra Neighbourhood Public Art Plan.

The Public Art Advisory Committee has reviewed the concept proposal and supports the proposed artwork concept by BAGUA Artist Association.

Recommended Artist Concept – Alexandra Greenway Integrated Public Art Project Concept

The artist's concept proposal, "Water to Earth" celebrates the local natural heritage of the Alexandra Neighbourhood and is inspired by Chinese ornamental patterns and Richmond's native bog and slough landscape features. The artists describe the artwork as follows:

The symmetrical emblem comprises local species such as dragonflies, turtles, Labrador tea, bog laurel and skunk cabbage that inhabit the remnants of sloughs in this neighbourhood. The wavy outline is an abstract reference to water, the foundation of where Richmond emerged to be. The artwork intends to raise awareness of the significance of Richmond's bog ecosystem and its biodiversity. Our design sought inspiration from traditional Chinese ornamental patterns ... In Feng Shui, water is the attribute of prosperity, and earth is the attribute of stability and support. Therefore, the artwork carries good wishes of prosperity and stability to the public, facilities and shops in nearby zones.

Attachment 2 provides further information about the artist team's background and proposed artwork.

In consultation with the artist, a technical review and coordination with staff and City-contracted professionals will be included in the development of the artwork.

Financial Analysis

The total budget for the Alexandra Greenway Integrated Public Art Project is \$50,000. \$5,000 is provided to the artist for design, production coordination and consultation working with the City's contracted professionals and Park Services staff. The remaining budget of \$45,000 will be available to cover all implementation expenses including production, installation, taxes and other associated costs to deliver a completed artwork integrated with the site.

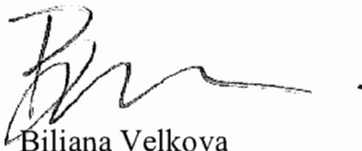
The Alexandra Greenway Integrated Public Art Project is funded by the Public Art Reserve and is included in the City's 2020 Budget and in the Consolidated 5-Year Financial Plan (2020–2024).

The artwork will be applied with thermoplastic paint, which is considered non-toxic and non-hazardous when used for its intended purpose as road markings. The material does not give off any fumes even during the installation process and the specifications comply with Occupational Safety and Health Administration (OSHA) standards. Any repairs to the artwork will be the responsibility of the Public Art Program.

Conclusion

Adopted by Council on November 12, 2013, the Alexandra Neighbourhood Public Art Plan provides a framework for including art in creating a culturally rich environment in a vibrant, healthy and sustainable city.

The Alexandra Greenway Integrated Public Art Project Concept supports the Plan to include an integrated artwork in the Alexandra Neighbourhood. An artwork at this location will connect the local ecology and history to raise awareness and celebrate the aspirations of a sustainable and connected Richmond.



Biliana Velkova
Public Art Planner
(604-247-4612)

- Att. 1: Alexandra Greenway Multi-Use Pathway, Public Art Activation, Call to Artists
- 2: BAGUA Artist Association, Concept Proposal, "Water to Earth"

call to artists

BACKGROUND

Formally a semi-rural landscape, the Alexandra neighbourhood is now comprised of multiple family housing developments and places to work, shop and play. It is bordered by residential neighbourhoods to the east and north, and by the urban City Centre to the west. The Alexandra Greenway and new six-acre Alexandra Neighbourhood Park comprise a network of green spaces that connect established residential areas north of Cambie Road to the Garden City Lands south of Alderbridge Way (Figure 1 & 2).

The Garden City Lands are an extraordinary 55.2 hectares (136.5 acres) of open space located within the Agricultural Land Reserve, in the heart of Richmond, between Westminster Highway, Alderbridge Way, Garden City Way and No. 4 Road (Figure 2). The Garden City Lands is in the process of becoming a new community park with diverse uses including, urban agriculture, environmental preservation and interpretation, as well as recreational and cultural uses.

LOCATION

The section of the Alexandra Greenway that runs north-south along May Drive between Alexandra Road and Alderbridge Way (Figures 1 & 2), is part of a larger neighbourhood pedestrian and cyclist route with resting nodes linking residential areas to new commercial zones.

“CONNECTING ECOLOGY & NATURAL HERITAGE”

Artists are invited to respond to the theme of “**Connecting Ecology & Natural Heritage**” as it relates to building sustainable and ecologically sensitive cities through the preservation of natural habitat for native plant and animal species. The public art will help promote and animate a safe, multi-use pathway to decrease vehicular traffic in the area and complement new tree plantings, native plant species and a natural stormwater management system.

- **Connecting Ecology:** Richmond’s landscape and hydrology have been formed by its unique location within the Fraser River delta. The Alexandra Neighbourhood contains remnants of historic sloughs and agricultural networks, including an abundance of local wildlife. Public art can play an integral part in bringing awareness to the importance of preserving natural habitat and the role we can play in supporting local ecosystems.
- **Connecting Natural Heritage:** Public Art that references local farming, agricultural heritage and history of the area connects and reminds newcomers and longtime residents of the area’s unique past. History includes telling the story of the land, people and places that have

call to artists

inhabited the area. Public art will assist this new community in creating meaningful connections and memories while acknowledging the past and looking forward to the future.

BUDGET

The artist fee for this project is \$5,000 for the provision of an artwork design and delivery of vector-based digital artwork file(s). The artist will work in consultation with City staff and contractors retained by the City to refine the design as appropriate. This budget includes (but is not limited to) artist fees and administration, travel expenses, artist studio overhead, photography documentation and all taxes excluding GST. Fabrication and installation costs will be the responsibility of the City of Richmond.

ARTWORK AND DESIGN CONSIDERATIONS

- The artwork will be conceived as a repeating pattern or family of repeating elements.
- The total area of the artwork will cover approximately 20-30% of the asphalt-paved corridor.
- The commissioned artist will propose the layout and placement of the artwork to delineate directions of travel and create an overarching experience and presence on site.
- The commissioned artist must work within the paving product manufacturer's design specifications and submit the artwork as a digital black and white vector-based file without the use of gradients or shading in the artwork.
- The artwork must be original work produced specifically for this artist call.
- The artwork must not include references to political logos/branding, copyright-protected commercial logos/branding or content resembling traffic features or signs.

ARTIST ELIGIBILITY

This call is open to artists residing in Richmond, B.C. Artists who are currently contracted by the City for a public art commission are not eligible to apply. City of Richmond employees and members of the Richmond Public Art Advisory Committee are not eligible to apply.

SELECTION PROCESS

A selection panel consisting of a combination of artists, art professionals and community representatives will engage in a two-stage artist selection process to review all artist applications. Three artists will be shortlisted and given a \$250 honorarium to attend an Artist Orientation Session, develop a concept proposal and attend an interview and presentation with the selection panel. At

call to artists

the conclusion of the process, the panel will recommend one artist for the commission. The selected artist will enter into a contract with the City of Richmond.

STAGE 1: ARTIST SELECTION CRITERIA

Submissions will be reviewed and decisions made based on:

- demonstrated skills and experience based on artist's portfolio and CV;
- initial approach to the identified thematic framework as described in the Letter of Intent;
- artist capacity to work with other design professionals and stakeholders; and
- appropriateness of the approach to the Public Art Program goals: www.richmond.ca/culture/publicart/plans/policy

Note: Submissions should not include a concept proposal for Stage 1 of the artist selection process.

STAGE 2: ARTIST SELECTION CRITERIA

Three short-listed artists will submit concept proposals to be reviewed, based on the following criteria:

- interpretation and approach to the identified theme and appropriateness for the site and context of Alexandra neighbourhood;
- merit and technical feasibility of the concept proposal;
- responses to follow-up questions/ and feedback from the Stage 1 selection panel review; and
- appropriateness of the concept to the Public Art Program goals: www.richmond.ca/culture/publicart/plans/policy

STAGE 1: SUBMISSION REQUIREMENTS

E-mail all documentation as one (1) PDF document, not to exceed a file size of 5 MB to: publicart@richmond.ca

- INFORMATION FORM – Please complete the information form attached to this document.
- LETTER OF INTEREST – 300 words or less, describing art practice, initial approach to the work and any relevant experience or similar completed projects.
- ARTIST CV – (2 page maximum). Teams should include one page for each member.
- WORK SAMPLES – Up to ten (10) image examples of previous work that illustrate and demonstrate practice, skills and experience for this opportunity. One image per page. Please include artist name(s), title, year, location and medium information to be on each image page.

call to artists

PROJECT TIMELINE

*If shortlisted for the opportunity, applicants must be available to attend the Artist Orientation and Finalist Interview dates and times below.

Application Deadline:	April 21, 2020 at 5:00 p.m.
Artist Orientation for Shortlisted Artists:	May 7, 2020 at 1:00 p.m.*
Shortlisted Artists Interviews:	June 4, 2020, 1:00 p.m., Richmond City Hall, 6911 No.3 Road.*
Project Completion:	Fall 2020

SOURCES FOR ADDITIONAL INFORMATION

- [Alexandra Neighbourhood Public Art Plan](#)
- [Richmond Arts Strategy, 2019-2024](#)
- [Richmond Public Art Program](#)
- [Richmond Archives](#)

SUBMISSION GUIDELINES

1. All supporting documents must be complete and adhere to these guidelines and submission requirements or risk not being considered.
2. All submissions must be formatted to 8.5 x 11 inch pages. Portfolio images would be best formatted to landscape format.
3. If submitting as a team, the team should designate one representative to complete the entry form. Each team member must submit an individual curriculum vitae. (See Submission Requirements).
4. *Any questions and all documents* must be sent by e-mail to: publicart@richmond.ca

ADDITIONAL INFORMATION

1. The selected artist may be required to show proof of WCB coverage and \$2,000,000 general liability insurance.
2. The City and the selection panel are not obliged to accept any of the submissions and may reject all submissions. The City reserves the right to reissue the Artist Call as required.
3. All submissions to this Artist Call become the property of the City. All information provided under the submission is subject to the Freedom of Information and Protection of Privacy Act (BC) and shall only be withheld from release if an exemption from release is permitted by the Act. The artist shall retain copyright in the concept proposal. While every precaution will be taken to prevent the loss or damage of submissions, the City and its agents shall not be liable for any loss or damage, however caused.
4. Extensions to the deadline will not be granted under any circumstances. Submissions received after the deadline and those that are found to be incomplete will not be reviewed.

call to artists



ALEXANDRA GREENWAY | CONCEPT PLAN | 9540 ALEXANDRA ROAD CITY OF RICHMOND DATE: NOVEMBER 2019



Figure 1. Alexandra Greenway (May Drive Section) Site Plan

call to artists



Figure 2. Neighbourhood Map showing Alexandria Greenway

call to artists

PUBLIC ART
RICHMOND

Attach one (1) copy of this form as the first page of the submission.

Name: _____

Team Name: (if applicable) _____

Address: _____

City: _____ Postal Code: _____

Primary Phone: _____ Secondary Phone: _____

E-mail: _____ Website: _____
(One website or blog only)

Incomplete submissions will not be accepted. E-mailed submissions over 5 MB will not be accepted. Information beyond what is listed in the checklist will not be reviewed.

List Team Member Names: (Team Lead complete above portion)

Please let us know how you found out about this opportunity:

Would you like to receive direct e-mails from the Richmond Public Art Program? Yes No

Signature: _____ Date: _____

Submit applications by e-mail to: publicart@richmond.ca

Additional Information

Please be advised that the City and the selection panel are not obliged to accept any of the submissions and may reject all submissions. The City reserves the right to reissue the RFQ as required. All submissions to this RFQ become the property of the City. All information provided under the submission is subject to the Freedom of Information and Protection of Privacy Act (BC) and shall only be withheld from release if an exemption from release is permitted by the Act. The artist shall retain copyright of the submitted documents. While every precaution will be taken to prevent the loss or damage of submissions, the City and its agents shall not be liable for any loss or damage, however caused.

From Water to Earth

Artist Statement

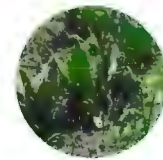
Bagua Artist Association

The concept for the Alexandra Greenway project is to celebrate the rich hydrology and landscape of Richmond. Our proposed artwork illustrates Richmond's bog and slough natural habitat in a Chinese ornamental-pattern style. The symmetrical emblem comprises local species such as dragonflies, turtle, labrador tea, bog laurel, and skunk cabbage that inhabit the remnants of sloughs in this neighbourhood. The wavy outline is an abstract reference to water, the foundation of where Richmond emerged to be. The artwork intends to raise awareness of the significance of Richmond's bog ecosystem and its biodiversity.

Our design sought inspiration from traditional Chinese ornamental patterns. We also took reference from lattice windows in classical Chinese gardens. The repeating emblems are connected by intertwining vines to create a continuous flow that compliments the use of this multipurpose pathway. In Feng Shui, water is the attribute of prosperity, and earth is the attribute of stability and support. Therefore, the artwork carries good wishes of prosperity and stability to the public, facilities, and shops in nearby zones.



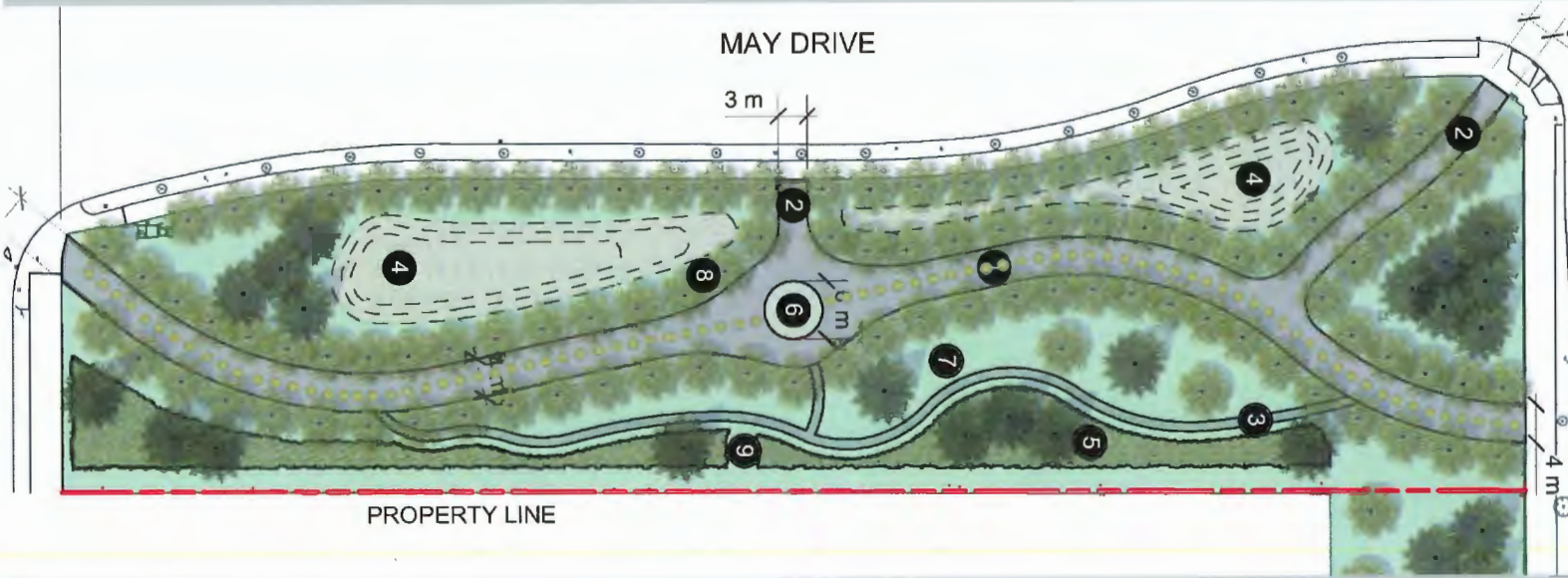
OC Design & Layout







Total coverage of 30% of Greenway = 1615 ft² = approx. 100 discs repeat





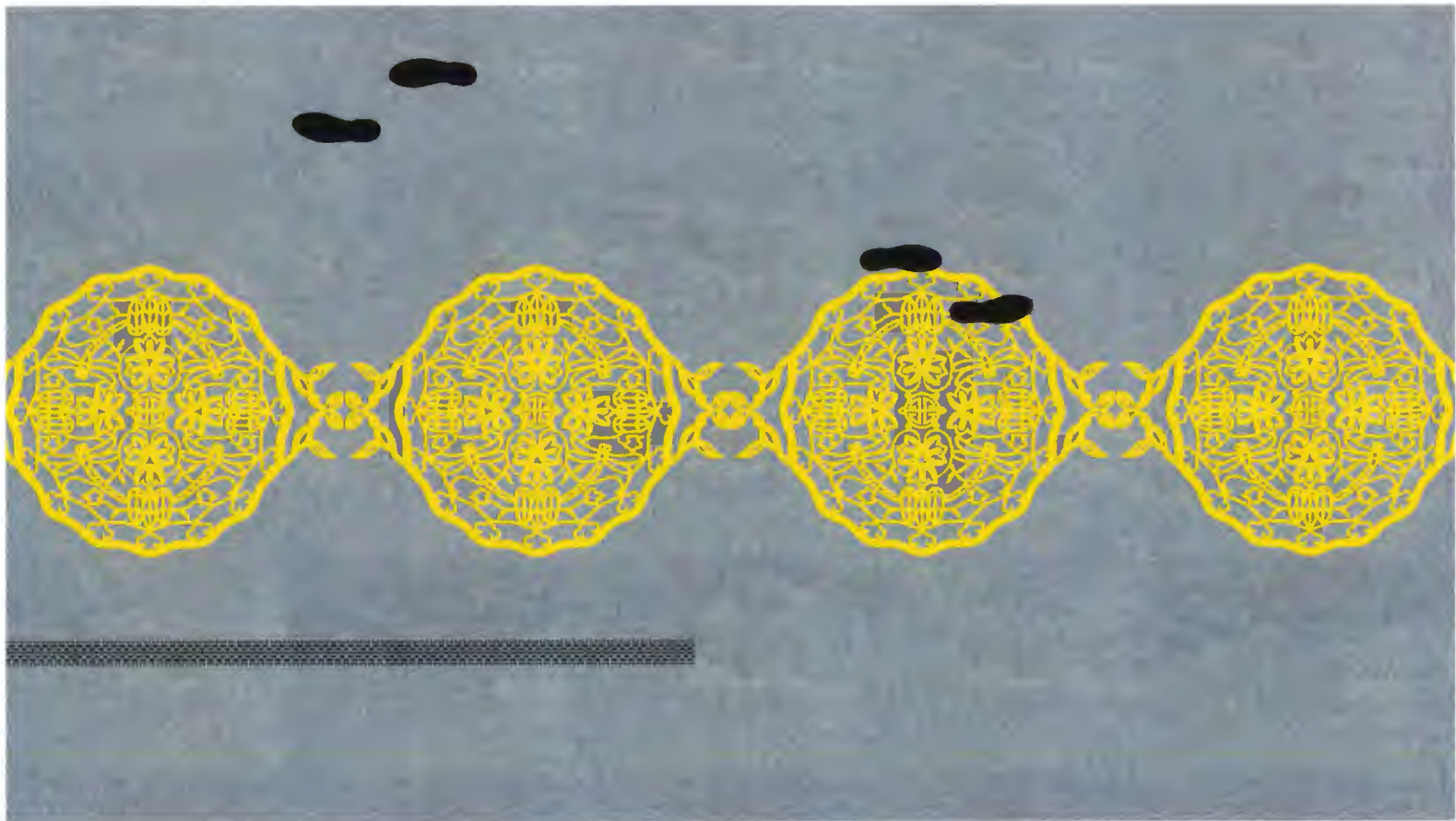
02. Site Specificity



Illustrating the distinctive features of sloughs and bogs in Richmond



Celebrate local natural heritage and ecosystems through artwork inspired by Chinese ornamental pattern.



03. Bagua Artist Association Bio

Bagua Artist Association is an artist collective founded in 2018 on the unceded Coast Salish Territories (Vancouver, BC). The collective's practice is multimedia, including public art, social engagement, new media art, painting and installations are focuses in the collective's practice.



Katharine Meng-Yuan Yi

Yi's practice investigates and reflects on contemporary societal occurrences, quotidian subjects, and continuously re-examines the role of the artist in a broader social spectrum. Yi received her BFA from the University of British Columbia in 2014.



Sean Cao

Cao received his BFA from Emily Carr University of Art and Design. In Cao's art practice, he explores between the abstract and the representational and attempts to create narratives that can stimulate different receptions in individual viewers.



City of Richmond

Report to Committee

To: General Purposes Committee

Date: September 14, 2020

From: Wayne Craig
Director, Development

File: 08-4100/2020

Re: Appointment of Approving Officers

Staff Recommendations

1. That the appointment of Barry Konkin as Approving Officer for the City, as per Item 16 of Resolution R13/19-5, adopted by Council on November 12, 2013, be rescinded; and
2. That the following be appointed as Approving Officers in the absence of both Wayne Craig, Director of Development and Reg Adams, Approving Officer/Supervisor, Utilities – Planning and Development:
 - a) Joshua Reis, Program Manager – Development
 - b) Suzanne Smith, Program Manager – Development

Wayne Craig
Director, Development
(604-247-4625)

WC:jr

REPORT CONCURRENCE	
CONCURRENCE OF GENERAL MANAGER 	
SENIOR STAFF REPORT REVIEW	INITIALS:
APPROVED BY CAO 	

Staff Report

Origin

The current appointments to the position of Approving Officers are: Wayne Craig, Director of Development with Reg Adams, Approving Officer/ Supervisor, Utilities, Planning and Development responsible for the day-to-day functions. In the case of their absence, Joe Erceg, General Manager, Planning and Development, and Barry Konkin, Director of Policy Planning are also appointed as Approving Officers.

Given role changes within the Planning and Development Division management team, this report seeks to amend the Approving Officer appointments to reflect the change in positions and to ensure effective service delivery.

Analysis

The authority for Council to appoint an Approving Officer is found in Section 77 of the *Land Title Act*. The role of the Approving Officer is to review and approve or deny subdivision or consolidation of land within the City. The position of the Approving Officer is best handled by management staff involved in the day-to-day activities of the Development Applications Department. It is typical practice for Municipalities to assign Deputy Approving Officers to provide back up coverage during vacations and absences.

Council last appointed an Approving Officer on November 12, 2013. Since this time there have been changes in the Planning and Development Division's management team. Changes to the City's appointed Approving Officers are needed at this time to ensure the effective delivery of services to the City's clients.

Since being appointed in 2013, Barry Konkin has assumed the role of Director of Policy Planning. Subsequently, Joshua Reis and Suzanne Smith have been appointed to the positions of Program Manager, Development. This position is generally responsible for the day-to-day activities involved with processing development applications and both are acquainted with the City's bylaws, policies and procedures. Given these changes, staff propose to rescind Barry Konkin's appointment and appoint Joshua Reis and Suzanne Smith as Approving Officers.

Accordingly, the City's Approving Officer would formally be Wayne Craig, with the day-to-day approvals handled by Reg Adams, with back up by Joe Erceg, Joshua Reis and Suzanne Smith.

Financial Impact

None.

September 14, 2020

08-4100/2020

Conclusion

As a result of staff role changes, it is recommended that Barry Konkin's appointment to the position of Approving Officer be rescinded. Further, two new appointments to the position of Approving Officer are required to continue to deliver effective and timely service to the City's clients.

A handwritten signature in black ink, appearing to read "Joshua Reis". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke extending to the right.

Joshua Reis
Program Manager, Development
(604-204-8653)

JR:blg

Department of Justice

Section 2(b) – Freedom of expression

Provision

2. Everyone has the following fundamental freedoms:

- b. freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication.

Similar provisions

Similar provisions may be found in the following Canadian laws and international instruments binding on Canada: sections 1(d) and (f) of the *Canadian Bill of Rights*; article 10 of the *International Covenant on Civil and Political Rights*; article 13 of the *Convention on the Rights of the Child*; article 5(d)(viii) of the *Convention on the Elimination of All Forms of Racial Discrimination*; article 21 of the *Convention on the Rights of Persons with Disabilities*; article IV of the *American Declaration of the Rights and Duties of Man*.

See also the following international, regional and comparative law instruments that are not binding on Canada but include similar provisions: article 19 of the *Universal Declaration of Human Rights*; article 10 of the *European Convention for the Protection of Human Rights and Fundamental Freedoms*; article 13 of the *American Convention on Human Rights*; the First Amendment of the American Constitution.

Purpose

The protection of freedom of expression is premised upon fundamental principles and values that promote the search for and attainment of truth, participation in social and political decision-making and the opportunity for individual self-fulfillment through expression (*Irwin Toy Ltd. v. Quebec (Attorney General)*, [1989] 1 S.C.R. 927 at 976; *Ford v. Quebec*, [1988] 2 S.C.R. 712 at 765-766).

The Supreme Court of Canada has maintained that the connection between freedom of expression and the political process is “perhaps the linchpin” of section 2(b) protection (*R. v. Keegstra*, [1990] 3 S.C.R. 697; *Thomson Newspapers Co. v. Canada (A.G.)*, [1998] 1 S.C.R. 877; *Harper v. Canada (Attorney General)*, [2004] 1 S.C.R. 827). Free expression is valued above all as being instrumental to democratic governance. The two other rationales for protecting freedom of expression — encouraging the search for truth through the open exchange of ideas, and fostering individual self-actualization, thus directly engaging individual human dignity — are also key values that animate section 2(b) analysis.

Analysis

Canadian courts have interpreted section 2(b) very broadly, often finding a *prima facie* breach easily.

The Supreme Court has adopted the following three-part test for analyzing section 2(b): 1) Does the activity in question have expressive content, thereby bringing it within section 2(b) protection?; 2) Does the method or location of this expression remove that protection?; and 3) If the expression is protected by section 2(b), does the government action in question infringe that protection, either in purpose or effect? (*Canadian Broadcasting Corp. v. Canada (Attorney General)*, [2011 SCC 2](#) (“Canadian Broadcasting Corp.”); *Montréal (City) v. 2952-1366 Québec Inc.*, [\[2005\] 3 S.C.R. 141](#); *Irwin Toy Ltd.*, *supra*.)

1. Does the activity in question have expressive content, thereby bringing it within section 2(b) protection?

Expression protected by section 2(b) has been defined as “any activity or communication that conveys or attempts to convey meaning” (*Thomson Newspapers Co.*, *supra*; *Irwin Toy Ltd.*, *supra*). The courts have applied the principle of content neutrality in defining the scope of section 2(b), such that the content of expression, no matter how offensive, unpopular or disturbing, cannot deprive it of section 2(b) protection (*Keegstra*, *supra*). Being content-neutral, the Charter also protects the expression of both truths and falsehoods (*Canada (Attorney General) v. JTI-Macdonald Corp.*, [\[2007\] 2 S.C.R. 610](#) at paragraph 60; *R. v. Zundel*, [\[1992\] 2 S.C.R. 731](#) at paragraph 36; *R. v. Lucas*, [\[1998\] 1 S.C.R. 439](#) at paragraph 25).

Freedom of expression includes more than the right to express beliefs and opinions. It protects both speakers and listeners (*Edmonton Journal v. Alberta (Attorney General)*, [\[1989\] 2 S.C.R. 1326](#)). “Expression” may include all phases of the communication, from maker or originator through supplier, distributor, retailer, renter or exhibitor to receiver, whether listener or viewer (*Dagenais v. Canadian Broadcasting Corp.*, [\[1994\] 3 S.C.R. 835](#); *Irwin Toy Ltd.*, *supra*; *Rocket v. Royal College of Dental Surgeons of Ontario*, [\[1990\] 2 S.C.R. 232](#); *R. v. Videoflicks* (1984), 14 D.L.R. (4th) 10).

Protected expression has been found to include:

- “music, art, dance, postering, physical movements, marching with banners, etc.” (*Weisfeld v. Canada*, [1995] 1 F.C. 68 (F.C.A.), CanLII - 1994 CanLII 9276 (FCA) at paragraph 30 (F.C.A.);
- commercial advertising (*R. v. Guignard*, [\[2002\] 1 S.C.R. 472](#); *Ford*, *supra*; *Irwin Toy Ltd.*, *supra*; *Rocket*, *supra*; *Ramsden v. Peterborough (City)*, [\[1993\] 2 S.C.R. 1084](#); *RJR-MacDonald Inc. v. Canada (Attorney General)*, [\[1995\] 3 S.C.R. 199](#); *JTI-Macdonald Corp.*, *supra*);
- posters on utility poles (*Ramsden*, *supra*);
- peace camps (*Weisfeld* (F.C.A.), *supra*);
- signs and billboards (*Guignard*, *supra*; *Vann Niagara Ltd. v. Oakville (Town)*, [\[2003\] 3 S.C.R. 158](#));
- picketing (*R.W.D.S.U., Local 558 v. Pepsi-Cola Canada Beverages*, [\[2002\] 1 S.C.R. 156](#); *Dolphin Delivery Ltd. v. R.W.D.S.U. Local 580*, [\[1986\] 2 S.C.R. 573](#); *B.C.G.E.U v. British Columbia (Attorney General)*, [\[1988\] 2 S.C.R. 214](#); *Dieleman v. Attorney General of Ontario* (1994), 20 O.R. (3d) 229 (Ont. Gen. Div.); *Morassee v. Nadeau-Dubois*; [2016 SCC 44](#));

- handing out leaflets (*U.F.C.W, Local 1518 v. Kmart Canada Ltd.*, [\[1999\] 2 S.C.R. 1083](#); *Allsco Building Products Ltd. v. U.F.C.W. Local 1288 P.*, [\[1999\] 2 S.C.R. 1136](#));
- expressing oneself in the language of choice (*Ford, supra*);
- hate speech (*Keegstra, supra*; *R. v. Zundel, supra*; *Saskatchewan (Human Rights Commission) v. Whatcott*, [2013 SCC 11](#), [2013] 1 S.C.R. 467; *Ross v. New Brunswick School Board (No. 15)*, [\[1996\] 1 S.C.R. 825](#); *Taylor v. Canada (Human Rights Commission)*, [\[1990\] 3 S.C.R. 892](#));
- pornography (*R. v. Butler*, [\[1992\] 1 S.C.R. 452](#); *Little Sisters Book and Art Emporium v. Canada (Minister of Justice)*, [\[2000\] 2 S.C.R. 1120](#));
- child pornography (*Sharpe, supra*; *R v. Barabash*, [2015 SCC 29](#));
- communication for the purpose of prostitution (Reference re: section 193 and paragraph 195.1(1)(c) of the *Criminal Code* (Manitoba), [\[1990\] 1 S.C.R. 1123](#));
- noise being emitted by a loudspeaker from inside a club onto the street (*Montréal (City)*, *supra*, at paragraph 58);
- importation of literature or pictorial material (*Little Sisters, supra*);
- defamatory libel (*R. v. Lucas, supra* at paragraph 25-27);
- voting (*Siemens v. Manitoba (Attorney General)*, [\[2003\] 1 S.C.R. 6](#) at paragraph 41; *Haig v. Canada*, [\[1993\] 2 S.C.R. 995](#));
- running as a candidate for election (*Baier v. Alberta*, [\[2007\] 2 S.C.R. 673](#));
- spending in election and referendum campaigns (*Harper, supra*; *Libman v. Quebec (Attorney General)*, [\[1997\] 3 S.C.R. 569](#); *B.C. Freedom of Information and Privacy Association v. British Columbia (Attorney General)*, [2017 SCC 6](#));
- broadcasting of election results (*R. v. Bryan*, [\[2007\] 1 S.C.R. 527](#));
- engaging in work for a political party or candidate (*Osborne v. Canada (Treasury Board)*, [\[1991\] 2 S.C.R. 69](#));
- publication of polling information and opinion surveys (*Thomson Newspapers Co., supra*);
- monetary contributions to a fund may constitute expression, for example, donations to a candidate or political party in the electoral context (*Osborne, supra*), though not where the expenditure of funds would be regarded as the expressive conduct of the union as a corporate entity (*Lavigne v. Ontario Public Service Employees Union*, [\[1991\] 2 S.C.R. 211](#)) and
- political advertising on public transit vehicles (*Greater Vancouver Transportation Authority v. Canadian Federation of Students — British Columbia Component*, [\[2009\] 2 S.C.R. 295](#) “GVTA”).

Freedom of expression also protects the right not to express oneself. “[F]reedom of expression necessarily entails the right to say nothing or the right not to say certain things. Silence is in itself a form of expression which in some circumstances can express something more clearly than words could do” (*Slaight Communications Inc. v. Davidson*, [\[1989\] 1 S.C.R. 1038](#) at 1080). Thus, forced or compelled expression can constitute a restriction of section 2(b) (*Slaight Communications, supra*; *RJR-MacDonald Inc., supra*; *National Bank of Canada v. Retail Clerks’ International Union*, [\[1984\] 1 S.C.R. 269](#)). The Ontario Court of Appeal held that the requirement to recite an oath to the Queen at citizenship ceremonies does not infringe freedom of expression (*McAteer v. Canada (Attorney General)*, 2014 ONCA 578, leave to appeal to the SCC denied 26 February 2015). Caution should be exercised when citing *McAteer, supra*, as this

case seems to be inconsistent with the Supreme Court's broad interpretation of section 2(b) of the Charter.

A regulatory requirement to file information and reports may amount to a restriction on freedom of expression where failure to comply is backed by sanctions such as fines or imprisonment (*Harper, supra*, paragraphs 138-139). The act of complying with the law is not the same as being compelled to express support for the law (*Rosen v. Ontario (Attorney General)* 131 D.L.R. (4th) 708 (Ont. C.A.)). Similarly, the compelled payment of taxes to government for use in funding legislative initiatives (e.g., public subsidies to election candidates to cover their campaign expenses) does not necessarily imply an expression of support for those initiatives (*MacKay v. Manitoba*, [1989] 2 S.C.R. 357; *Lavigne, supra*).

It is not necessary that an expression be received and subjectively understood for it to be protected expression under section 2(b) (*Weisfeld* (F.C.A.), *supra*; *R. v. A.N. Koskolos Realty Ltd.*, (1995), 141 N.S.R. (2d) 309 (N.S.Prov.Ct.)).

The physical sale of a non-expressive product (cigarettes) has been found not to be a form of expression (*Rosen*, (Ont. C.A.)). The yellow colouring of margarine has been found not to be a form of expression (*UL Canada Inc. v. Quebec (Attorney General)*, [2005] 1 S.C.R. 143, at paragraph 1).

2. Does the method or location of this expression remove that protection?

The Supreme Court has stated that the method or location of the conveyance of a message will be excluded from 2(b) protection if this method or location conflicts with the values underlying the provision, namely: self-fulfillment, democratic discourse and truth finding (*Canadian Broadcasting Corp., supra* at paragraph 37; *Montreal (City), supra* at paragraph 72). In practice, however, this test is usually just applied to an analysis of the location of expression; the method of expression is generally considered to be within section 2(b) protection unless it takes the form of violence or threats of violence.

(i) Method of expression

Expression that takes the form of violence is not protected by the Charter (*Irwin Toy Ltd., supra* at pages 969-70). The Supreme Court has held that whether or not physical violence is expressive, it will not be protected by section 2(b) (*Keegstra, supra*; *Zundel* (1992), *supra*; *Irwin Toy Ltd., supra*). Threats of violence also fall outside the scope of section 2(b) protection (*Greater Vancouver Transportation Authority, supra* at paragraph 28; *Suresh v. Canada (Minister of Citizenship and Immigration)*, [2002] 1 S.C.R. 3 at paragraphs 107-108; *R v Khawaja*, 2012 SCC 69 at paragraph 70). In other respects, the form or medium used to convey a message is generally considered part and parcel of the message and included within section 2(b) protection (*Weisfeld* (F.C.A.), *supra*).

(ii) Location of expression

Section 2(b) protection does not extend to all places. Private property, for example, will fall outside the protected sphere of section 2(b) absent state-imposed limits on expression, since state action is necessary to implicate the Charter. Certain lower court cases have suggested that freedom of expression does not encompass the infringement of copyright. This finding is justified on the basis that freedom of expression does not encompass the freedom to use someone else's private property (e.g., his or her copyrighted material) for the purposes of expression (see *Compagnie générale des établissements Michelin v. C.A.W. Canada*, [1997] 2 F.C. 306

(T.D.)). It should be noted, however, that this interpretation of 2(b) seems to be inconsistent with the Supreme Court’s broad interpretation of the provision.

The application of section 2(b) is not automatic by the mere fact of government ownership of the place in question. There must be a further enquiry to determine if this is the *type* of public property which attracts section 2(b) protection (*Montréal (City)*, *supra*, at paragraphs 62 and 71; *Committee for the Commonwealth of Canada*, *supra*). In *Montréal (City)*, the majority of the Supreme Court set out the current test for the application of section 2(b) to public property (see also *GVTA*, *supra*). The onus of satisfying this test rests on the claimant (paragraph 73). The basic question with respect to expression on government-owned property is whether the place is a public place where one would expect constitutional protection for free expression on the basis that expression in that place does not conflict with the purposes which section 2(b) is intended to serve, namely (1) democratic discourse, (2) truth finding and (3) self-fulfillment. To answer this question, the following factors should be considered:

- i. The historical or actual function of the place; and
- ii. Whether other aspects of the place suggest that expression within it would undermine the values underlying free expression. (*Montréal (City)*, paragraphs 73, 74).

The Supreme Court has highlighted that the ultimate question is the second factor (*Montréal (City)* at paragraph 77). In *Canadian Broadcasting Corp*, *supra*, the court added that analysis of the second factor should focus on the essential expressive activity as opposed to the “excesses” that would be incidental to this activity. In that particular case, the essential expressive activity, a journalist’s ability to gather news at a courthouse to inform the public about court proceedings, was held to engage section 2(b), despite the incidental excesses of this expression (“...crowds, pushing and shoving, and pursuing possible subjects in order to interview, film or photograph them...”) (paragraphs 43, 45).

Other relevant questions that may guide the analysis of whether expression in a particular location is protected under 2(b) are: whether the space is one in which free expression has traditionally occurred; whether the space is in fact essentially private, despite being government-owned, or public; whether the function of the space is compatible with open public expression, or whether the activity is one that requires privacy and limited access; whether an open right to intrude and present one’s message by word or action would be consistent with what is done in the space, or whether it would hamper the activity (*Montréal (City)*, paragraph 76). There is some flexibility in the analysis and allowing public expression in a particular government-property location does not commit the government to such use indefinitely (*GVTA*, paragraph 44).

3. Does the law or government action at issue, in purpose or effect, restrict freedom of expression?

(i) Purpose

Where the purpose of a government action is to restrict the content of expression, to control access to a certain message, or to limit the ability of a person who attempts to convey a message to express him or herself, that purpose will infringe section 2(b) (*Irwin Toy Ltd.*, *supra*; *Keegstra*, *supra*).

(ii) Effect

Even if a purpose is compatible with section 2(b), an individual may be able to demonstrate that the effect of the government action infringes his or her section 2(b) right. In this situation, the individual must show that his or her expression advances one or more of the values underlying section 2(b), *e.g.*, participation in social and political decision making, the search for truth and individual self-fulfillment (*Irwin Toy Ltd., supra; Ramsden, supra*). While more recent Supreme Court decisions still refer to this principle of showing the effect of government action, the Court does not appear to apply with a great deal of vigor the requirement that an individual show an advancement of values, tending instead to easily find a restriction of section 2(b).

If a court concludes that the government action, in either purpose or effect, infringes section 2(b), it will then consider whether the limit on free expression is justifiable under section 1.

The City of Richmond does not have the statutory authority to enact or enforce Bylaw # 8713 section 1.1.2 (g).

BC Motor Vehicle act

[RSBC 1996] CHAPTER 318

Part 3

Section 124 — Municipal powers

124 (1) The council of a municipality may, by bylaw not inconsistent with or derogatory to this Part, provide for the following:

- (a) the placing or erection of traffic control devices to give effect to this Act or a bylaw adopted under this section;
- (b) the regulation, control or prohibition of pedestrian traffic, ridden or herded animals, vehicular traffic and traffic by other conveyances, either singly or together, on sidewalks, walkways or boulevards, or in or on lanes or ways separating the rear property lines of parcels of land fronting on highways running more or less parallel to and on each side of the lanes or ways, and at intersections of the lanes or ways with each other or with highways;
- (c) the regulation, control or prohibition of the stopping, standing or parking of vehicles in the municipality;
- (d) in accordance with any regulation made under section 209 (2) (h), for parking zones for persons with disabilities, on highways that are not arterial highways, including providing for a system of permits for those parking zones;
- (e) the setting apart and allotting of portions of highways adjacent to federal, Provincial or municipal public buildings for the exclusive use of officials and officers engaged in them for the parking of vehicles, and the regulation of that parking;
- (f) the erection, maintenance and operation on a highway or portion of it of automatic or other mechanical meters, for the purpose of allotting and controlling parking spaces for vehicles, and measuring and recording the duration of parking, and requiring the

driver of every vehicle parked in a parking space to deposit in the appropriate meter a fee for parking in the manner and at the rate prescribed and as measured by the meter;

(g) the removal, detention or impounding of vehicles unlawfully occupying a portion of a highway or public place, and a scale of fees, costs and expenses for that purpose;

(h) the recovery of the fees, costs and expenses from the owner or by sale of the vehicle referred to in paragraph (g) at public auction or by action in a court of competent jurisdiction;

(i) the establishment and use of loading, commercial and passenger zones in the municipality and their designation;

(j) in respect of a highway in a municipality, except an arterial highway, the regulation of the width, length and height of vehicles and the width, length, height, fastenings and distribution of loads on vehicles driven or operated on them;

(k) that on a highway where construction, reconstruction, widening, repair, marking or other work is being carried out, traffic control devices must be erected or placed indicating that people or equipment are working on the highway;

(l) that on a highway where construction, reconstruction, widening, repair, marking or other work is being carried out, traffic control devices must be erected or placed to regulate or prohibit traffic in the vicinity of the work;

(m) the regulation, control and prohibition of erection or maintenance, or both, of signs, advertisements or guide posts on or over highways other than arterial highways in the municipality, and their alteration, repainting, tearing down or removal without compensation to any person for the loss or damage that results;

(n) the regulation or prohibition of pedestrian traffic on highways other than at crosswalks;

(o) the prohibition of pedestrian traffic in an unmarked crosswalk designated by a traffic control device;

(p) the establishment of school crossings in the municipality and the regulation and control of pedestrian and vehicular traffic with respect to them;

(q) the regulation of traffic passing by or in the vicinity of schools through the use of traffic patrols, and for that purpose vesting in the school children or other persons employed in traffic patrols power to require vehicles to stop at school crossings or other designated places on a highway;

(r) the establishment and use of taxi stands in the municipality and their designation;

- (s) the regulation and control of processions on highways in the municipality;
- (t) the regulation and control of persons using roller skates, sleighs, skates, skis or other similar means of conveyance on highways in the municipality and the closing of a highway or highways or part of them to permit the use of roller skates, sleighs, skates, skis or other similar means of conveyance;
- (u) the enforcement of bylaws adopted under this section by fine or imprisonment, or both, and imposing fines, penalties and costs;
- (v) the use, in places, under conditions and in circumstances specified by the bylaw, of sidewalks and crosswalks by persons riding cycles.
- (w) that a person operating or riding as a passenger on a cycle on a path or way designated under paragraph (y) must properly wear a bicycle safety helmet that
 - (i) is designated as an approved bicycle safety helmet under section 184 (4) (a), or
 - (ii) meets the standards and specifications prescribed under section 184 (4) (b);
- (x) that a parent or guardian of a person under the age of 16 years must not authorize or knowingly permit the person to operate or ride as a passenger on a cycle on a path or way designated under paragraph (y) if that person is not properly wearing a bicycle safety helmet that
 - (i) is designated as an approved bicycle safety helmet under section 184 (4) (a), or
 - (ii) meets the standards and specifications prescribed under section 184 (4) (b);
- (y) the designation of paths or ways within the municipality, other than paths or ways that are highways or are located on private property, for the purposes of a bylaw made under paragraph (w) or (x);
- (z) the exemption of any person or class of persons from a bylaw made under paragraph (w) or (x) and prescribing conditions for those exemptions;

(2) Despite subsection (1), if a municipality adopts a bylaw under that subsection that contains a provision directing the rate of speed at which a person may drive or operate a motor vehicle on a highway in the municipality, a person who contravenes that provision does not commit an offence against the bylaw.

(3) Despite subsection (1) (u), a municipality may not impose imprisonment or a fine of more than \$100 for the contravention of a bylaw made under subsection (1) (w) or (x).

(4) The powers conferred on the council of a municipality by this section include the power exercisable by bylaw to do the following:

(a) to authorize an officer or employee of the municipality to make orders in respect of the matters comprised in a bylaw adopted under subsection (1) and by those orders to exercise the powers of the municipality under that bylaw, subject to the terms and conditions prescribed in the bylaw;

(b) to authorize that officer or employee to rescind, revoke, amend or vary an order made by him or her, subject to the terms and conditions prescribed in the bylaw;

(c) to adopt, repeal and amend bylaws under this section even though authority has been given or delegated under this subsection to an officer or employee of the municipality.

(5) Except as otherwise provided by or under another statutory provision, the council of a municipality, in addition to the powers and rights conferred by subsection (1), has the same powers and rights with respect to highways, other than arterial highways, in the municipality, and their use by vehicles and persons, as are exercisable by the Lieutenant Governor in Council and the Minister of Transportation and Highways and not mentioned in subsection (1).

(6) The council of a municipality may exercise the powers and rights referred to in subsection (5) by resolution or bylaw.

(7) Without limiting the scope of subsections (5) and (6), the powers and rights referred to in those subsections include the powers and rights of

(a) the Lieutenant Governor in Council and the Minister of Transportation and Highways under section 209, and

(b) the Minister of Transportation and Highways under sections 208 and 214.

(8) For certainty, the powers and rights referred to in subsections (5), (6) and (7) do not include the power or right to direct the rate of speed at which a person may drive or operate a motor vehicle on a highway in the municipality, except the power to regulate the speed of vehicles

(a) for the protection of the highway under section 209 (1) (a), and

(b) for the time of the year and the physical condition of the highway under section 209 (1) (d).

(9) Despite subsections (5) and (6), if a municipality adopts a resolution or bylaw under those subsections that contains a provision regulating the speed of vehicles

(a) for the protection of the highway under section 209 (1) (a), or

(b) for the time of the year and the physical condition of the highway under section 209 (1) (d), a person who contravenes that provision does not commit an offence against the bylaw.

(10) A copy of an order made under a bylaw adopted under subsection (4) that purports to be under the corporate seal of the municipality and to be certified a true copy by the clerk of the municipality must be received in all courts as evidence of the order without further proof of the order or the signature or official character of the person by whom it is certified.

(11) A bylaw adopted under this section must not be quashed, set aside or declared ineffectual or void merely because of an informality or want of declaration of the power under and by which it was passed, or on the grounds of discriminatory exercise of the powers conferred by this Act.

(12) In a bylaw or order adopted or made under this section,

(a) vehicles may be classified according to their nature, type, character, weight, equipment, accessories or otherwise, and different provisions may be made for different classes,

(b) highways or portions of highways, including sidewalks and boulevards, may be classified according to widths, amount of traffic or otherwise, and different provisions may be made for different classes, and

(c) different provisions may be made applicable to different seasons of the year or to different conditions of the highway.

(13) A municipal bylaw does not apply to the regulation, control or prohibition of traffic on an arterial highway as defined in the *Highway Act* unless its application to arterial highways has been approved by the Minister of Transportation and Highways.

Not in force

124.1 [Not in force.]

Additional municipal powers

124.2 (1) Subject to subsections (2), (3) and (5), the council of a municipality has the same powers to make bylaws or resolutions with respect to highways, other than arterial highways, in the municipality and their use by persons, organizations, vehicles or cycles or classes of persons, organizations, vehicles or cycles as the minister has to make regulations under section 209.1.

(2) A bylaw or resolution may be adopted under subsection (1) only if it is approved in writing by the minister responsible for the *Transportation Act*, or a person designated in writing by that minister

- (a)if the highway, part of the highway or lane of the highway, or
- (b)if the designated use highway or designated use lane

in respect of which the bylaw or resolution is to apply, is within 800 metres of an arterial highway or a provincial public highway, as those terms are defined in the *Transportation Act*.

(3)A municipality must not by bylaw or resolution under subsection (1), without the written approval of the minister responsible for the *Transportation Act*, take, authorize or permit any action in respect of a highway, part of a highway, lane, designated use highway or designated use lane, that would reduce the capacity of all or any part of an arterial highway or a provincial public highway, within the meaning of the *Transportation Act*, to move people or freight.

(4)For the purpose of subsection (3), an action would reduce the capacity of all or any part of an arterial highway or a provincial public highway to move people or freight if the action would alter traffic control conditions and traffic movement on a highway in such a way that fewer persons or less freight would be able to move on the highway in a given time period than were able to move on the highway in a comparable time period before the taking of the action.

(5)A municipality must not by bylaw under subsection (1)

- (a)regulate in relation to the number of passenger directed vehicles that may be operated under passenger directed vehicle authorizations or transportation network services authorizations, or
- (b)prohibit vehicles referred to in paragraph (a) from operating in the municipality, including, without limitation, by prohibiting the issuance of a licence to a person to operate a vehicle referred to in that paragraph for the sole reason that the person holds a licence, issued by another municipality, to operate the vehicle.