

The Corporation of the City of Penticton

Safe Public Places Bylaw No. 2023 - 06

A bylaw to support a safe, secure and healthy community.

WHEREAS the purposes of a municipality include providing for good government of its community; providing for services, laws and other matters for community benefit; providing for stewardship of the public assets of its community, and fostering the economic, social and environmental well-being of its community;

AND WHEREAS the Council of the City of Penticton wishes to promote well being, quality of life, and community safety for its residents and visitors;

AND WHEREAS the *Community Charter* authorizes Council to regulate, prohibit and impose requirements in relation to: persons, property, things and activities that are in, on or near public places; nuisances, disturbances and other objectionable situations;

AND WHEREAS except as permitted by bylaw or another enactment, a person must not excavate in, cause a nuisance on, obstruct, foul or damage any part of a highway or other public place;

AND WHEREAS the *Community Charter* authorizes Council to, by bylaw, authorize the seizure of things unlawfully occupying a portion of a highway or public place;

NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of Penticton, in open meeting assembled, hereby ENACTS AS FOLLOWS:

Citation

1. This bylaw may be cited for all purposes as the "Safe Public Places Bylaw No. 2023-06."

Severability

2. If a portion of this bylaw is held invalid by a Court of competent jurisdiction, then the invalid portion must be severed and the remainder of this bylaw is deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause or phrase.

Definitions

3. In this bylaw:

AUTOMATED BANK TELLER MACHINE means a device linked to a financial institution's account records which is able to carry out transactions, including, but not limited to, account transfers, withdrawals, deposits, balance inquiries, and mortgage and loan payments, but does not include a personal electronic device;

BUS STOP means a section of a street which is reserved for the loading and unloading of buses and where parking and stopping of all other vehicles is prohibited;

BYLAW ENFORCEMENT OFFICER means every person employed by the City of Penticton for the purpose of enforcement of the City's bylaws and includes members of the RCMP;

CITY means the Corporation of the City of Penticton;

COUNCIL means the Council of the City of Penticton;

CONTROLLED SUBSTANCE means any controlled substance as defined or described in Schedules I, II or III of the *Controlled Drugs and Substances Act*, 1996 chapter 19, as amended from time to time;

DISORDERLY CONDUCT means causing a public disturbance and, without limiting the generality of the foregoing, includes: engaging in riotous, violent, threatening or illegal conduct; yelling, screaming, shouting; indecency and profane or grossly insulting language; the carrying on of a noxious or offensive business activity; and any other matter that is liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public;

DRUG PARAPHERNALIA means equipment, product or accessories intended or modified for using a **controlled substance**;

FINANCIAL INSTITUTION includes a bank, credit union, cheque cashing business and trust company;

HARASS means to engage in verbal or physical abuse, threats, taunts, teasing, name calling or repeated abusive communication, in person or by any other means of communication;

LOITER means to use or occupy a space other than for its intended purpose or to occupy a space such that it is not usable by others;

PUBLIC PLACE means any place within the City of Penticton to which the public has either express or implied access;

SOLICIT means to ask for money, donations, goods or other things of value whether by spoken, written or printed word, or bodily gesture;

SPIT means to eject phlegm, saliva, chewing tobacco juice, or any other substance from the mouth.

Applicability

4.1 Subject to section 4.2, this bylaw applies to all **public places** in the City of Penticton.

4.2 Section 6.2(d) and s. 6.2(e) do not apply to supervised consumption or overdose prevention facilities operated by or on behalf of Interior Health or BC Housing or personnel operating for or on behalf of Interior Health or BC Housing.

Solicitation

5.1 No person may **solicit** in a manner that causes an obstruction.

5.2 For the purposes of section 5.1 “cause an obstruction” includes:

- (a) to sit or lie on a street or sidewalk in a manner which obstructs or impedes the convenient passage of any pedestrian or vehicular traffic;
- (b) to continue to **solicit** from or impede or otherwise **harass** a pedestrian after that person has made a negative initial response to the solicitation or has otherwise indicated a refusal;

- (c) to physically approach and **solicit** from a pedestrian as a member of a group of three or more persons.

5.3 No person shall **solicit** within 10 metres of:

- (a) an entrance to a **financial institution**;
- (b) an **automated teller machine**;
- (c) a **bus stop**;
- (d) a daycare centre, schools, or seniors residences;
- (e) the entrance to a retail store, without express permission from the retailer;
- (f) 200 or 300 block Main Street Breezeways; or
- (g) an entrance to City Hall, South Okanagan Event Centre, Penticton Trade and Convention Centre, Community Centre, Cleland Theatre, Memorial Arena, McLaren Arena, Library/Museum, Seniors Drop in Centre, Art Gallery, Japanese Gardens, Gyro Park Bandshell, Kiwanis Walking Pier, Skaha Pavilion.

5.4 No person shall **solicit** from a driver or passenger of a motor vehicle:

- (a) while the motor vehicle is parked;
- (b) while the motor vehicle is stopped at a traffic control device;
- (c) while the driver or passenger is at a gas station and in the act of filling the motor vehicle with fuel; or
- (d) in a manner which obstructs or impedes the convenient passage of any vehicular traffic on a street.

5.5 No person shall **solicit** prior to sunrise or after sunset on any given day.

Safe Use of Public Places and Public Nuisances

6.1 While in or on a **public place** or in public view on any private property, a person must not:

- (a) participate or engage in **disorderly conduct**;
- (b) urinate or defecate other than in a facility designated for this purpose;
- (c) undress except in places specifically provided for such purposes;
- (d) be nude or clad in an indecent manner;
- (e) engage in an indecent act, including masturbation;
- (f) carry on or permit an activity of a hazardous or unsafe nature which may cause injury, harm or damage to a person or structure;
- (g) endanger life, safety, health, property or public peace.

6.2 While in or on a **public place**, a person must not:

- (a) **spit**;
- (b) **spit** on a person;
- (c) consume or possess an open alcoholic beverage; unless that person complies with the *Liquor Control and Licensing Act*, R.S.B.C., c. 267, has been issued a permit, or is in a designated area that permits the consumption of alcohol;
- (d) display or use **drug paraphernalia**, except in areas designated as per section 4.2;
- (e) display or use a **controlled substance**, except in areas designated as per section 4.2;
- (f) be intoxicated by alcohol or other substance so as to be unresponsive to verbal communication or unable to care for them self;
- (g) **loiter** and thereby obstruct any other person, including occupying of a portion or feature of a **public place** so as to interfere with its use by others;
- (h) remain in or refuse to leave a **public place** after it is closed or when ordered to leave by a Bylaw Enforcement Officer, City employee or property owner;
- (i) **loiter** in any **public place** washroom or change-room or behave in such a manner as to be objectionable to another person using, or in the vicinity of, the washroom or change-room;
- (j) enter or occupy a place to which the admission of the public is prohibited, unless permission has been granted by an authorized person;
- (k) climb a building, structure or equipment unless it is designed and intended or provided for climbing;
- (l) abandon or discard items, including but not limited to litter, other than in a receptacle designated for this purpose;
- (m) abandon or discard items or property which may inhibit other's ability to safely use or enjoy the **public place**.

6.3 Unless expressly authorized, a person must not deface, cut, remove, destroy or damage a tree, shrub, structure, building, traffic control device or other thing or any real or personal property in a **public place**.

6.4 No person shall vandalize property by: removing, destroying, damaging, rendering inoperable; causing damage to or altering the appearance, characteristics, or feature; tampering with, mutilating, defacing; or climbing on any building, structure, fixture, chattel, monument, art, fountain, wall, fence, wire, netting, vehicle, tool, gate, seat, bench, exhibit, cage or ornament.

- 6.5 Section 6.4 shall not apply to any person climbing on a structure, wall or piece of equipment expressly designed for that purpose, including playground equipment or similar recreational equipment.
- 6.6 No person shall occupy or lie horizontally across a bench located at a **bus stop** so as to interfere with the ability of another person to use the bench.

Seizure of Thing Unlawfully Occupying Public Place

- 7.1 A **bylaw enforcement officer** may seize a thing unlawfully occupying a portion of a highway or **public place**, and without limiting the generality of the foregoing, may seize a thing unlawfully in a **public place** contrary to this bylaw.

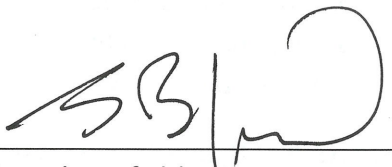
Obstruction of Bylaw Enforcement Officer

- 8.1 Every person who interferes with, hinders or obstructs a municipal officer or employee in the exercise or performance of their powers, duties or functions, including by:
- (a) refusing to provide identification (name, address if applicable and date of birth) to a Bylaw Enforcement Officer investigating a violation of this bylaw;
 - (b) interfering with, or attempting to obstruct a Bylaw Enforcement Officer who is conducting enforcement action in relation to this bylaw;
 - (c) providing false or misleading information to a Bylaw Enforcement Officer; or
 - (d) failing to cease any activity or conduct that is in contravention of this Bylaw when directed to do so by a Bylaw Enforcement Officer;
- is guilty of an offence.

Offence, Penalties and Enforcement

- 9.1 Every person who:
- (a) violates or who causes or allows any of the provisions of this bylaw to be violated;
 - (b) fails to comply with any of the provisions of this bylaw;
 - (c) neglects or refrains from doing anything required under this bylaw; or
 - (d) who suffers or permits any act or thing to be done in contravention of any of the provisions of this bylaw; is deemed to have committed an infraction of, or an offence against, this bylaw and is liable on summary conviction to the maximum penalties as specified in section 263(1)(b) of the *Community Charter*.
- 9.2 For continuing offences, each day that such violation is caused, or allowed to continue, constitutes a separate offence.

READ A FIRST time this	21	day of	March, 2023
READ A SECOND time this	16	day of	May, 2023
READ A THIRD time this	16	day of	May, 2023
ADOPTED this	6	day of	June, 2023



Julius Bloomfield, Mayor



Angie Collison, Corporate Officer