



The Corporation of the District of North Cowichan

**Highway Use Bylaw** [BL 3700]

Bylaw 2261

*[Consolidated and printed by authority of the Corporate Officer under section 139 of the Community Charter. Current to May 14, 2020. Last amended July 18, 2018. Amendments: 2799, 2904, 2917, 2951, 3102, 3409, 3443, 3470, 3548, 3567, 3624, 3638, 3700.]*

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WHEREAS the Council is authorized pursuant to Division 2 of Part 13 of the *Municipal Act* to regulate the use of highways, and related activities, within the Municipality;

NOW THEREFORE, the Council of The Corporation of the District of North Cowichan, in open meeting assembled, enacts as follows:

**Title**

- 1 [Repealed; BL3700]

**Interpretation**

- 2 (1) Repealed; [BL3624].
- (2) Repealed; [BL3624].
- (3) In this Bylaw:

**"boulevard"** means the area between the curb lines or the lateral boundary of a

roadway and the adjacent property boundary;

**"boulevard crossing"** means any curbing, paving, bridge, pipe, or other structure or improvement which is installed on a boulevard to provide or facilitate access to and from the roadway for adjacent property;

**"Council"** means the Council of the Municipality;

**"Director of Engineering and Operations"** means the person so appointed by the Chief Administrative Officer;

**"extraordinary traffic"** includes carriage of goods or persons over a highway whether in vehicles driven by animal power or propelled by other means, that in conjunction with the nature or the existing condition of the highway is so extraordinary or improper in the quality or the quantity of the goods or the number of persons carried, or in the mode or time of use of the highway, or in the speed at which the vehicles are driven or operated as, in the opinion of the Council, substantially alters or increases the burden imposed on the highway through its proper use by ordinary traffic, and causes damage and expense to the highway beyond what is reasonable or ordinary;

**"Fire Chief"** means the Fire Chiefs as appointed by Council in the Municipality;

**"heavy truck"** means a commercial vehicle having a gross weight, including its load, in excess of 10 900 kg;

**"Manager of Operations"** means the person so appointed by the Chief Administration Officer;

**"Municipality"** means The Corporation of the District of North Cowichan or the area within the boundaries of the Corporation of the District of North Cowichan, as the context requires;

**"owner"** in respect of a vehicle means the person who holds legal title to the vehicle, a conditional purchaser, lessee or mortgagor in possession of the vehicle, or the person in whose name the vehicle is registered;

**"public service vehicle"** means a vehicle owned or operated by the Municipality or the Federal, Provincial, or Regional district government;

**"roadway"** means the portion of a highway that is improved, designed, or ordinarily used for vehicular traffic, excluding the shoulder of the highway;

**"shoulder"** means the portion of a highway between the lateral boundary of the roadway and the closest parallel ditch or sidewalk, or if there is no ditch or sidewalk, the area within 2 m of the roadway;

**"sidewalk"** means an area, improved for the use of pedestrians, between the lateral boundary of a roadway and the property adjacent to the highway;

**"street line"** means the boundary line between any private property, or any property not a highway, and the adjoining highway;

**"traffic control officer"** means any officer or employee of the Municipality whose duties include the regulation or control of traffic or parking within the Municipality, and a peace officer employed by any agency. [BL3548; BL3624]

### **Protection of highways**

- 3**
- (1) No person shall obstruct or foul any portion of a highway by depositing or permitting the deposit of any oil water, glass, metal, rock, soil, refuse, debris, or any other thing on a highway.
  - (2) Where any material or substance of any nature spills or falls from a vehicle onto a highway, the driver of the vehicle shall immediately remove that material or substance from the highway, taking all necessary traffic safety precautions.
  - (3) The person responsible for removing a vehicle involved in an accident shall immediately remove all glass, metal, dirt, and debris deposited on the highway as a result of the accident.
  - (4) No person shall stand or park a vehicle on a highway for the purpose of washing, fueling, maintaining, or repairing that vehicle, except as necessitated by an emergency.
  - (5) No person shall construct or maintain any ditch, drain or sewer, effluent from which causes damage, fouling, nuisance, or injury to any portion of a highway.
  - (6) No person shall drag logs or timber on or over a highway.
  - (7) No person shall drive or operate a vehicle equipped with treads having flanges, lugs, spikes, or cleats on any concrete or asphalt surfaced roadway or on a boulevard.

### **Construction on highways**

- 4** Except as authorized by a permit under section 5, or to comply with section 14 (2), no person may do the following:
- (a) excavate in, on or under a highway;
  - (b) encumber, injure or damage a highway;
  - (c) construct, place or maintain a structure, building, sign, fence or other thing in, on or over a highway;
  - (d) plant a tree or shrub in a boulevard;
  - (e) remove or interfere with a curb, sidewalk or highway surface;
  - (f) cut down or remove a tree, shrub, plant, bush or hedge on a highway;
  - (g) change the level of a highway;
  - (h) stop or obstruct the flow of water in a ditch, drain, sewer or culvert on or under a highway. [BL3638]

### **Construction permits**

- 5**
- (1) Despite section 4 of this Bylaw, the Director of Engineering and Operations may issue a permit authorizing a person to carry out any work, undertaking, or construction on, over or under a highway, upon application by that person to the Director of Engineering and Operations.
    - (1.1) It is an offense to fail to observe the conditions of a construction permit.
  - (2) An application for a highway construction permit shall include the following:

- (a) detailed plans and specifications of the work to be undertaken, including a timetable for construction and a completion date;
  - (b) a refundable deposit of 150% of the estimated cost of the works in the form of cash, certified cheque, or letter of credit to be used by the Municipality to meet the cost of repairing any damage which may be done to the highway during the proposed work, and the cost of completing any portion of the proposed work left incomplete by the applicant;
  - (c) an indemnification and release of the Municipality from and against all claims, damages, and costs which may arise out of the proposed work;
  - (d) proof of public liability and property damage insurance in the amount of one million dollars including the Municipality as an additional named insured;
  - (e) payment of the permit fee prescribed in the Fees Bylaw to cover processing and inspection costs.
- (3) Upon receipt of a completed application, the Director of Engineering and Operations may issue a construction permit where the proposed work, undertaking, or construction is not detrimental to the public interest, taking into account the nature of the highway, existing and anticipated traffic, and benefit or inconvenience to the travelling public.
- (4) No highway construction permit shall be issued for works which would relocate, divert, close, or re-open a highway.
- (5) The security deposit for a highway construction permit shall be forfeited to the Municipality where the proposed work is not completed by the time set out in the application, or where damage is done to a highway in the course of the work, in the amount necessary to complete the work or repair the damage or to sweep the affected highway. [BL2799; BL2951; BL3470; BL3548]

### **Highway access permit**

- 6**
- (1) No person shall construct a boulevard crossing, including a curb, ditch, or sidewalk crossing, a driveway or other access to or from a highway without first obtaining a highway access permit from the Director of Engineering and Operations.
  - (2) An application for a highway access permit shall include the following:
    - (a) a detailed site plan showing the proposed access location and grade;
    - (b) an indemnification and release of the Municipality from and against all claims, damages, and costs which may arise out of the proposed work;
    - (c) payment of the permit fee prescribed in the Fees Bylaw to cover processing and inspection costs;
    - (d) payment of a refundable deposit of \$500 per lot or unit to a maximum of \$2000 in the form of cash or certified cheque to be used by the Municipality to ensure that driveways are constructed to specification, and to meet the cost of repairing any damage which may be done to the highway during the proposed work;

- (e) payment of a non-refundable deposit of \$50 in cash or certified cheque, for a residential one or two family access, to be used by the Municipality to sweep the affected highway;
  - (f) payment of a fee, equal to the amount of the actual costs of sweeping the affected highway, less the non-refundable deposit used by the Municipality to sweep the affected highway, where the actual cost is greater than the non-refundable deposit.
- (3) The Director of Engineering and Operations may issue a highway access permit where the proposed work, undertaking, or construction is not detrimental to the public interest, taking into account the nature of the highway, existing and anticipated traffic, and benefit or inconvenience to the travelling public.
- (4) No highway access permit shall be issued for an access located within 7 m of the intersection of any two highways or within 7 m of an approved stop sign, measured parallel to the street line, whichever is greater. [BL2799; BL2904; BL3470; BL3548]

**Opening highways**

**7** No person other than the Municipality or other governmental agency shall open up, construct, or develop any unimproved highway.

**Temporary closures**

**8** The Director of Engineering and Operations, Manager of Operations, or Duty Foremen may temporarily restrict or prohibit all or some types of traffic on a highway, in relation to the following:

- (a) hazardous or impassable conditions on or near a highway;
- (b) construction on or adjacent to a highway;
- (c) installation, maintenance or removal of utilities;
- (d) a parade, festival or block party;
- (e) television or movie filming. [BL3548; BL3567]

**Interference with traffic**

**9** Except as authorized by a permit under this Bylaw, no person other than the Director of Engineering and Operations, Manager of Operations, a school patrol officer, or a traffic control officer shall control, detour, distract, or interfere with traffic on a highway, or attempt to control, detour, distract, or interfere with traffic on a highway by any means, including use of flagmen, signs, barricades, or other physical obstructions. [BL3548; BL3567]

**Merchandise on highways**

- 10** (1) No person shall place or cause to be placed any merchandise, chattel, or wares of any nature on any highway, including a sidewalk, walkway, or boulevard, for the purpose of sale or display for sale, without a permit issued by the Director of Engineering and Operations. [BL3102; BL3548]
- (2) Where a sidewalk is wide enough, the Director of Engineering and Operations may issue an annual permit to display merchandise on a sidewalk, provided the applicant

- (a) provides proof of liability insurance, in the amount of \$2 million, naming the Municipality as an additional named insured, and
- (b) pays annual permit fee prescribed in the Fees Bylaw. [BL3102; BL3548]
- (3) The Director of Engineering and Operations shall send a copy of each permit issued for a sidewalk display in Chemainus, to the Chemainus and District Chamber of Commerce, for its information. [BL3102; BL3470; BL3548]

**Animals on highways**

- 11**
- (1) No person shall permit any animal owned or controlled by that person to be at large on a highway.
  - (2) No person shall ride or lead any animal other than a dog or cat on a sidewalk.
  - (3) No person shall tie or fasten any horse or other animal to any traffic control device, parking meter, tree, or other object on a highway.

**Extraordinary traffic**

- 12** Where in the opinion of the Director of Engineering and Operations a highway is liable to damage through extraordinary traffic, he may regulate, limit, or prohibit the use of a highway by a person operating or in charge of the extraordinary traffic, or owning the goods carried by it or the vehicles used in it, provided that no order of the Director of Engineering and Operations under this section shall take effect until filed with the Director of Corporate Services. [BL3548]

**No-heavy-truck routes**

- 13**
- (1) Council may by resolution designate “no-heavy-truck routes” and no person shall drive or use any heavy truck on them at any time.
  - (2) This section does not apply to
    - (a) public service vehicles,
    - (b) buses used for school or public transportation,
    - (c) tow trucks engaged in responding to an active call for service, or
    - (d) heavy trucks engaged in
      - (i) construction, repair, or maintenance of the no-heavy-truck route,
      - (ii) collection and delivery of goods, or
      - (iii) provision of an essential service to property fronting on a no-heavy-truck route. [BL3624]

**Sidewalk and boulevard maintenance**

- 14**
- (1) An owner or occupier of real property bordering a sidewalk must remove all snow, ice, or rubbish from that portion of a sidewalk adjacent to their property within 48 hours of the accumulation of snow or ice, or placement of rubbish on the sidewalk.
  - (2) An owner or occupier of real property bordering a boulevard must, with respect to the boulevard, do the following:
    - (a) maintain the area in a safe and tidy condition,

- (b) ensure that landscaping is maintained to a similar standard as their adjacent property;
  - (c) water vegetation, other than noxious weeds, to ensure its sustained growth and health;
  - (d) remove noxious weeds;
  - (e) not allow a hazardous or potentially hazardous situation to develop or remain;
  - (f) maintain visible sight lines to adjacent intersections, driveways, sidewalks, lanes and traffic control devices;
  - (g) not allow garbage, debris, or discarded materials to accumulate.
- (3) Subsection (2) (a) to (f) does not apply to a boulevard that is
- (a) adjacent to an arterial highway under section 45 of the *Transportation Act*, or
  - (b) deemed by the Director of Engineering and Operations as too steep or difficult to safely access or maintain. [BL3638]

### **Removal of chattels or obstructions**

- 15** (1) Any chattel (including without limitation a vehicle or sign) or obstruction unlawfully occupying a portion of a highway or public place may be removed, detained, and impounded by the Director of Engineering and Operations, the Manager of Operations, or a traffic control officer.
- (2) Chattels removed from highways or public places may be returned to the owner upon payment of the removal fee and impoundment fee prescribed in the Fees Bylaw.
- (3) Where a chattel has not been claimed and fees paid within 30 days of impoundment, the chattel may be sold at public auction and the funds received from the sale of the chattel shall be applied first to the cost of the sale, second to the removal and impoundment fees, and the balance shall be payable to the owner of the chattel. If no bids are received, the chattel may be destroyed or otherwise disposed of by the Director of Engineering and Operations. [BL3470; BL3548; BL3567]

### **Inspection and weighing**

- 16** A traffic control officer may make orders concerning measurement, weighing, or inspection of a vehicle and the owner or operator of the vehicle shall comply with the directions of a traffic control officer as a measurement, weighing, or inspection of a vehicle for the purpose of ascertaining compliance with the Bylaw.

### **Offences**

- 17** Any person who does anything prohibited by this Bylaw, or fails to do anything required by it, commits an offence and is liable upon summary conviction to a fine not exceeding \$2 000, to imprisonment not exceeding 6 months, or to both.
- 18** [Repealed; BL3567].

Read a first time on August 17, 1988.

Read a second and third time on October 5, 1988.

Approved by Minister of Transportation and Highways on March 8, 1989.

Adopted on March 15, 1989.