

ADMINISTRATION OF PROPERTY IN CITY CUSTODY BYLAW

A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to:

1. establish consistent practices and regulations pertaining to the removal, seizure and impounding of items occupying public places; and
2. allow for the City to recover costs associated with managing such items.

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Under its statutory powers, including sections 8(3)(b) and (h), 36, 46 and 64 of the *Community Charter*, the Council of the Corporation of the City of Victoria in an open meeting assembled enacts the following provisions:

PART 1 - INTRODUCTION

Title

- 1 This Bylaw may be cited as the “Property in Custody Bylaw”.

Definitions

2 In this Bylaw:

"at cost"

means the actual cost of the work as determined by the City, including the amount expended by the City for gross wages and salaries, employee fringe benefits, materials, equipment rentals at rates paid by the City or set by the City for its own equipment, administration charges, the cost to hire third parties to perform the work, transportation costs, disposal fees, and any other expenditures incurred in undertaking the work;

"bulky item"

includes large, heavy, unwieldy or irregularly shaped items, such as furniture, sheet plywood, lumber, heaters, fencing, structures, and includes a shelter, unless such shelter is lawfully temporarily placed, secured, erected, used or maintained by a homeless person in accordance with Parks Regulation Bylaw;

"Director"

means the Director of Bylaw Services or their authorized delegate;

"hazardous material"

includes items, agents, substances or materials which may be hazardous to human health or the environment, and includes, but is not limited to, fuel, harmful chemicals, noxious substances, animal or human waste, mould, food, controlled substances within the meaning of the *Controlled Drugs and Substances Act*, weapons (real or imitation), sharp objects, needles, or any another similar item, agent, substance or material, and includes property or things that may be contaminated by any of the foregoing;

"homeless person"

has the same meaning as in the Parks Regulation Bylaw;

"owner"

includes a person who owned, controlled, possessed or was entitled to possession of a property or thing immediately prior to its removal, seizure or impounding;

"property return facility"

means a location designated from time to time by the Director as where members of the public can attend for the purpose of requesting the return of

seized property, the location of which facility shall be published on the City's website (www.victoria.ca) and posted at the Bylaw Services office;

“retained property”

means any property or thing that is removed, seized, or impounded by the City or a police officer that is not disposed of pursuant to section 4 ;

“rubbish”

includes any item that, in the opinion of a City employee:

- (a) appears to be of no resale value, or negligible resale value,
- (b) is damaged or soiled to the extent that it appears it cannot reasonably be used for its intended purpose,
- (c) was manufactured for single use,
- (d) appears to contain an unidentifiable, noxious, or hazardous substance,
- (e) is perishable,
- (f) was manufactured for the purpose of packaging a product or thing, including food or beverage, or
- (g) was part of a cart, bicycle, machine, or other similar item, including wiring and other small parts;

“shelter”

means a structure, improvement or overhead shelter, including a tent, lean-to, or other form of overhead shelter constructed from a tarpaulin, plastic, cardboard or other rigid or non-rigid material;

“work”

means any action taken by the City to remove, seize, transport, store, or dispose of or to cause the removal, seizure, transport, storage or disposal of any property or thing placed or left in a public place in contravention of the provisions of a City bylaw or the terms of a licence under a City bylaw.

Application

- 3 (1) This Bylaw applies to any property or thing that is removed, seized, or impounded by the City or a police officer pursuant to any City bylaw.
- (2) Notwithstanding subsection (1), this Bylaw does not apply to vehicles impounded pursuant to a City bylaw or animals impounded pursuant to the Animal Responsibility Bylaw.

PART 2 – MANAGEMENT OF REMOVED, SEIZED OR IMPOUNDED PROPERTY

Immediate Disposal

- 4 Any property or thing that is removed, seized, or impounded may be immediately and permanently disposed of without notice or compensation to any person if it is rubbish, hazardous material, or a bulky item.

Claiming and Disposal of Retained Property

- 5 (1) Within 14 days of the date of removal, seizure or impounding, owners of retained property may attend at the property return facility to claim and request the return of the retained property, after which the City will endeavor to return the retained property within 48 hours.
- (2) Any retained property that is not claimed pursuant to subsection (1) may be immediately and permanently disposed of without notice or compensation to any person.
- (3) Permanent disposal of unclaimed retained property may be made to a landfill, recycling facility, or other waste disposal facility or, with the permission of the Director, to a registered charity.
- (4) Notwithstanding subsection (1), the Director may provide any retained property to the police if they believe that such property may be stolen, may have been used in commission of a crime, or may be misplaced or lost.

Fees and Conditions for Removed, Seized or Impounded Property

- 6 (1) For each removal, seizure or impounding of any property or thing under a City bylaw, the owner of that property or thing must pay the fee prescribed in Schedule A to the City.
- (2) Retained property which has been seized shall not be released without payment of the applicable fee.
- (3) Notwithstanding subsections (1) and (2), no fee is payable for return of retained property to a homeless person where in the opinion of the Director such item is a life-supporting item such as a tent, sleeping bag, medication, medical device, cell phone, personal identification, or waterproof or winter apparel.
- (4) For the purposes of subsection (1), where commercial property or things are removed, seized or impounded:
- (a) the fee is payable regardless of whether the property or thing is impounded or seized, and
- (b) if the person who unlawfully placed or left the property or thing is not the owner, the owner and the person who unlawfully placed or left the property or thing are jointly and severally responsible for the fee.

- (5) Persons claiming retained property must, as a condition of claiming such property, execute a compliance agreement in a form prescribed by the Director stating that the claiming party will not repeat the unlawful behaviour.

PART 3 – GENERAL

No Common Law Duty

- 7 Nothing in this Bylaw shall be construed to impose a private law duty of care on any City employee, agent of the City, or police officer with regard to the removal, seizure, impounding, return, disposal or donation of any property or thing pursuant to this Bylaw or any related statutory authority.

No Liability

- 8 No City employee, agent of the City, or police officer shall be liable to any person or entity for the application of this Bylaw.

Severability

- 9 If any provision or part of this Bylaw is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, it shall be severed from the Bylaw and the balance of the Bylaw, or its application in any circumstances, shall not be affected and shall continue to be in full force and effect.

Commencement

- 10 This Bylaw comes into force on adoption.

| | | | | |
|------------------------|------------------|--------|-----------------|------|
| READ A FIRST TIME the | 7 th | day of | December | 2023 |
| READ A SECOND TIME the | 7 th | day of | December | 2023 |
| READ A THIRD TIME the | 7 th | day of | December | 2023 |
| ADOPTED on the | 14 th | day of | December | 2023 |

“CURT KINGSLEY”
CITY CLERK

“MARIANNE ALTO”
MAYOR

Schedule "A"
REMOVAL, SEIZURE AND IMPOUNDING FEES

Table of Fees

| Row # | Type of Retained Property | Specifications | Fee Amount |
|--------------|----------------------------------|---|--|
| 1 | Commercial | Return of retained property | \$100 or at cost, whichever is greater |
| 2 | Commercial | Return of retained property – bulky item | \$200 or at cost, whichever is greater |
| 3 | Commercial | Retained property where property was not claimed | \$100 or at cost, whichever is greater |
| 4 | Commercial | Retained property where property was not claimed – bulky item | \$200 or at cost, whichever is greater |
| 5 | Commercial | Property or thing disposed of under section 4 | \$100 or at cost, whichever is greater |
| 6 | Commercial | Property or thing disposed of under section 4 – bulky item | \$200 or at cost, whichever is greater |
| 7 | Non-Commercial | First return of retained property within a 12 month period | \$0 |
| 8 | Non-Commercial | Second return of retained property within a 12 month period | \$50 |
| 9 | Non-Commercial | Any subsequent return of retained property within a 12 month period | \$100 |