



CITY OF RICHMOND

***PUBLIC SPACE PATIO REGULATION BYLAW***

**BYLAW NO. 10350**

DATE OF ADOPTION – MAY 16, 2022



## CITY OF RICHMOND

### *PUBLIC SPACE PATIO REGULATION BYLAW*

#### **BYLAW NO. 10350**

WHEREAS section 8 of the *Community Charter* allows Council to set regulations on the use of public places;

WHEREAS section 194 of the *Community Charter* allows Council to impose fees payable in respect of the use of municipal property; and

AND WHEREAS the Council of the City of Richmond deems it advisable to set fees, and regulate the operation of public space patios within the City of Richmond.

NOW THEREFORE the Council of the City of Richmond, in open meeting assembled, enacts as follows:

#### **PART 1: CITATION**

- 1.1 This Bylaw may be cited for all purposes as “Public Space Patio Regulation Bylaw No. 10350”.

#### **PART 2: INTERPRETATION**

- 2.1 In this Bylaw, the following terms have the following meanings:
- (a) **“Applicant”** means an applicant for a **Public Space Patio Permit**, and for the purposes of this Bylaw, also means the holder of a **Public Space Patio Permit**, once issued;
  - (b) **“Applicant’s Personnel”** means the **Applicant’s** officers, directors, employees, agents, contractors, subcontractors, permittees, invitees and sublicences;
  - (c) **“Application”** means an application for a **Public Space Patio Permit**;
  - (d) **“Business”** means a Business as defined in the City’s Business Regulation Bylaw No. 7538;
  - (e) **“City”** means the City of Richmond;

- (f) **“City Personnel”** means the City’s officials, officers, employees, agents, contractors, subcontractors, permittees and invitees;
- (g) **“Consolidated Fees Bylaw”** means Consolidated Fees Bylaw No. 8636;
- (h) **“Council”** means the duly elected Council for the City;
- (i) **“General Manager”** means the City’s General Manager, Community Safety, or designate;
- (j) **“Losses”** means losses, judgments, builder’s liens, damages, costs (including legal costs), expenses, actions, proceedings, suits, debts, accounts, claims and demands, including any and all claims of third parties;
- (k) **“Public Space Patio”** means an outdoor patio, sidewalk patio, street patio or deck located on a sidewalk or other portion of a street, including parking stalls, or publically owned property, permitted by a **Public Space Patio Permit** for the purpose of serving food and beverages in an outdoor setting to seated patrons in conjunction with an existing **Business**. For certainty, a **Public Space Patio** includes a **Small Sidewalk Patio**;
- (l) **“Public Space Patio Permit”** means a permit for a **Public Space Patio** issued under this Bylaw; and
- (m) **“Public Space Patio Permit Area”** means the area designated in a Public Space Patio Permit for a Public Space Patio.
- (n) **“Small Sidewalk Patio”** means a **Public Space Patio** located on a publically owned sidewalk adjacent the Applicant’s Business that has four or fewer tables and a combined maximum total of 8 or fewer chairs.

## **PART 2 – APPLICATION AND PUBLIC SPACE PATIO PERMIT REQUIREMENTS**

### **Public Space Patio Permit Required**

- 2.1 Unless otherwise exempted by this Bylaw, a **Public Space Patio** is only allowable with a valid **Public Space Patio Permit** and no person shall construct, erect, modify, convert, expand, reconstruct, relocate or replace any such **Public Space Patio** without first having obtained a valid **Public Space Patio Permit**.

### **Application Requirements**

- 2.2 No **Public Space Patio Permit** for erection of a **Public Space Patio** shall be issued until:

- a) A full and complete **Application** has been submitted. The Application will include, without limitation, plans and details of the proposed **Public Space Patio** showing:
- i. the area of the sidewalk, street or other publically-owned space to be occupied;
  - ii. the location and type of all fixtures or other objects which shall be placed within any area of the sidewalk, street or other publically-owned space to be occupied; and
  - iii. any other materials, documents and information as determined by the General Manager;
- b) The proposed work set out in the **Application** conforms to this Bylaw and all other applicable bylaws and **City** guidelines applicable to **Public Space Patios**;
- c) The **Applicant** for the **Public Space Patio Permit** has paid the prescribed application fee as specified in **Consolidated Fees Bylaw**;
- d) The **Applicant** for the **Public Space Patio Permit** has paid the prescribed fee for the use of public space as determined by the City's Director, Real Estate Services, or designate;
- e) Evidence of the **Applicant's** comprehensive general liability insurance in accordance with the amounts and other requirements set out in this Bylaw, has been received; and
- f) Until the Application has been approved by the General Manager.

### **PART 3 – PUBLIC SPACE PATIO CONDITIONS OF PUBLIC SPACE PATIO PERMIT**

- 3.1 Every **Public Space Patio Permit** is subject to the conditions of use set out in Part 3 of this Bylaw.

#### **Validity Period**

- 3.2 A **Public Space Patio Permit** may be valid for a maximum of 24 months, subject to the terms of this Bylaw. Upon expiry or early termination.
- 3.3 No **Public Space Patio** shall be permitted to operate later than 10:00 p.m.
- 3.4 Subject to Section 4.1, upon expiry of a **Public Space Patio Permit**, all fixtures and structures placed within or surrounding a **Public Space Patio** must be completely removed within 30 days and must replace and restore the sidewalk,

street or other publically-owned space to a safe and proper condition to the satisfaction of the **General Manager**.

- 3.5 Where an **Applicant** neglects, refuses or fails to cease occupation of the **Public Space Patio** as required pursuant to this Bylaw, or fails to do so within the time specified, the **General Manager** may cause any fixtures, furnishings or personal property located on the **Public Space Patio** to be removed and may cause the sidewalk, street or other publically-owned place to be restored to a safe and proper condition and may charge the costs of such removal and restoration to the **Applicant**. Where the **City** has incurred costs pursuant to this Section, a certificate of the **General Manager** setting out those costs shall be final and the **City** may recover such costs from the **Applicant** in any Court of competent jurisdiction as a debt owing by the **Applicant** to the **City**.
- 3.6 Where an **Applicant** is required to remove any fixtures, furnishings and personal property pursuant to this Bylaw, the **Applicant** must not make any claim against the **City** on account of such removal.

### **Compliance with Applicable Laws**

- 3.7 An **Applicant** will:
- (a) comply with all applicable laws including, without limitation, City bylaws, policies and guidelines pertaining to the use of the **Public Space Patio Permit Area**;
  - (b) not release, dump, spill or place, or allow to be released, dumped, spilled or released on the **Public Space Patio Permit** any waste or special waste (as defined in the Environmental Management Act, S.B.C. 2003, c. 53, as it may be amended or substituted from time to time), or any toxic substance (as defined in the Canadian Environmental Protection Act, S.C. 1999, c. 33, as it may be amended or substituted from time to time), or any matter which the British Columbia Ministry of Environment considers a risk to the environment or to human health;
  - (b) exercise its rights under the **Public Space Patio Permit** so as to cause as little inconvenience to the **City** and the public users of the **Public Space Patio Permit** Area and surrounding area as is reasonably practicable in the **City's** sole discretion; and
  - (c) comply promptly with the legal requirements of all authorities, including any association of fire insurance underwriters or agents, and all notices issued by them that are served upon the **City** or the **Applicant**.

### **Location and Use of Public Space Patio**

- 3.8 The location of a **Public Space Patio** may not extend beyond the location indicated on the **Public Space Patio Permit**.

- 3.9 The **Public Space Patio Permit** Area must not be used for any purpose other than seating and serving customers.

### **Design and Maintenance of Public Space Patio**

- 3.10 All Public Space Patios will comply with the City's design guidelines.
- 3.11 The **Applicant** must keep and maintain the **Public Space Patio** in a clean, sanitary, attractive condition and must keep the sidewalk surrounding or adjacent to the **Public Space Patio** free from papers, rubbish and debris of any kind.
- 3.12 The **Applicant** must repair and/or replace, to the **City's** satisfaction, any damage to the **Public Space Patio Permit Area**, any other lands, structures, buildings, improvements, the sidewalks, lanes, utilities or streets adjacent or in proximity to the **Public Space Patio Permit Area** that is caused by, either directly or indirectly, or is contributed to by, either directly or indirectly, the existence of the **Public Space Patio**.
- 3.13 For the purpose of constructing, installing, repairing or maintaining any street, municipal work, service, utility or other improvement owned by the **City** or a permitted third party utility company, the **Applicant** must:
- (a) allow employees or agents of the City and any permitted third party utility company to enter the portion of the **Public Space Patio Permit Area**; and
  - (b) when requested by the **General Manager**, remove at the cost of the **Applicant** part of the **Public Space Patio** within 48 hours, or immediately in the event of an emergency, for regularly scheduled utility or service installation, maintenance or repair.

### **Insurance, Indemnity and Release**

- 3.14 The **Applicant** shall obtain and maintain comprehensive general liability insurance with a limit of not less than \$5,000,000.00 for loss, damage, injury or death arising out of any one occurrence. The policy shall name the City as an additional insured thereunder and shall indemnify and protect the City against all claims for any **Losses**, damage, injury or death to any person or persons and for damage to any public or private property occurring within or about the **Public Space Patio Permit Area** or arising by virtue of the **Applicant's** occupation and/or use of the **Public Space Patio Permit Area**. The policy shall contain such other terms and conditions satisfactory to the City's Risk Manager. The Applicant shall provide the **City** with satisfactory proof of such coverage prior to the construction or installation of the **Public Space Patio**.
- 3.15 In consideration for the issuance of a **Public Space Patio Permit**, each **Applicant** indemnify and save harmless the **City** and **City Personnel** in respect of any and all **Losses** which the **City** or any City Personnel may suffer, incur or be put to, arising out of or in connection, directly or indirectly, with the **Public Space Patio Permit** or the **Public Space Patio** or that would not or could not

have occurred “but for” the **Public Space Patio Permit** or the **Public Space Patio**, including without limitation:

- (a) the occupation and/or use of the **Public Space Patio Permit Area** by the **Applicant** and the **Applicant’s Personnel**, supplies, machinery and equipment;
- (b) injury or death to any person occurring in or about the **Public Space Patio Permit Area** and damage to or loss of property owned by any person occurring in or about the **Public Space Patio Permit Area**, or relating to or arising from the occupation and/or use of the **Public Space Patio Permit Area** (including claims under the *Occupier’s Liability Act*) by the **Applicant**, the **Applicant’s Personnel**, any of their machinery, tools, and equipment, and/or the use of the **Public Space Patio Permit Area**; and
- (c) any breach by the **Applicant** of any condition or covenant contained in this Bylaw.

3.16 The Applicant does hereby waive, remise and release the **City** and **City Personnel** from absolutely any and all **Losses** which the **Applicant** or any **Applicant’s Personnel** may suffer, incur or be put to, arising out of or in connection, directly or indirectly, with the **Public Space Patio Permit** or the **Public Space Patio** or that would not or could not have occurred “but for” the **Public Space Patio Permit** or the **Public Space Patio**, including without limitation:

- (a) the occupation and/or use of the **Public Space Patio Permit Area** by the **Applicant** and the **Applicant’s Personnel**, supplies, machinery and equipment;
- (b) injury or death to any person occurring in or about the **Public Space Patio Permit Area** and damage to or loss of property owned by any person occurring in or about the **Public Space Patio Permit Area**, or relating to or arising from the occupation and/or use of the **Public Space Patio Permit Area** (including claims under the *Occupier’s Liability Act*) by the **Applicant**, the **Applicant’s Personnel**, any of their machinery, tools, and equipment, and/or the use of the **Public Space Patio Permit Area**; and
- (c) any breach by the **Applicant** of any condition or covenant contained in this Bylaw.

The release and indemnification provisions contained in this Bylaw shall survive the termination or expiration of a **Public Space Patio Permit**.

#### **PART 4 - AUTHORITY OF THE GENERAL MANAGER**

4.1 The **General Manager** is authorized to:

- a) determine the form of an **Application** for a **Public Space Patio Permit**;

- b) to determine and prescribe the terms and conditions to be included in the **Public Space Patio Permit**;
- c) issue a **Public Space Patio Permit** for the operation of a **Public Space Patio** in accordance with terms and specifications set out in this Bylaw, and impose additional terms, conditions, restrictions and requirements;
- d) issue design guidelines for **Public Space Patios**;
- e) refuse to issue a **Public Space Patio Permit**, if
  - i. the information submitted is insufficient to determine compliance with the provisions of this bylaw or another enactment;
  - ii. the incorrect information is submitted;
  - iii. it would be prohibited by any other bylaw or regulation; or
  - iv. the **General Manager** considers that the activities proposed or contemplated under the **Public Space Patio Permit** cannot be carried out safely and with a minimum risk of injury to persons, damage or loss to property, inconvenience to others using the street, residents or businesses in the vicinity, or to the public generally.
- f) suspend, amend, vary, revoke, or cancel any **Public Space Patio Permit**, without compensation to the permit holder, if
  - i. there is a contravention of any specification or condition of the **Public Space Patio Permit**;
  - ii. the **Public Space Patio Permit** was issued in error;
  - iii. the **Public Space Patio Permit** was issued on the basis of incorrect information;
  - iv. in the opinion of the **General Manager**, a portion of the **Public Space Patio** area is required for the maintenance, repair or installation of municipal utilities or other municipal purposes; or
  - v. the **General Manager** considers that the activities under the **Public Patio Permit** are not being carried out safely and with a minimum risk of injury to persons, damage or loss to property, inconvenience to others using the street, residents or businesses in the vicinity, or to the public generally.
- g) Upon suspension, amendment, variation, revocation, or cancellation of a **Public Space Patio Permit**, the **General Manager** may order the



**Applicant** to immediately remove all fixtures and structures placed within or surrounding a **Public Space Patio** and the replacement and restoration of the sidewalk, street or other publically-owned space to a safe and proper condition to the satisfaction of the **General Manager**.

**PART 5 – SEVERABILITY**

5.1 If any part, sub-section or phrase of this Bylaw is held to be invalid by a court of competent jurisdiction, the invalid portion shall be severed, and the remainder of the Bylaw shall be deemed to have been enacted without the invalid portion.

**PART 6 – EFFECTIVE DATE**

6.1 This Bylaw comes into force and effect upon its adoption.

6.2 Notwithstanding Section 8.1 of this Bylaw, this Bylaw shall not apply to persons who hold a valid temporary patio permit issued by the City.

FIRST READING

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SECOND READING

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THIRD READING

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ADOPTED

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CITY OF RICHMOND
APPROVED for content by originating dept.
APPROVED for legality by Solicitor

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CORPORATE OFFICER