

EXPLANATION

**By-law to amend Street and Traffic By-law No. 2849
regarding public non-commercial expression on structures on streets**

On April 7, 2011, Council approved a recommendation to amend the Street & Traffic By-law, regarding public non-commercial expression on structures on streets. Enactment of the attached By-law will implement that resolution.

Director of Legal Services
April 7, 2011



BY-LAW NO. _____

**A By-law to amend Street and Traffic By-law No. 2849
regarding public non-commercial expression on structures on streets**

WHEREAS the City has the authority to regulate the placement of structures on streets;

AND WHEREAS streets are a finite public resource which must be properly managed in order to maintain public safety, balance competing public interests, and promote the orderly use of public property;

AND WHEREAS the City wishes to facilitate and promote the orderly use and placement of structures on streets, for the purpose of non-commercial political expression.

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1. This By-law amends the indicated provisions of the Street and Traffic By-law.
2. In section 3, after the definition of "Combination of Vehicles", Council adds:

" "Commercial Expression" means any form of expression which is designed to promote, advertise or sell a product or a service, or to promote or advertise an event for which admission is charged."
3. In section 3, after the definition of "Vehicle", Council adds:

" "Zoning District" means a zoning district as established by the City's Zoning & Development By-law."
4. Council re-numbers section "71A" as "71I".
5. Council repeals section 71 and substitutes:

"STRUCTURES ON STREETS

- 71A. A person must not build, construct, place, maintain, occupy, or cause to be built, constructed, placed, maintained or occupied in any street, any structure, object, substance, or thing which is an obstruction to the free use of such street, or which may encroach thereon, without having first obtained a permit issued by the City Engineer, in accordance with this By-law, except that this section does not apply to a person:
- (a) installing signs authorized by the City Engineer on or over City streets, and intended to control traffic or parking, or to provide directions or street identification;
 - (b) putting up or installing street decorations authorized by the City Engineer;

- (c) putting up or installing any other temporary sign or structure which is authorized by by-law, or by provincial or federal legislation;
- (d) installing advertising devices which are integral with public conveniences, as covered by special agreements with the City, such as bus shelter advertising, map stand advertising or automated public toilet advertising; or
- (e) placing a sign or notice on a free standing kiosk or other structure on a street, which is provided or authorized by the City Engineer, specifically for free public use for the purpose of non-commercial public expression.

STRUCTURES CONVEYING NON-COMMERCIAL PUBLIC EXPRESSION

- 71B. (1) A person seeking a permit under section 71A for any structure, object, substance or thing, which conveys non-commercial public expression, must apply for the permit in the form prescribed by the City Engineer.
- (2) The applicant for a permit under section 71A must submit with the application:
- (a) plans and specifications for any proposed structure, object, substance or thing, detailing the construction methods and materials to be used;
 - (b) proposed traffic management plans for any vehicular and pedestrian traffic, which may be affected by the construction, installation or removal of any proposed structure, object or thing;
 - (c) security for potential City costs in the amount of \$1,000.00, for removal of any proposed structure, object, substance or thing, in a form satisfactory to the Director of Finance;
 - (d) an executed full release and indemnity, in a form satisfactory to the Director of Legal Services; and
 - (e) a non-refundable permit application fee of:
 - i) \$200 for an application for a structure or location, for which the City Engineer has not previously issued a permit, and
 - ii) \$50 for an application for a structure and location, for which the City Engineer has previously issued a permit.
- (3) The City Engineer may grant a permit under section 71A, except that the City Engineer must not grant a permit if the structure, object, substance or thing:

- (a) obstructs or interferes with pedestrian or vehicular traffic;
 - (b) obstructs or interferes with any utility, postal or similar installation;
 - (c) obstructs or interferes with any other structure, object, substance, thing or construction works which occupy the street pursuant to a permit;
 - (d) obstructs or interferes with the use of street furniture;
 - (e) obstructs or interferes with City works, on or adjacent to the street;
 - (f) has a width greater than 25% of the width of an adjacent business frontage;
 - (g) is in front of or adjacent to a site which:
 - (i) contains only dwelling uses,
 - (ii) in the case of mixed uses, contains ground floor dwelling uses, or
 - (iii) is located in a zoning district listed in Schedule F;
 - (h) is within 5 meters of a building entrance or exit;
 - (i) is within 5 meters of a bus stop, street intersection, driveway crossing, loading zone, taxi zone, or wheelchair ramp;
 - (j) is within 0.5 meters of a curb;
 - (k) is attached or affixed to cement, asphalt or other hard surface on the street;
 - (l) measures more than 2.1 meters in height at the highest point;
 - (m) measures more than 2 meters in width at the widest point;
 - (n) measures more than 1 meter in depth at the deepest point;
 - (o) has a base area larger than 2 square meters;
 - (p) contains moving parts, electrical or electronic components or lights;
 - (q) is structurally unsafe or unstable; or
 - (r) was at the same location or in the same city block applied for, within the previous sixty days.
- (4) The holder of a permit granted under section 71A, or their authorized representative, must:

- (a) remain at the structure, object, substance or thing continuously between the hours of 8 a.m. and 8 p.m. daily;
 - (b) remove the structure, object, substance or thing from the street between the hours of 8 p.m. and 8 a.m. daily; and
 - (c) keep the structure, object, substance or thing safe and in good repair at all times.
- (5) The holder of a permit granted under section 71A must not use or permit the use of:
- (a) electronic signs;
 - (b) electric or gas lighting or appliances;
 - (c) extension cords; or
 - (d) open flames, propane tanks, gas or electric heaters, or barbeques
- at or near the structure, object, substance or thing authorized by the permit.
- (6) The holder of a permit granted under section 71A must not use or promote the use of expression which:
- (a) is obscene;
 - (b) promotes hatred or violence;
 - (c) is defamatory; or
 - (d) contains commercial content.

TERM OF PERMIT

- 71C. A permit granted under section 71A is valid for thirty days from the date of issuance, except that the City Engineer must not issue:
- (a) a permit for a term greater than thirty days;
 - (b) more than six non-consecutive permits per year, for any city block or location;
 - (c) more than one permit every sixty days, for any city block or location; or
 - (d) a permit to an applicant who is the current holder of such a permit.

EMERGENCIES ON STREETS

- 71D. In the case of an emergency, the City Engineer may temporarily remove a structure that is permitted on a street.

EXPIRY OR CANCELLATION OF PERMIT

- 71E. The City Engineer must cancel a permit issued under section 71A, if the holder of the permit fails to comply with any of the provisions in section 71B.

CONSTRUCTION OF SIDEWALKS ON STREETS

- 71F. A person must not lay, construct, or reconstruct any sidewalk on any street, without having first obtained a permit issued by the City Engineer in accordance with this By-law.

DEBRIS ON STREETS

- 71G. The owner or occupier of real property adjacent to a street, must not allow or permit any earth, rock, stones, trees, logs, stumps or similar substances or things from the property:
- (a) to cave, fall, crumble, slide, accumulate or be otherwise deposited on to a street; or
 - (b) to remain on a street.

WATER ON STREETS

- 71H. The owner or occupier of real property adjacent to a street, must not allow or permit water to flow from the property on to a street."

6. In section 85A, Council repeals:

- (a) "." in the first paragraph;
- (b) the words "This section shall not apply to:"; and
- (c) paragraphs (a) through (e),

and substitutes:

", except that this section does not apply to a person:

- (a) installing signs authorized by the City Engineer on or over City streets, and intended to control traffic or parking, or to provide directions or street identification;
- (b) putting up or installing street decorations authorized by the City Engineer;
- (c) putting up or installing any public notice or other temporary sign, which is authorized by by-law or by provincial or federal legislation;

- (d) installing advertising devices, which are integral with public conveniences as covered by special agreements with the City, such as bus shelter advertising, map stand advertising or automated public toilet advertising; or
- (e) placing a sign or notice on a free standing kiosk or other structure on a street, which is provided or authorized by the City Engineer, specifically for free public use for the posting of notices or for the purpose of non-commercial public expression.”

7. After Schedule E, Council inserts the following:

“Schedule F

RA-1 District
RS-1 District
RS-1A District
RS-1B District
RS-2 District RS-3 and RS-3A Districts
RS-4 District
RS-5 District
RS-6 District
RS-7 District
RT-1 District
RT-2 District
RT-3 District
RT-4, RT-4A, RT-4N and RT-4AN Districts
RT-5, RT-5A, RT-5N and RT-5AN Districts
RT-6 District
RT-7 District
RT-8 District
RT-9 District
RT-10 and RT-10N Districts
RM-1 and RM-1N Districts
RM-2 District
RM-3 District
RM-3A District
RM-4 and RM-4N Districts
RM-5, RM-5A, RM-5B and RM-5C Districts
RM-6 District
FM-1 District
FSD District ”

8. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.

