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THE CORPORATION OF THE CITY OF PENTICTON

OBSTRUCTIVE SOLICITATION BYLAW NO. 2009-33

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THE CORPORATION OF THE CITY OF PENTICTON
BYLAW NO. 2009-33

A BYLAW OF THE CORPORATION OF THE CITY OF PENTICTON
TO REGULATE OBSTRUCTIVE
SOLICITATION IN THE CITY OF PENTICTON

WHEREAS pursuant to Section 62 of the *Community Charter*, Council is empowered to regulate, prohibit and impose requirements' related to public places within the City of Penticton;

AND WHEREAS in an attempt to provide a safer community by limiting solicitation;

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

1.0 TITLE

This Bylaw may be cited for all purposes as the "City of Penticton Obstructive Solicitation Bylaw 2009-33 (2009)".

2.0 DEFINITIONS

In this Bylaw unless the context otherwise requires:

"automated 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, deposits, withdrawals, balance inquiries, and mortgage and loan payments.

"bank" means a financial institution that carries out transactions, including but not limited to, account transfers, deposits, withdrawals, balance inquiries, and mortgage and loan payments and includes a credit union.

"bus shelter" means a structure on a highway used for the purpose of sheltering persons waiting for a bus.

"bus stop" means a section of highway which is reserved for the loading and unloading of buses.

"business licence" means a licence issued pursuant to the Business Licence Bylaw.

“Business Licence Bylaw” means the City of Penticton Business Licence Bylaw 2005-74 as amended or repealed.

“cause an obstruction” means:

- a) to sit or lie on a highway in a manner which obstructs or impedes the convenient passage of any pedestrian traffic on a highway, in the course of solicitation;
- b) to continue to solicit from 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 two or more persons;
- d) to solicit on a highway within ten (10) metres of:
 - i) an entrance to a bank or trust company,
 - ii) an automated teller machine,
 - iii) a bus stop,
 - iv) a bus shelter,
 - v) the entrance to any liquor store or licensed retail liquor store,
 - vi) the entrance to a movie theatre or sidewalk café,
 - vii) a pay telephone,
 - viii) an entrance to or within an enclosed or covered pedestrian walkway,
 - ix) a public washroom,
 - x) an entrance to a church or place of worship,
- e) to solicit from an occupant of a vehicle in a manner which obstructs or impedes the convenient passage of any vehicular traffic or on a highway;
- f) to solicit from an occupant of a vehicle which is
 - i) parked;
 - ii) stopped at a traffic control signal; or
 - iii) standing temporarily for the purpose of and while actually engaged in loading or unloading;
- g) to solicit from a person standing on a highway or other public place for the purpose of entering any building or purchasing any goods or services;
- h) to solicit from a person seated at a sidewalk café
- i) to solicit on private property without the property owner’s consent;
- j) to follow a person solicited;
- k) to touch a person solicited;
- l) to obstruct whether individually or as a group, the passage of a solicited person; or
- m) to solicit using obscene or abusive language.

“City” means the Corporation of the City of Penticton.

“covered pedestrian walkway” means an enclosed passage that links one highway to another for the purpose of pedestrian traffic.

“highway” includes every highway within the meaning of the *Highway Act*, R.S.B.C., 1996 c.188 and every road, street, sidewalk, lane or right-of-way designed or intended for or used by the general public for the passage of vehicles and every place or passage way owned or operated by the City of Penticton for the purpose of providing off-street parking or for the use of pedestrian or cycle traffic and includes a structure located in any of those areas.

“liquor store” means a government liquor store, government beer store or government wine store or an agency established by the general manager under the *Liquor Distribution Act*, R.S.B.C., 1996 c.268.

“Manager of Regulatory Services” means the Manager of Regulatory Services of the City or an authorized representative thereof.

“movie theatre” means an establishment where an audience gathers to view movies.

“Municipal Ticket Information Bylaw” means the City Ticket Information Bylaw No. 97-24 (1997) as amended or repealed.

“public washroom” means a washroom facility operated by the City that is intended for public use.

“R.C.M.P.” means any member of the Royal Canadian Mounted Police.

“sidewalk café” means an outdoor seating area pursuant to the City policy for outdoor cafes utilizing municipal sidewalks/parking spaces.

“solicit” means to, without consideration, ask for money, donations, goods, or other things of value, whether spoken, written or printed word or bodily gesture, for oneself or for any other person, and “solicitation” has a corresponding meaning, but does not include soliciting for charity by the holder of a business licence under the provisions of the Business Licence Bylaw.

“Ticket Information” means municipal ticket information issued in accordance with the City Municipal Ticket Information Bylaw.

“traffic control signal” means a traffic control signal as defined in the *Motor Vehicle Act*, R.S.B.C., 1996 c.318.

“trust company” means an office or branch of a trust company to which *The Trust and Loans Companies Act* (Canada) applies and in which deposit accounts are held.

“vehicle” means a device in, upon, or by which a person or thing is or may be transported or drawn upon a highway, except a device designed to be moved by human power or used exclusively upon stationary rails or tracks.

3.0 ADMINISTRATION

- 3.1 The Manager of Regulatory Services is appointed to administer and enforce all sections of this Bylaw.
- 3.2 An officer of the R.C.M.P. may enforce all sections of this Bylaw.

4.0 PROHIBITIONS

- 4.1 No person shall solicit in a manner to cause an obstruction; and
- 4.2 No person shall solicit after sunset on any given day.

5.0 PENALTY

- 5.1 Every person who violates any of the provisions of this Bylaw or neglects to do or refrain from doing anything required to be done by any of the provisions of this Bylaw, or who does any act which violates any of the provisions of this Bylaw is guilty of an offence against this Bylaw and is liable to the penalties hereby imposed.
- 5.2 A person who contravenes any provision of this Bylaw for which no other penalty has been provided under this Bylaw, is guilty of an offence punishable on summary conviction and is liable to a fine for the first offence of one hundred dollars (\$100), for a second offence to a fine of two hundred and fifty dollars (\$250) and for a third or subsequent offence, to a fine of not less than two hundred and fifty dollars (\$250) and not more than ten thousand dollars (\$10,000) or to a term of jail of not more than six (6) months, or to both.
- 5.3 Where the offence is a continuing one, each day the offence continues shall be a separate offence.
- 5.4 In addition to any other penalty, the Manager of Regulatory Services or his/her designate, and the R.C.M.P. may issue Ticket Information(s) upon a person for a violation of this Bylaw.

6.0 SEVERABILITY

- 6.1 If any section, subsection, clause, sentence or phrase of this Bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, the invalid portion shall be severed and the portion that is invalid shall not affect the validity of the remaining portion of this Bylaw.

7.0 COMING INTO FORCE

- 7.1 This Bylaw shall come into full force and effect upon the final passing thereof.

8.0 REPEAL

- 8.1 City of Penticton Regulatory Traffic Movement Bylaw 2006-35 (2006) and amendments thereto are hereby repealed.

9.0 DESIGNATION BY BYLAW

- 9.1 This Bylaw is designated as a Bylaw that may be enforced by means of a Municipal Ticket Information under the *Community Charter* or a Bylaw Notice under the *Local Government Act Bylaw Notice Enforcement Act*.

READ A FIRST time this 1st day of June, 2009
READ A SECOND time this 1st day of June, 2009
READ A THIRD time this 1st day of June, 2009
RECONSIDERED and FINALLY PASSED AND ADOPTED
This 15th day of June, 2009

Dan Ashton, Mayor

Cathy Ingram, Clerk

Certified a true copy of Bylaw
No. 2009-33 as adopted.

Cathy Ingram, Clerk