



**Bowen Island Municipality
Bylaw No. 537, 2021**

A Bylaw to regulate uses of Public Places on Bowen Island

WHEREAS, Council is empowered by the Community Charter to regulate, prohibit, and impose requirements with respect to persons, property, things and activities that are in, on or near public places, and the protection and enhancement of the well-being of its community in relation to nuisances, disturbances and other objectionable situations;

AND WHEREAS, Council is empowered by of the Community Charter to authorize the seizure of things unlawfully occupying a public place;

THEREFORE the Council of Bowen Island Municipality, in open meeting assembled, enacts the following:

PART 1 – General Administration

- 1.1 This bylaw may be cited for all purposes as “Bowen Island Municipality Bylaw No. 537, 2021 Use of Public Places on Bowen Island”.
- 1.2 If any portion of this bylaw is found invalid by a court of competent jurisdiction, that invalid portion is severed and the remainder is deemed to continue as valid.

PART 2 - Interpretation

- 2.1 In this bylaw the following words, terms, and phrases, wherever they occur in this bylaw, have the following meaning assigned to them:

Access Area means an area located within 10 metres of an entry point to a trail, park or playground;

Bylaw Services Officer means any person appointed by Council to administer and enforce this bylaw, and a member of the RCMP;

Camp means to stay overnight in a tent, trailer, Motor Vehicle or other form of shelter;

Departmental Manager means the Manager of Bylaw Services, the Manager of Environment and Parks Planning, the Chief Administration Officer or the Corporate Officer, or their designates;

Homeless Person means a person who has neither a fixed address nor a predictable residence to return to on a daily basis (sometimes referred to as a person without stable housing);

Motor Vehicle means a vehicle that is designed to be self-propelled or propelled by power including devices such as, but not limited to snowmobiles, dirt bikes, electric bikes, electric off-road bikes, and all terrain vehicles;

Municipality means Bowen Island Municipality;

Organized Activity means any activity which is pre-planned, involves a group larger than 20 people and which limits general public access to a Public Place;

Organized Sport means any game, sport or exercise activity, including yoga, which is carried out by 10 or more persons on a regular basis and limits general public access to a Public Place;

Permit means a valid and subsisting permit issued in accordance with this Bylaw;

Public Place means property owned, held or under the care, custody or possession of the Municipality such as, but not limited to, Municipal buildings and wharfs, parks, trails, beaches, greenways, playgrounds, and streets;

Temporary Shelter means any temporary structure capable of being easily disassembled and providing shelter from the elements, including any tent, lean-to, or other form of shelter constructed from a tarpaulin, plastic sheets, or other materials;

Vehicle means a device in, on or by which a person or thing is or maybe transported or drawn on a highway.

- 2.2 All words and phrases that are not defined in this Bylaw must be construed in accordance with the meanings assigned to them by the *Community Charter*, *Local Government Act* and *Interpretation Act* as the context and circumstances require. Except in reference to the *Criminal Code*, a reference to a statute in this Bylaw refers to a statute of the Province of British Columbia, and a reference to any enactment refers to that enactment as it may be amended or replaced from time to time. Words in the singular include the plural and gender specific terms include both genders and corporations. Headings in this Bylaw are for convenience only and do not define or limit the scope or intent of this Bylaw.

PART 3 – Prohibitions

- 3.1 Except as provided for in section 3.3 of this Bylaw, a person must not in or on any Public Place:
- (a) destroy, alter, damage, or remove any tree, shrub, plant, turf, flower, soil, gravel, or other material;
 - (b) destroy, alter, damage or deface any building, fence, bench, sign, light, light standard, ornament, barrier, wharf, float, receptacle or other structure;
 - (c) foul, pollute, discard or deposit any garbage or waste, offensive matter, soil, gravel, yard waste, construction debris or other substance or material in any Public Place, including any pond, stream, ditch or other body of water, except in receptacles provided for that purpose and then only if there is space in the receptacle for such deposit;
 - (d) permit any animal under their ownership or custody to damage in any way any vegetation;
 - (e) abandon any possessions, chattel or other item;
 - (f) construct, clear, or otherwise create trails or pathways, or modify, damage, move, or otherwise change trails or pathways other than by agreement authorized by Municipal Council;
 - (g) smoke any substance or use a vaporizer;

- (h) place or keep any possession, chattel or other item in a Public Place so as to be unsightly, and without restricting the generality of the word “unsightly”, any one or more of the following conditions is unsightly within the meaning of this Bylaw:
 - i. accumulations of rubbish, cans, bottles, glass, or recyclable items;
 - ii. items of any sort scattered about or kept in disarray in the Public Place;
 - iii. items of any sort covering an area of land more than 9 square metres; or
 - iv. spoiled food;
- (i) interfere with or obstruct any employee, contractor or agent of the Municipality in the performance of their assigned duties or interfere with or harass any member of the public in their access to or enjoyment of public space or amenities;
- (j) not comply with any verbal direction from a Bylaw Services Officer made under this Bylaw; or
- (k) not comply with any requirement, prohibition or other direction set out in any sign posted under this Bylaw.

3.2 Except as provided for in section 3.3, or part 5 of this Bylaw, or by permit as per part 6 of this Bylaw, a person must not in or on any Public Place:

- (a) perform or take part in any procession, march, drill, performance, ceremony, concert, meeting, or assembly of over 20 persons that limits general public access to a Public Place except for Indigenous cultural ceremony, including any Indigenous-led ritual, gathering, tradition, or other similar activity;
- (b) use any area for an Organized Activity or Organized Sport;
- (c) post, paint or affix any advertisement, bill, poster, picture, or thing advertising any product, service, or event other than in designated areas as identified by signage or on community notice boards;
- (d) rent or expose for rental any goods, equipment, article or thing;
- (e) provide, teach, operate or organize for a fee any service, class or activity, including exercise classes or Organized Sport activities;
- (f) use any device which may disturb the quiet, peace, rest, enjoyment, comfort or convenience of other persons in the vicinity;
- (g) drive or operate any Motor Vehicle or Vehicle except in a place designated or provided for such purposes and in accordance with the *Motor Vehicle Act*;
- (h) discharge, explode, or fire any fireworks, pyrotechnical or other combustible or explosive material;
- (i) erect, construct or build, or cause to be erected, constructed or built, a tent, shelter, building or other structure; or
- (j) Camp.

3.3 Nothing in this Bylaw prohibits:

- (a) an employee, contractor or agent of the Municipality from carrying out their duties of an employee, contractor or agent of the Municipality; or
- (b) a member of the RCMP, Bowen Island Fire Department, or BC Ambulance Services from carrying out their duties as a member of those organizations;
- (c) an employee of the Municipality from organizing and carrying out community programming and events.

PART 4 – SIGNAGE AND VERBAL DIRECTIONS

- 4.1 Subject to section 4.3 of this Bylaw, a Departmental Manager may cause signage to be posted in a Public Place providing any of the following directions on the signage:
- (a) a direction prohibiting persons from entering, using or being on a Public Place or part of a Public Place;
 - (b) a direction prohibiting the carrying out of certain activities at specific times or at specific locations; or
 - (c) a direction prohibiting swimming or bathing in a specific location.
- 4.2 Subject to section 4.3 of this Bylaw, a Bylaw Services Officer may give a verbal direction that:
- (a) a person carrying out an activity in a Public Place may only carry out that activity in a certain manner or location;
 - (b) any person must vacate a Public Place when that person has recently contravened or is contravening any provision of this Bylaw; or
 - (c) an owner of any structure, shelter, Motor Vehicle, Vehicle, possession, chattel or other item in breach of this Bylaw remove that structure, shelter, Motor Vehicle, Vehicle, possession, chattel or other item from a Public Place.
- 4.3 A Department Manager may only cause signage to be posted under section 4.1 of this Bylaw and a Bylaw Services Officer may only give a verbal direction under section 4.2(a) of this Bylaw if they reasonably determine that such an exercise of discretion is necessary to reduce the likelihood of:
- (a) injury to persons;
 - (b) damage to the environment, drinking water or public property;
 - (c) unreasonable disturbance of other persons;
 - (d) conflicts between users of the Public Place;
 - (e) interference with any maintenance or construction work carried out by the Municipality; or
 - (f) interference with any activities or events organized by the Municipality.

PART 5 – Temporary Shelters

- 5.1 Notwithstanding sections 3.2(i) and 3.2(j) of this Bylaw, a Homeless Person must not place, erect, occupy or use any Temporary Shelter in a Public Place unless:
- (a) the Temporary Shelter is placed, erected, occupied, or used in the Public Place only between the hours of 7:00 pm of one day and 9:00 am of the following day; and
 - (b) the Temporary Shelter is not located on or within 10 metres of any structure, wharf, building, right of way, access road, Access Area, street, sidewalk, trail, picnic area, ecologically sensitive area, beach, heritage site, signage, information kiosk, restroom, public amenity, sports field, memorial, parking, municipal playground, bike park, skateboard park, disc golf course, or playscape.
- 5.2 Any Homeless Person who has placed, erected, occupied or used any Temporary Shelter in a Public Place as allowed under section 5.1 of this Bylaw must by 9:00 am of the following day:
- (a) take down the Temporary Shelter; and

- (b) remove all of their belongings, including the Temporary Shelter.
- 5.3 In addition to any other authority in this Bylaw, any Bylaw Services Officer, employee, contractor or agent of the Municipality may remove or caused to be removed any item, including any Temporary Shelter, remaining in a Public Place contrary to sections 5.1 or 5.2 of this Bylaw, and the Bylaw Services Officer, employee, contractor or agent of the Municipality may then store any non-hazardous or non-perishable items for up to 7 days before disposal.

PART 6 - Permits

- 6.1 A person, organization or group may apply for a Permit authorizing the carrying out of an activity which is otherwise prohibited under section 3.2 of this Bylaw by submitting the following to the Municipality:
- (a) a completed application form as provided for in Schedule “A” of this Bylaw;
 - (b) the payment of any fees prescribed for the Permit under this Bylaw or any other bylaw of the Municipality; and
 - (c) proof that the applicant has obtained liability insurance naming the Municipality as a co-insured and in the coverage amount as determined to be sufficient by the Departmental Manager.
- 6.2 If an application submitted under section 6.1 of this Bylaw is complete, the Departmental Manager may issue a Permit authorizing the proposed activity.
- 6.3 The Department Manager may impose any terms and conditions in a Permit, including the requirement that the holder of the Permit pay a security deposit to the Municipality, which the Departmental Manger determines to be reasonably necessary to reduce any risks, liabilities, costs, or expenses to the Municipality, ensure the efficient and effective management and operation of the Public Place, or reduce the likelihood of the matters set out at subsection 4.3(a) and (f) of this Bylaw.
- 6.4 Any person or group issued a Permit under this Bylaw must comply with the terms and conditions of the Permit.
- 6.5 The Departmental Manager may refuse to issue a Permit or may cancel a Permit if the Departmental Manager reasonably determines that any of the following considerations apply to the activity authorized by the Permit:
- (a) the activity is likely to damage the environment or property;
 - (b) the activity is likely to cause a hazardous or dangerous condition;
 - (c) the activity is likely to unreasonably conflict with other persons using the Public Place;
 - (d) the activity is likely to be of such duration or frequency so as to unreasonably preclude other persons from obtaining a Permit;
 - (e) the activity is likely to interfere with the Municipality’s maintenance, construction work, or use of the Public Place;
 - (f) the activity is likely to result in a contravention of any federal or provincial law, including the Criminal Code, RSC 1985, c. C-46 or the Human Rights Code, RSBC 1995, c. 210; or
 - (g) the carrying out of the activity has resulted in or is likely to result in a contravention of this Bylaw or other Municipal Bylaws.
- 6.6 The Municipality is not required to refund the permit fees if a Permit is cancelled under this Bylaw.

- 6.7 The Chief Administrative Officer will consider and may approve requests from groups or individuals to waive, reduce or amend permit fees.

PART 7 – ENFORCEMENT AND PENALTIES

- 7.1 This Bylaw may be enforced by a Bylaw Services Officer.
- 7.2 A Bylaw Services Officer, or under direction of a Bylaw Services Officer, an employee, contractor or agent of the Municipality may:
- (a) remove from a Public Place any structure, shelter, Motor Vehicle, Vehicle, possession, chattel or other item which is in breach of this Bylaw; or
 - (b) impound any Motor Vehicle or Vehicle which is in breach of this Bylaw.
- 7.3 The Municipality may recover as a debt its costs and expenses of any removal or impoundment carried under section 7.2 of this Bylaw from the owner of the applicable structure, shelter, Motor Vehicle, Vehicle, possession, chattel or other item.
- 7.4 Every person must not obstruct a Bylaw Services Officer engaged in the enforcement of this Bylaw.
- 7.5 Any person who:
- (a) violates or fails to comply with any provision of this Bylaw;
 - (b) permits, suffers or allows any action or thing to be done in violation of this Bylaw; or
 - (c) fails or neglects to do anything required to be done under this Bylaw,
- contravenes this Bylaw, and where the contravention is a continuing one, each day that the contravention continues amounts to a separate contravention.
- 7.7 Any person who contravenes this Bylaw commits an offence and upon conviction by way of a proceeding under the *Offence Act* is liable to a penalty not less than two thousand five hundred dollars (\$2500.00) and not exceeding fifty thousand dollars (\$50,000.00) for each offence and the costs of prosecution.
- 7.8 This Bylaw may be enforced by the issuance of a bylaw notice under the Bylaw Notice Enforcement Bylaw No. 196, 2008, as amended.

PART 8 - Schedules

- 8.1 Schedule “A” Application for Use of a Public Place and Permit, and Schedule “B” Use of a Public Place – Fee Schedule generally both in the form as attached, but as amended from time to time by the Departmental Manager, are part of this Bylaw.

READ A FIRST TIME this 22nd day of March, 2021;

READ A SECOND TIME this 10th day of May, 2021;

READ A THIRD TIME this 26th day of July, 2021;

FINALLY ADOPTED this 29th day of July, 2021.

(ORIGINAL SIGNED)

(ORIGINAL SIGNED)

Gary Ander
Mayor

Hope Dallas
Corporate Officer

BOWEN ISLAND MUNICIPALITY

Schedule "A"

APPLICATION FOR USE OF A PUBLIC PLACE AND PERMIT

Applicant Name: _____

On-site Contact Person (if different from above): _____

Contact Telephone Number During Event: _____

Telephone Number: _____

Email Address: _____

Mailing Address: _____

Dates Requested: _____

Hours of Use: _____

Area Requested: _____

Proposed Use: _____

Special Activities (liquor, band, tents, fire, fireworks, etc.): _____

Requirements of the Municipality (open gate, garbage cans etc.): _____

Insurance? yes no Type: _____ Amount: _____

Special Occasion Permit required for alcohol? yes no Issued? yes no

Will the use generate noise audible beyond the public place boundaries? yes no

Will a Noise Control Bylaw exemption be required? yes no Application submitted? yes no

If an exemption is required, what type of noise is expected? _____

BOWEN ISLAND MUNICIPALITY

Schedule "A"

APPLICATION FOR USE OF A PUBLIC PLACE AND PERMIT

PRIVATE AND COMMERCIAL USE FEES:

Application fee: \$50.00*

Per use fee (up to 4 hours in duration): \$25.00 / day

Per use fee (over 4 hours up to 8 hours in duration): \$50.00 / day

Annual commercial use (per location): \$200

Annual non-profit use (per location): \$100

**Other permits in addition to a Use of a Public Place Permit may be required. Commercial filming is subject to a separate and distinct fee schedule and is exempt from this fee schedule.*

I hereby declare that the information provided in this application is truthful, complete, and accurate. By making this application I understand that Bowen Island Municipality may impose terms and conditions on the use of any public place if permission is granted and further, that a security deposit may be required of which all or part may be forfeited if the terms and conditions under which the permit is issued are not fulfilled by me. I understand that the terms and conditions, and any security deposit required, may be determined at the discretion of the Corporate Officer. I understand that the public place granted access to in any permit if issued must be left in the condition in which it was found, any insurance or indemnification of Bowen Island Municipality required must be kept in force for the period determined by the Corporate Officer.

I hereby agree and acknowledge that any permit issued to me will be on the condition that I agree to indemnify, save harmless and release the Municipality from any and all loss, liability, damage or costs which may arise as a result of the activity authorized by the permit, including without limitation all damages, liabilities, expenses, costs, including solicitor client costs or other fees incurred in respect of any claim, cause or other proceeding, whether caused by the negligence of the Municipality or otherwise, and such a term will survive the expiration, termination or cancellation of the Permit.

This application is not a permit.

Signature of Applicant

Date

Print Name

The personal information collected on this form is done so pursuant to the Community Charter and/or the Local Government Act and in accordance with the Freedom of Information and Protection of Privacy Act. The personal information collected herein will be used only for the purpose of processing this application or request and for no other purpose unless its release is authorized by its owner, the information is part of a record series commonly available to the public or is compelled by a Court or an agent duly authorized under another Act. Further information may be obtained by speaking with the Bowen Island Municipality's Corporate Officer at 604-947-4255 or 981 Artisan Lane, Bowen

BOWEN ISLAND MUNICIPALITY

Schedule "A"

APPLICATION FOR USE OF A PUBLIC PLACE AND PERMIT

Island, BC V0N 1G2.

For Office Use Only	
Date Application Received: _____	Application Received By: _____
Date Permit Issued: _____	Permit Issued By: _____
Permit Valid Until: _____	
Comments: _____	
Authorized by: _____	
<p>The applicant hereby agrees and acknowledges that any permit issued to them will be on the condition that they agree to indemnify, save harmless and release the Municipality from any and all loss, liability, damage or costs which may arise as a result of the activity authorized by the permit, including without limitation all damages, liabilities, expenses, costs, including solicitor client costs or other fees incurred in respect of any claim, cause or other proceeding, whether caused by the negligence of the Municipality or otherwise, and such a term will survive the expiration, termination or cancellation of the Permit.</p>	

BOWEN ISLAND MUNICIPALITY

Schedule "B"

USE OF A PUBLIC PLACE – FEE SCHEDULE

PRIVATE AND COMMERCIAL USE FEES:

Application fee: \$50.00*

Per use fee (up to 4 hours in duration): \$25.00 / day

Per use fee (over 4 hours up to 8 hours in duration): \$50.00 / day

Annual commercial use (per location): \$200

Annual non-profit use (per location): \$100

**Other permits in addition to the Use of a Public Place Permit may be required. Commercial filming is subject to a separate and distinct fee schedule and is exempt from this fee schedule. Use of a Public Place Permit does not allow the permittee exclusive use of a Public Place.*