

## Excerpts from Provincial and Federal Legislation

### COMMUNITY CHARTER

#### 16 Authority to enter on or into property

- (1) This section applies in relation to an authority under this or another Act for a municipality to enter on property.
- (2) The authority may be exercised by officers or employees of the municipality or by other persons authorized by the council.
- (3) Subject to this section, the authority includes authority to enter on property, and to enter into property, without the consent of the owner or occupier.
- (4) Except in the case of an emergency, a person
  - (a) may only exercise the authority at reasonable times and in a reasonable manner, and
  - (b) must take reasonable steps to advise the owner or occupier before entering the property.
- (5) The authority may only be used to enter into a place that is occupied as a private dwelling if any of the following applies:
  - (a) the occupier consents;
  - (b) the municipality has given the occupier at least 24 hours' written notice of the entry and the reasons for it;
  - (c) the entry is made under the authority of a warrant under this or another Act;
  - (d) the person exercising the authority has reasonable grounds for believing that failure to enter may result in a significant risk to the health or safety of the occupier or other persons;
  - (e) the entry is for a purpose referred to in subsection (6) (a) in relation to regulations, prohibitions or requirements applicable to the place that is being entered.
- (6) Without limiting the matters to which this section applies, a municipality may enter on property for any of the following purposes:
  - (a) to inspect and determine whether all regulations, prohibitions and requirements are being met in relation to any matter for which the council, a municipal officer or employee or a person authorized by the council has exercised authority under this or another Act to regulate, prohibit and impose requirements;
  - (b) to take action authorized under section 17 (1) [*municipal action at defaulter's expense*];
  - (c) in relation to section 18 [*authority to discontinue providing a service*], to disconnect or remove the system or works of the service;
  - (d) to assess or inspect in relation to the exercise of authority under section 8 (3) (c) [*spheres of authority - trees*].

#### 146 Officer positions

A council

- (a) must, by bylaw, establish officer positions in relation to the powers, duties and functions under sections 148 [*corporate officer*] and 149 [*financial officer*],
- (b) may, by bylaw, establish other officer positions, and
- (c) may assign powers, duties and functions to its officer positions.

#### 153 Prohibition against interfering with municipal officers and employees

A person must not interfere with, hinder or obstruct a municipal officer or employee in the exercise or performance of the officer's or employee's powers, duties or functions.

#### 263 Penalties in relation to *Offence Act* prosecutions

- (1) A bylaw under section 260 (1) [*enforcement powers*] may establish one or more of the following penalties to which a person convicted of an offence in a prosecution under the *Offence Act* is liable:
  - (a) a minimum fine;
  - (b) a maximum fine of up to \$50 000;
  - (c) in the case of a continuing offence, for each day that the offence continues either or both of

- (i) a minimum fine under paragraph (a), or
  - (ii) a maximum fine under paragraph (b);
  - (d) imprisonment for not more than 6 months.
- (2) If no other penalties are established in relation to an offence referred to in subsection (1), the penalties established by section 4 [*general penalty*] of the *Offence Act* apply.
- (3) In a prosecution for an offence against a municipal bylaw, the justice or court may impose all or part of the penalties applicable in relation to the offence, together with the costs of prosecution.

## **264 Ticket offences**

- (1) A council may, by bylaw,
- (1) designate a bylaw for the purpose of this section, other than a bylaw in relation to a matter prescribed by regulation,
  - (2) designate as a bylaw enforcement officer a person who comes within a class of persons prescribed by regulation, and
  - (3) authorize the use of any word or expression on a ticket issued under subsection (2) to designate an offence against a bylaw.
- (2) If a bylaw is designated under subsection (1), a bylaw enforcement officer may lay an information by means of a ticket for contravention of the bylaw.
- (3) Despite section 13 (1) of the *Offence Act*, an information laid by means of a ticket is valid whether or not it is taken under oath.
- (4) The use on a ticket of
- (a) any word or expression authorized by bylaw under subsection (1) (c) to designate an offence against a bylaw, or
  - (b) a general description of an offence against a bylaw,
- is deemed sufficient for all purposes to describe the offence designated by that word, expression or general description.

## **266 Laying information and serving ticket**

- (1) When laying an information by means of a ticket, a bylaw enforcement officer must indicate on the ticket the offence charged and must sign the ticket.
- (2) The bylaw enforcement officer must serve the ticket on the person alleged to have contravened the bylaw.
- (3) Service of a ticket under subsection (2) may be effected by
- (a) serving a copy of the ticket on the person alleged to have contravened the bylaw immediately after the alleged contravention, or
  - (b) causing a copy of the ticket to be served in the same manner as a summons may be served under the *Offence Act*.
- (4) Service of a ticket under subsection (2) may be proved by
- (a) the oral evidence given under oath of the person who served it, or
  - (b) the certificate of the person who served the ticket, if the certificate is endorsed on the ticket or a copy of the ticket.
- (5) The certificate referred to in subsection (4) is proof of the facts stated in the certificate and of the authority of the person who signed it without further proof of the person's appointment or signature.

## **COMMUNITY CHARTER BYLAW ENFORCEMENT TICKET REGULATION**

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### **2 Maximum fine amount**

- (1) In this section, "young person" has the same meaning as in section 1 [definitions] of the *Youth Justice Act*.
- (2) The maximum amount of a fine under section 265 [penalties in relation to ticket offences] of the *Community Charter* is \$3 000, unless subsection (3) applies.
- (3) The maximum amount of a fine under section 265 of the *Community Charter* is \$1 000 if a young person is charged with an offence that is dealt with under Division 3 of Part 8 [*Bylaw Enforcement and Related Measures*] of that Act.

## **25 Protection of persons acting under authority**

- (1) Everyone who is required or authorized by law to do anything in the administration or enforcement of the law
  - (a) as a private person,
  - (b) as a peace officer or public officer,
  - (c) in aid of a peace officer or public officer, or
  - (d) by virtue of his office,is, if he acts on reasonable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose.
- (2) Where a person is required or authorized by law to execute a process or to carry out a sentence, that person or any person who assists him is, if that person acts in good faith, justified in executing the process or in carrying out the sentence notwithstanding that the process or sentence is defective or that it was issued or imposed without jurisdiction or in excess of jurisdiction.
- (3) Subject to subsections (4) and (5), a person is not justified for the purposes of subsection (1) in using force that is intended or is likely to cause death or grievous bodily harm unless the person believes on reasonable grounds that it is necessary for the self-preservation of the person or the preservation of any one under that person's protection from death or grievous bodily harm.
- (4) A peace officer, and every person lawfully assisting the peace officer, is justified in using force that is intended or is likely to cause death or grievous bodily harm to a person to be arrested, if
  - (a) the peace officer is proceeding lawfully to arrest, with or without warrant, the person to be arrested;
  - (b) the offence for which the person is to be arrested is one for which that person may be arrested without warrant;
  - (c) the person to be arrested takes flight to avoid arrest;
  - (d) the peace officer or other person using the force believes on reasonable grounds that the force is necessary for the purpose of protecting the peace officer, the person lawfully assisting the peace officer or any other person from imminent or future death or grievous bodily harm; and
  - (e) the flight cannot be prevented by reasonable means in a less violent manner.
- (5) A peace officer is justified in using force that is intended or is likely to cause death or grievous bodily harm against an inmate who is escaping from a penitentiary within the meaning of subsection 2(1) of the *Corrections and Conditional Release Act*, if
  - (a) the peace officer believes on reasonable grounds that any of the inmates of the penitentiary poses a threat of death or grievous bodily harm to the peace officer or any other person; and
  - (b) *the escape cannot be prevented by reasonable means in a less violent manner.*

### **117.07 Public officers [Firearms and Other Weapons]**

- (1) Notwithstanding any other provision of this Act, but subject to section 117.1, no public officer is guilty of an offence under this Act or the *Firearms Act* by reason only that the public officer
  - (a) possesses a firearm, a prohibited weapon, a restricted weapon, a prohibited device, any prohibited ammunition or an explosive substance in the course of or for the purpose of the public officer's duties or employment;

## **HOTEL KEEPERS ACT**

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### **6 Offence – causing a disturbance**

- (1) In this section, "disturbance" means a disturbance of the peace of an occupant of an inn by fighting, screaming, shouting, singing, or otherwise causing loud noise in the inn.
- (2) An innkeeper or an innkeeper's representative, must request that a person who is causing a disturbance
  - (a) desist, and
  - (b) if the person fails to desist or again causes a disturbance, leave the inn immediately

unless the innkeeper or the innkeeper's representative believes on reasonable grounds that there is a risk of harm to the innkeeper or the innkeeper's representative by making the request.

- (3) If an innkeeper or an innkeeper's representative believes on reasonable grounds that there is a risk of harm to the innkeeper or innkeeper's representative by making the request under subsection (2), the innkeeper or innkeeper's representative must request that a peace officer make the request under that subsection.
- (4) A person who fails to comply with a request under subsection (2) commits an offence and is liable on conviction to a fine of not more than \$2 000.
- (5) An innkeeper or an innkeeper's representative who fails to make a request required under subsection (2) or (3), as applicable, commits an offence and is liable on conviction to a fine of not more than \$2 000.

## 7 Peace officer powers

A peace officer may

- (a) make a request under section 6 (2)
  - (i) if the innkeeper or innkeeper's representative fails to comply with that section, or
  - (ii) in the circumstances described in section 6 (3), and
- (b) arrest without a warrant a person who fails to comply with, or who is suspected on reasonable grounds of failing to comply with, a request under section 6 (2).

## ***INTERPRETATION ACT***

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### 11 Reference aids and clarifications

- (1) In an enactment, a head note to a provision or a reference after the end of a section or other division
  - (a) is not part of the enactment, and
  - (b) must be considered to have been added editorially for convenience of reference only.
- (2) In an enactment, if a reference to a provision of the enactment or any other enactment is followed by italicized text in square brackets that is or purports to be descriptive of the subject matter of the provision, subsection (1) (a) and (b) applies to the text in square brackets.
- (3) The Lieutenant Governor in Council may make regulations amending an enactment for the purpose of changing a reference to a specific minister or ministry in a provision of the enactment to the minister or ministry, as applicable, currently assigned responsibility in relation to the matter.

### 28 Expressions defined

"**peace officer**" includes

- (c) a mayor, sheriff and sheriff's officer,
- (d) a warden, correctional officer, and any other officer or permanent employee of a penitentiary, prison, correctional centre or youth custody centre, and
- (e) a police officer, police constable, constable or other person employed for the preservation and maintenance of the public peace;

## ***LOCAL GOVERNMENT BYLAW ENFORCEMENT ACT***

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### 1 Definitions

"**bylaw enforcement officer**" means a person in a class prescribed under section 273 (c) of the Community Charter or section 482.91 (c) of the Vancouver Charter who is designated by a local government as a bylaw enforcement officer;

"**bylaw notice**" means a notice under section 4 [bylaw notice];

### 4 Bylaw notice

- (1) Subject to the regulations, a local government may designate bylaw contraventions which may be dealt with by bylaw notice under this Act.

- (2) If a matter is prescribed by regulation as only enforceable by bylaw notice, a local government bylaw in relation to the matter may only be enforced by bylaw notice.
- (3) If a contravention of a local government bylaw may be dealt with by bylaw notice, a bylaw enforcement officer may complete and issue a bylaw notice to a person against whom the contravention is alleged.
- (4) A bylaw notice must contain all the following information:
  - (a) particulars of the alleged contravention of the bylaw in sufficient detail that a recipient of the notice would be able to identify the bylaw and the contravention alleged;
  - (b) the amount of the penalty that the recipient is liable to pay in respect of the contravention, the amount of a discount for early payment of the penalty, the amount of a surcharge for late payment of the penalty and the consequences of failing to respond to the bylaw notice;
  - (c) methods of paying the penalty;
  - (d) how to dispute the allegation in the notice;
  - (e) information required under the regulations.
- (5) A bylaw notice may be completed, issued and stored
  - (a) in electronic format by electronic means, or
  - (b) by another means
- (6) Despite any rule of law, custom or practice to the contrary, a bylaw notice is not invalid by reason only that it is not signed by the bylaw officer that issues it or endorsed by any person.
- (7) A bylaw notice must be issued to a named person unless it is issued in respect of a contravention involving a vehicle, in which case it may be issued to
  - (a) the vehicle's licence plate, or
  - (b) the vehicle's identification number, temporary operation permit or interim permit under the Motor Vehicle Act.
- (8) If a bylaw notice is issued under subsection (7) (a) or (b), the notice is deemed to have been issued to each registered owner of the vehicle as contained in the records of
  - (a) the government, or
  - (b) a person responsible for maintaining records of vehicle registrations in British Columbia or in another province of Canada.

## **OFFENCE ACT**

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### **4 General penalty**

Unless otherwise specifically provided in an enactment, a person who is convicted of an offence is liable to a fine of not more than \$2 000 or to imprisonment for not more than 6 months, or to both.

### **28 Service on individual**

- (1) Subject to subsection (3), a summons must be served by a peace officer or enforcement officer, who must deliver it personally to the person to whom it is directed, or, if that person cannot conveniently be found, must leave it for the person at the person's last or usual residence with an occupant of it who appears to be at least 16 years of age.
- (2) For the purposes of the service of a summons in respect of an alleged offence under a bylaw of a municipality, a peace officer includes a bylaw enforcement officer appointed under section 36 of the *Police Act*.
- (3) A summons in respect of an alleged offence under a bylaw of a municipality or regional district may be served in the manner set out in subsection (1) by a person appointed for that purpose by the council of the municipality or the board of the regional district.
- (4) For the purposes of this section, a person appointed under subsection (3) has the legal status of a peace officer.

## **SAFE STREETS ACT**

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### **4 Arrest without warrant**

- (1) In this section, "peace officer" means a peace officer described in paragraph (c) of the definition of "peace officer" in section 29 of the *Interpretation Act*.

- (2) A peace officer may arrest without warrant any person who the peace officer believes on reasonable and probable grounds is committing an offence under this Act.

## **TRESPASS ACT**

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### **7 Arrest without warrant**

- (1) In this section, "peace officer" means
- (a) a peace officer, as described in paragraph (c) of the definition of "peace officer" in section 29 of the *Interpretation Act*, or
  - (b) a conservation officer, as defined in section 1 (1) of the *Environmental Management Act*.
- (2) A peace officer may arrest without warrant a person found on or in premises if the peace officer believes on reasonable and probable grounds that the person is committing an offence under section 2 [*trespass prohibited*] in relation to the premises.
- (3) If a peace officer believes on reasonable and probable grounds that a person has committed an offence under section 2 and has recently departed from the premises, the peace officer may arrest the person without warrant if
- (a) the person refuses to give the person's name and address to the peace officer on demand, or
  - (b) the peace officer believes on reasonable and probable grounds that the name or address given by the person to the peace officer is false.

## **YOUTH JUSTICE ACT**

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### **1 Definitions**

"**young person**" means a person who has reached 12 years of age but is less than 18 years of age.