

# TOWN OF SIDNEY

## BYLAW NO. 1960

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### A BYLAW TO AUTHORIZE THE IMPOUNDING OF VEHICLES AND CHATTELS UNLAWFULLY OCCUPYING THE STREETS OF THE TOWN OF SIDNEY

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WHEREAS the Council of the Town of Sidney deems it necessary to provide for the impounding of vehicles;

NOW THEREFORE the Council of the Town of Sidney in open meeting assembled enacts as follows;

#### 1. Citation

1.1 This Bylaw may be cited for all purposes as "**Impounding Bylaw No. 1960, 2009.**"

#### 2. Definitions

2.1 In this Bylaw,

“**chattel**” an item of movable personal property;

“**impound**” includes the seizure, removal and detention of any vehicle, whether being driven or not, and any other chattel, which is unlawfully placed, left, kept or driven upon a street, or in any public park;

“**impounding charges**” include all expenses of removal and detention or impounding and also all towing, storage and other charges, all as provided by Schedule “A” to this Bylaw;

“**motor vehicle**” means a vehicle, not run on rails, that is designed to be self propelled or propelled by electric power obtained from overhead trolley wires, but does not include a motor assisted cycle;

“**street**” shall include roadway, boulevard and sidewalk as well as any way, road, lane, alley, avenue, thoroughfare, drive, bridge, viaduct, square or open space in the Town which is open to the use of the public as a matter of right, for the purpose of traffic.

“**trailer**” means a vehicle that is at any time drawn on a highway by a motor vehicle, except: a) an implement of husbandry, b) a side car attached to a motorcycle, and c) a disabled motor vehicle that is towed by a tow car, but does include a semi-trailer as defined in the *Commercial Transport Act*;

“**unlicensed vehicle**” means a vehicle defined under the Provincial *Motor Vehicle Act* that does not display a current motor vehicle licence issued under the provisions of the *Insurance (Vehicle) Act* or the motor vehicle licensing provision of another province or state;

“**vehicle**” means any a device in, on or by which a person or thing is or may be transported or drawn on a highway, but does not include a device designed to be moved by human power, a device used exclusively on stationary rails or tracks or a motor assisted cycle;

### **3. Impounding of Vehicles**

- 3.1 Any Constable of the RCMP, Chief Administrative Officer of the Town of Sidney or any Town of Sidney employee designated by the Chief Administrative Officer may impound or cause to be impounded any vehicle, whether being driven or not, which is unlawfully placed, left, kept or driven upon a street or in any public park.
- 3.2 For the purposes of this bylaw Commissionaires under contract by the Town of Sidney to enforce our Streets and Traffic and Parks Bylaw are considered agents of the Town of Sidney.
- 3.3 Every vehicle which has been impounded shall be kept at such premises as may be designated by the Chief Administrative Officer and shall there be kept at the owner’s risk and expense.

### **4. Recovery of Vehicles**

- 4.1 An impounded vehicle may be recovered by its owner if, prior to the sale provided for in section 6, the owner can show satisfactory proof of ownership and pays the impounding charges. If the impounding charges are paid, the vehicle may be released to any other person who provides satisfactory evidence of entitlement to the vehicle.
- 4.2 Notwithstanding anything contained in this Bylaw, the owner of an impounded vehicle who feels that payment of the required impounding charges will cause him or her undue hardship may write out a claim of hardship directed to the Chief Administrative Officer and if the Chief Administrative Officer, after considering and weighing the circumstances of the case, accepts the owner's claim of hardship the Chief Administrative Officer may recommend that all or any part of the impounding charges be waived.

### **5. Notice to Registered Owner**

- 5.1 Upon any vehicle being impounded, the Officer in charge of the RCMP where the impounding has been effected by a Constable, or the Chief Administrative Officer where the impounding has been effected by a designated employee, shall cause enquiry to be made as to who is the owner of such vehicle, or is entitled to claim possession thereof.
- 5.2 In respect of vehicles registered in British Columbia, the Officer in charge of the RCMP or the Chief Administrative Officer as the case may be shall within three (3) days of the impounding of such vehicle forward a notice in writing to the registered owner as shown by the records maintained by the Superintendent of Motor Vehicles.
- 5.3 In respect of vehicles registered outside British Columbia, the Officer in charge of the RCMP or the Chief Administrative Officer as the case may be shall forward such notice aforesaid within five (5) days of the impounding of such vehicle to such person as the Officer in charge of the RCMP or the Chief Administrative Officer shall, after enquiry, deem to be the owner of the said vehicle or entitled to claim possession of the same.

5.4 The said notices shall contain a description of the said vehicle, a statement of the scale of impounding charges and the address where the said vehicle is held, and shall also state a date after which the said vehicle will be sold which date shall be at least thirty (30) days from the date that such vehicle came into the possession of the Officer in charge of the RCMP or the Chief Administrative Officer.

5.5 All notices sent in writing to the registered owner(s) of impounded vehicles shall be sent by registered mail to the current address maintained by the Superintendent of Motor Vehicles.

## **6. Unclaimed Vehicles**

6.1 Any vehicle which remains unclaimed after the date prescribed by the Officer in charge of the RCMP or the Chief Administrative Officer pursuant to subsection 5.4 hereof upon direction and approval of the Chief Administrative Officer may be disposed of as per the provisions of the Warehouse Lien Act.

## **7. Record of Vehicles**

7.1 The Officer in charge of the RCMP where the impounding has been effected by a Constable, and the Chief Administrative Officer where the impounding has been effected by a designated employee, shall cause to be kept a record of every vehicle impounded pursuant to the provisions of this Bylaw. Such record shall be adequate and sufficient to identify the vehicle in question, and shall also give details of the time when and the place where the said vehicle was impounded, and of the full amount of the impounding charges up to the date of sale or restoration thereof.

## **8. Impounding of Chattels**

8.1 The Chief Administrative Officer, any employee of the Town of Sidney designated by the Chief Administrative Officer to carry out the provisions of this Bylaw or, in consultation with the Chief Administrative Officer, the Officer in charge of the RCMP, the Chief of the Fire Department, may impound or cause to be impounded any chattel, not including a motor vehicle, which is unlawfully placed, left or kept upon a street.

8.2 The owner of a chattel impounded pursuant to subsection 9.1 shall be responsible for the payment of all impounding charges.

8.3 The owner of a chattel who has paid all impounding charges and has proved title to the chattel to the satisfaction of the Chief Administrative Officer may recover possession of the chattel provided that such possession is taken within one month from the time of the impounding.

8.4 Any chattel which remains unclaimed after the date prescribed by subsection 8.3 shall be delivered to the Town of Sidney Financial Officer to be disposed of in the same manner as provided for in subsection 6.1 and section 6.4.

**9. Default**

- 9.1 Every person who attempts to prevent the impounding of any vehicle or who in any manner interferes with the impounding of any such vehicle shall be deemed to be guilty of an infraction of this Bylaw and shall be liable to the penalties provided herein.
- 9.2 Every person who offends against any of the provisions of this Bylaw, or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this Bylaw, or who neglects to do or refrains from doing anything required to be done by any of the provisions of this Bylaw, or who does any act or thing which violates any of the provisions of this Bylaw, shall be deemed to be guilty of an infraction of this Bylaw, and shall be liable to the penalties hereby imposed.

**10. Offense and Penalty**

- 10.1 Every person who commits an offence against this Bylaw is liable to a fine and penalty not less than \$500.00 and not exceeding \$2,000.00.

Read a first time this	14 <sup>th</sup>	day of	September, 2009.
Read a second time this	14 <sup>th</sup>	day of	September, 2009.
Read a third time this	14 <sup>th</sup>	day of	September, 2009.
Reconsidered and finally adopted this	5 <sup>th</sup>	day of	October, 2009.

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MAYOR

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CORPORATE ADMINISTRATOR

**SCHEDULE A**

<b>Passenger Vehicle Tow</b>	<b>\$90.00</b>
<b>All Wheel or Four Wheel Drive</b>	<b>\$123.00</b>
<b>Storage Fee per Calendar Day</b>	<b>\$20.00</b>
<b>Towing in excess of 5km</b>	<b>\$2.50/km</b>
<b>Environmental Fee</b>	<b>\$5.00</b>
<b>Fuel Surcharge</b>	<b>Fluctuates</b>

GST will be added to all costs.