

**MUNICIPALITY OF JASPER  
BYLAW #246**

**BEING A BYLAW OF THE SPECIALIZED MUNICIPALITY OF JASPER, IN THE PROVINCE OF ALBERTA, TO CONTROL AND REGULATE THE USE OF STREETS AND PUBLIC SPACES IN THE MUNICIPALITY AND TO RESTRICT AND REGULATE ACTIVITIES ON, ADJACENT, OR NEAR TO STREETS AND PUBLIC SPACES.**

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**WHEREAS** the Government of Canada as represented by Her Majesty the Queen, in the Right of Canada as represented by Parks Canada Agency, has issued to the Municipality of Jasper leases for certain lands in accordance with the Agreement for the Establishment of Local Government in the Town of Jasper;

**AND WHEREAS** the Municipal Government Act (Alberta) provides that the Council of the Municipality of Jasper has the direction, control and management of all roads within the municipality;

**AND WHEREAS** the Municipal Government Act (Alberta) provides that Council of the Municipality of Jasper may pass bylaws respecting people, activities, and things in, on or near a public space or space that is open to the public;

**NOW THEREFORE** the Council of the Specialized Municipality of Jasper, in the Province of Alberta, duly assembled, enacts as follows:

**1. CITATION**

- 1.1. This Bylaw may be called the "Commercial Use of Public Space" bylaw.
- 1.2. Municipality of Jasper Bylaw #193, the "Commercial Use of Public Space Bylaw", is hereby repealed.

**2. DEFINITIONS**

- 2.1. In this Bylaw:
  - 2.1.1. Where another Municipality of Jasper bylaw is referenced anywhere within the Commercial Use of Public Space Bylaw, it shall refer to that bylaw currently in effect and will include any and all amendments to such bylaw or any other bylaw passed in substitution.
  - 2.1.2. "Council" shall mean the Council of the Specialized Municipality of Jasper;
  - 2.1.3. "Chief Administrative Officer or designate" means a person appointed as Chief Administrative Officer by Council, and the person designated by the Chief Administrative Officer to act on his behalf.
  - 2.1.4. "Commercial Filming" means recording images by film, video, digital or other technology to broadcast or publicly exhibit for commercial purposes, but does not include photography.
  - 2.1.5. "Commercial Use of Public Space Permit" means a permit issued by the Municipality of Jasper authorizing use of a Public Space, Park, Sidewalk, Street or portion of a Street.
  - 2.1.6. "Encroachment" means the temporary occupation of any portion of the Street or other Public Space and includes the airspace over such Street and any area beneath the surface of the Street or other public space.
  - 2.1.7. "Farmers' Market" means an event for the sale of goods and produce in a public space

- 2.1.8. "Municipal Government Act" means the Alberta Municipal Government Act, R.S.A. 2000, Chapter M-26 and any amendment or successor thereto.
- 2.1.9. "Municipality" means the Specialized Municipality of Jasper in Jasper National Park in the Province of Alberta.
- 2.1.10. "Municipality of Jasper Notice of Offence" means any ticket or tag, in a form approved by the Municipality of Jasper or authorized under the Provincial Offences Procedures Act, issued for any offence in which a penalty may be paid out of court in lieu of appearing to answer a summons.
- 2.1.11. "Owner" means
  - 2.1.11.1. In respect of unpatented land, the Crown,
  - 2.1.11.2. A Person who is the lessee of Crown land and that Person's successors and assigns, and
  - 2.1.11.3. In respect of any property other than land, the actual owner, occupant, operator or Person in lawful possession of the property.
- 2.1.12. "Peace Officer" shall mean:
  - 2.1.12.1. a member of the Royal Canadian Mounted Police; or
  - 2.1.12.2. a Community Peace Officer appointed by the Alberta Solicitor General pursuant to the Community Peace Officer Act (Alberta) as amended; or
  - 2.1.12.3. a Municipal Compliance Officer; or
  - 2.1.12.4. a park warden appointed pursuant to the Canada National Parks Act, while that person is in the exercise or discharge of that person's powers or duties in a national park established under that Act;
- 2.1.13. "Pedestrian" means an individual on foot or in a wheelchair or other device used to facilitate the transport of a person with a physical disability.
- 2.1.14. "Permit Holder" means the holder of a valid and subsisting permit issued pursuant to the provisions of this Bylaw.
- 2.1.15. "Person" includes a corporation and the heirs, executors, administrators or other legal representative of a person.
- 2.1.16. "Public Space" means lands under the Municipality's management and within the Municipality of Jasper other than Streets leased to the Municipality
- 2.1.17. "Sidewalk" shall mean that part of a Street especially adapted to the use of or ordinarily used by pedestrians, and includes that part of a Street between the curb line (or the edge of the Street, where there is no curb line) and the adjacent property line, whether or not paved or improved;
- 2.1.18. "Sidewalk Seating/Café" means seating outside of an established place of business whose primary or secondary business is the sale of food, or whose business desires to place outdoor seating for the convenience of their customers and the general public use and whose business location is immediately adjacent to the sidewalk space requested for use for said outdoor seating.
- 2.1.19. "Special Event" means any activity or event that is open to, or intended to attract the general public, whether or not admission is charged
- 2.1.20. "Street" means any thoroughfare, sidewalk, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway or other space or any part of any of them, whether publicly or privately owned, that the public is ordinarily entitled or permitted to use for the passage or parking of vehicles

### **3. COMMERCIAL USE OF PUBLIC SPACE**

- 3.2. No Person shall stop or restrict Pedestrians, cyclists or vehicles in the lawful use of a Street or Public Space, unless:
  - 3.2.1. A Commercial Use of Public Space Permit has been issued authorizing use of a Street or Public Space, or a portion of either;

- 3.2.2. An Encroachment Agreement has been entered into for the temporary occupation of any portion of the Street or other Public Space, including the airspace over and any area beneath the surface of the Street or Public Space; or
- 3.2.3. An agreement or authorization for a Public Utility installation has been entered into with the applicant or vendor;
- 3.3. No Person shall place or allow to be placed anything that creates an obstruction over or across any portion of a Street or Public Space, unless otherwise authorized by the Municipality.

The Owner or occupant of premises adjacent to a Street or Public Space shall not allow any object to project into any portion of a Street or Public Space except as provided for in this Bylaw.

#### **4. COMMERCIAL USE OF PUBLIC SPACE PERMITS**

- 4.1. A Commercial Use of Public Space Permit is required to undertake any of the following activities on any portion of a Street or Public Space:
  - 4.1.1. Commercial Filming
  - 4.1.2. Farmers' Market
  - 4.1.3. Sidewalk Seating/Café
  - 4.1.4. Special Event
  - 4.1.5. Or similar uses, in the Chief Administrative Officer's or designate's discretion
- 4.2. Every applicant for a Commercial Use of Public Space Permit must provide the following information, in the form required by the Chief Administrative Officer or designate:
  - 4.2.1. The type of Street or Public Space use requested;
  - 4.2.2. The purpose of the Street or Public Space use;
  - 4.2.3. The date(s) and time(s) the Street or Public Space use is required;
  - 4.2.4. The full name, mailing address and telephone number of the applicant;
  - 4.2.5. Any permit, licence, assessment or other document of qualification under this or any other bylaw, or under any Statute of Canada or the Province of Alberta that may be required in connection with the proposed use;
  - 4.2.6. Any other information the Chief Administrative Officer or designate may reasonably require for each specific permit
- 4.3. An application for a Commercial Use of Public Space Permit will not be processed nor issued by the Chief Administrative Officer or designate until the application fee(s) as set out in Schedule "A" have been received by the Municipality.
- 4.4. An application for a Commercial Use of Public Space Permit will not be approved by the Chief Administrative Officer or designate until the applicant has provided evidence of general liability insurance as specified by the Commercial Use of Public Space Permit
- 4.5. A Commercial Use of Public Space Permit Holder shall abide by all conditions imposed in the Commercial Use of Public Space Permit.
- 4.6. The Chief Administrative Officer or designate may revoke any permit or authorization given or made under the terms of this Bylaw if:
  - 4.6.1. The Permit Holder fails to comply with the terms and conditions of the Permit, or
  - 4.6.2. The Chief Administrative Officer or designate is of the opinion that the Permit or authorization was given in error or on the basis of false or inaccurate information.
- 4.7. A Person who, without written authorization in the form of a Commercial Use of Public Space Permit or contrary to any such Commercial Use of Public Space Permit, makes use of any portion of a Street or Public Space in connection with a building or Special Event of any nature shall, notwithstanding any penalty assessed under this Bylaw, immediately cease such use and remove any and all things from the Street or Public Space upon the direction of a Peace Officer or the Chief Administrative Officer or designate,.

- 4.8. Notwithstanding the insurance required by Section 4.5, the applicant for a Commercial Use of Public Space Permit shall deposit a surety as per the fee schedule of this bylaw for any damage to municipal property.
- 4.9. A Permit may be revoked by the Chief Administrative Officer or designate upon 72 hours' notice in writing or immediately upon breach of any condition by the applicant for a Commercial Use of Public Space Permit.

## **5. SIDEWALK SEATING/CAFÉ**

- 5.1. When a Commercial Use of Public Space Permit has been granted for a sidewalk seating/café area, in addition to any requirements of this Bylaw and the Commercial Use of Public Space Permit, the following conditions apply:
  - 5.1.1. The size, appearance, and locations of sidewalk seating/café areas are subject to the approval of the Chief Administrative Officer or designate and are placed at the sole risk, responsibility, and expense of the Owner;
  - 5.1.2. The permit holder for a sidewalk seating/café area placed in a Public Space is responsible for maintaining the sidewalk seating/café area to ensure furniture is physically sound and aesthetically acceptable;
  - 5.1.3. The permit holder shall bear all financial responsibility for any and all improvements necessary to the public space, both within and surrounding the sidewalk seating/café area. At no time and for no reason shall public funds be expended for improvements designated to benefit the permit holder;
  - 5.1.4. No portion of a sidewalk seating/café area may be used for any purpose other than authorized by permit;
  - 5.1.5. No portion of a sidewalk seating/café area may be used for the storage or sale of merchandise or for the storage of objects other than for uses as authorized by permit.

## **6. SPECIAL EVENTS**

- 6.1. When a Commercial Use of Public Space Permit has been granted for a Special Event:
  - 6.1.1. the Chief Administrative Officer or designate may close all or portions of the Street along the route or location set out in the Commercial Use of Public Space Permit for the anticipated time of the Special Event and for such additional time as necessary to again clear the Street for normal traffic; and
  - 6.1.2. the Chief Administrative Officer or designate may temporarily suspend parking and loading privileges on all or a portion of Street on the proposed route or location.

## **7. VIOLATIONS & ENFORCEMENT**

- 7.1. Any Person who contravenes the provisions of this Bylaw or the terms and conditions of a Commercial Use of Public Space Permit is guilty of an offence and is liable upon summary conviction for the specified penalty set out in Schedule B.
- 7.2. Except as otherwise provided in this Bylaw, a Person who is guilty of an offence under this Bylaw for which a penalty is not otherwise provided, is liable upon summary conviction to a fine of not more than \$100.00 to be imposed in the discretion of the Court having jurisdiction, having regard to s. 7(i) of the Municipal Government Act.
- 7.3. When a Person is alleged to have contravened any provision of this bylaw, or the terms and conditions of a Commercial Use of Public Space Permit, a Peace Officer may issue a Municipality of Jasper Notice of Offence which shall state:
  - 7.3.1. The nature of the offence;
  - 7.3.2. The penalty payable in connection with the offence; and
  - 7.3.3. The time period within which the penalty must be paid.
- 7.4. A Municipality of Jasper Notice of Offence shall be deemed to be sufficiently served for the purposes of this bylaw if:
  - 7.4.1. Served personally on the accused;
  - 7.4.2. Served on a designate of the permit holder; or

- 7.4.3. Mailed by registered post to the address of the registered Owner of the property concerned or to the Person concerned.
- 7.5. In lieu of prosecution, the Person named in the Municipality of Jasper Notice of Offence may elect to voluntarily make payment to the Municipality of the penalty amount specified in the Violation Ticket.
- 7.6. If the payment specified in the Municipality of Jasper Notice of Offence is not paid in accordance with the terms of the ticket and in the time required by the ticket, a prosecution may be commenced for the alleged contravention of this bylaw.
- 7.7. Notwithstanding anything else in this Bylaw, upon the failure by any Person to comply with the provisions of this bylaw, the Municipality may take enforcement proceedings in accordance with the Municipal Government Act and perform any corrective measures required. All costs incurred may be recovered from the Person specified in the Municipality of Jasper Notice of Offence and shall be deemed a debt due to the Municipality by the Person specified in the Municipality of Jasper Notice of Offence. Debts due may be charged against the property concerned as a special lien to be recovered in like manner as property taxes.
- 7.8. Any Peace Officer or Bylaw Enforcement Officer when enforcing the provisions of this Bylaw, is hereby authorized to seize any equipment and or property used in the contravention of this bylaw and return the said equipment and/or property upon payment of any outstanding Offence Ticket in relation to the contravention or upon the setting aside of such Offence Ticket by a court of competent jurisdiction.
- 7.9. Any items removed pursuant to section 7.8, if in the opinion of the Chief Administrative Officer or designate to be of value, will be removed to a place of safekeeping and will:
- 7.9.1. Be subject to a daily fee for storage costs according to Schedule A; and
- 7.9.2. If unclaimed within ninety (90) days of removal, will be sold or disposed of at the discretion of the CAO or his delegate.
- 7.10. If, in the opinion of the Chief Administrative Officer or designate, a contravention of this bylaw requires immediate action, the Municipality may perform any work necessary to address the contravention of this bylaw without prior notice and all costs incurred by the Municipality will be payable by the Person alleged to have contravened this bylaw.
- 7.11. Notwithstanding Section 7.1 the imposition of a fine either by issuance of a Municipality of Jasper Notice of Offence or by Summary Conviction in court shall not relieve any Person so fined from any liability to pay to the Municipality any expenses arising from any damage caused by that Person to Municipality property.
- 7.12. The imposition of a fine either by issuance of a Municipality of Jasper Notice of Offence or Summary Conviction Summons shall not relieve any Person so fined of any costs incurred in having work performed by the Municipality where authorized by this bylaw.
- 7.13. In the case of an offence that is of a continuing nature, a contravention of a provision of this Bylaw constitutes a separate offence in respect of each day, or part of a day, on which it continues and a Person guilty of such an offence is liable to a fine in an amount not less than that established by this Bylaw for each such day.
- 7.14. A Person shall not obstruct or hinder any Person in the exercise or performance of the Person's powers pursuant to this Bylaw.
- 7.15. The onus of proving a permit has been issued in relation to any activity otherwise regulated, restricted or prohibited by this Bylaw is on the Person alleging the existence of such a permit on a balance of probabilities.

## **8. REVIEWS AND APPEALS**

- 8.1. Where an Application has been refused, a permit revoked or suspended, a condition or conditions attached to a Commercial Use of Public Space Permit the Applicant in question may require the Chief Administrative Officer to review such refusal, revocation, suspension, attachment by submitting to the Chief Administrative Officer in writing a request for such review not more than ten (10) working days after such refusal, revocation, suspension or attachment.
- 8.2. Where the Chief Administrative Officer is in receipt of a request for a review pursuant to Section 8.1 herein, he shall conduct such review within five (5) working days of such receipt of the request and on completion of his review:

- 8.2.1. may direct an Application be accepted and a Permit issued; or
  - 8.2.2. may confirm the refusal, revocation or suspension of a Permit; or
  - 8.2.3. may reinstate a revoked Permit; or
  - 8.2.4. may vary or remove a suspension; or
  - 8.2.5. may confirm, vary or remove conditions; and
  - 8.2.6. shall advise the Applicant in writing of his decision and the reasons for it not less than five working days after the conclusion of his review.
- 8.3. Every refusal, revocation, suspension or attachment of conditions which is the subject of a review by the Chief Administrative Officer shall remain in effect during such review and until or unless varied or removed by the Chief Administrative Officer.
- 8.4. An Applicant who makes a request pursuant to section 8.1 may appeal to Council a decision of the Chief Administrative Officer pursuant to section 8.2 herein by submitting to Council in writing a request for such appeal not more than ten (10) working days after delivery by the Chief Administrative Officer of notification of his decision pursuant to Section 8.2 herein.
- 8.5. Where Council is in receipt of an appeal pursuant to Section 8.4 herein, it shall within 21 working days of such receipt convene an appeal hearing to which the Applicant shall be invited in writing and upon conclusion of such appeal shall within five working days notify the Applicant, in writing, of its decision to:
- 8.5.1. direct an Application be accepted and a Permit issued; or
  - 8.5.2. confirm the refusal, revocation or suspension of a Permit; or
  - 8.5.3. reinstate a revoked Permit; or
  - 8.5.4. vary or remove a suspension; or
  - 8.5.5. confirm, vary or remove conditions;
- 8.6. Where Council is in receipt of an appeal pursuant to section 8.4 herein, the Chief Administrative Officer's decision pursuant to Section 8.2 herein shall remain in effect during such appeal and until Council has delivered notification of its decision pursuant to the requirements of Section 8.5 herein.

## 9. SEVERANCE

- 9.1. If any section in this bylaw is found to be invalid by a court of competent jurisdiction, it shall be severed from the remainder of the bylaw and shall not invalidate the whole bylaw.
- 9.2. The Municipality or any Person who inspects Property under this Bylaw or any person who performs work on behalf of the Municipality is not liable for any damages caused by the inspection, the work or disposing of anything authorized to be disposed of by this Bylaw.

### Coming into Force

This Bylaw shall come into force and effect on the final day of passing thereof.

**READ** a first time this 3<sup>rd</sup> day of May, 2022

**READ** a second time this 17<sup>th</sup> day of May, 2022

**READ** a third time and finally passed this 7<sup>th</sup> day of June, 2022

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Mayor

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Chief Administrative Officer

### Schedule A – Streets and Public Space Use Fees

<b>Description</b>	<b>Fee</b>
Commercial Public Space Use Permit Fee*	\$50
Commercial Public Space Use Fees:*	\$50 - \$400
Farmers' Market	\$60 per event
Sidewalk Seating or Use of Parking Lane – permit application fee	\$100
Sidewalk Seating – use of public sidewalk	\$25 per seat
Use of parking lane, 2022 season	\$825 per parking stall
Use of parking lane, 2023 and beyond	\$1,650
Storage for Items Removed from the Street	\$105 per day
Work Performed by Municipality	Cost plus 25%

\* Exemptions from Fees:

- Jasper charitable and not-for-profit organizations
- Any other application deemed by the CAO or his designate to be exempt

**Schedule B – Penalties**

<b>Section</b>	<b>Description</b>	<b>Penalty</b>
4.1	Failure to obtain Commercial Use of Public Space Permit	\$100.00
4.2	Provide false information on Street and Public Use Permit Application	\$100.00
4.5	Failure to follow the conditions in Bylaw and provided in Commercial Use of Public Space Permit	\$100.00
4.1.5	Use of Street or Public Space for building operation without authorization	\$100.00
5.1	Unauthorized placement or use of a sidewalk seating/cafe area	\$100.00
5.1	Failure to maintain a sidewalk seating/cafe area	\$100.00
4.5	Failure to maintain a Farmers' Market area	\$100.00
4.1	Unauthorized activities on the Street or Public Space	\$100.00
3.3	Unauthorized obstruction over or across any portion of a Street or Public Space	\$100.00