

MUNICIPALITY OF JASPER
BYLAW #061

BEING A BYLAW OF THE MUNICIPALITY OF JASPER IN THE PROVINCE OF ALBERTA TO REGULATE TOBACCO SMOKING IN THE TOWN OF JASPER.

WHEREAS health officials have determined that secondhand tobacco smoke (exhaled smoke and the smoke from idling cigarettes, cigars and pipes) is a health hazard and a discomfort for many persons;

AND WHEREAS the Council of the Municipality of Jasper desires to limit the exposure of Jasper residents and visitors to secondhand smoke;

AND WHEREAS the *Municipal Government Act R.S.A. 2000 c. M-26* as amended, provides Council of the Municipality of Jasper with authority to pass bylaws respecting the safety, health and welfare of people;

NOW THEREFORE the Council of the Municipality of Jasper, duly assembled, enacts:

1. CITATION

1.1 This Bylaw may be cited as the “Town of Jasper Smoking Control Bylaw”.

2. DEFINITIONS

2.1 In this Bylaw:

2.1.1 “*Ashtray*” shall mean a receptacle for tobacco ashes and for the unburned portions of cigars and cigarettes;

2.1.2 “*Building*” shall mean any structure constructed or placed on, in, over or under land, whether permanent or temporary, into which a Person could enter;

2.1.3 “*Bylaw Enforcement Officer*” shall mean a person appointed by the Municipal Manager as a Bylaw Enforcement Officer pursuant to the provisions of the Jasper Municipal Enforcement Officer Bylaw;

2.1.4 “*Council*” shall mean the Council of the Municipality of Jasper;

2.1.5 “*Designated Public Building*” shall mean, in the Town of Jasper, every Building into any portion of which members of the Public routinely enter or are routinely invited to enter for the purpose of access to or consumption of goods or services and which is located on land zoned pursuant to the “Jasper Community Plan 2001” and the “Regulations Respecting the Use of Land in the Town of Jasper” as:

2.1.5.1. ‘C1’ Commercial District;

2.1.5.2. ‘C2’ Tourist Commercial District;

2.1.5.3. ‘C3’ Tourist Commercial Town Centre District;

2.1.5.4. ‘C4’ Automobile Service Station District;

- 2.1.5.5. 'Block S' Storage and Services District;
 - 2.1.5.6. 'R3' Multi-Dwelling District, when such building contains five or more Exclusive Use Residential Spaces;
 - 2.1.5.7. 'I' Institutional District; or
 - 2.1.5.8. 'PS' Public Services District;
- whether or not
- 2.1.5.9. all classes of the public are invited;
 - 2.1.5.10. the proprietor has the right to exclude any particular person;
 - 2.1.5.11. payment, membership or the performance of some formality is required prior to access;
 - 2.1.5.12. the public has access to the building only at certain times, or from time to time; and
 - 2.1.5.13. a member of the public has access only if they are a member of an identifiable group or if they are accompanied by a member of an identifiable group.
- 2.1.6 "Employee" shall mean a person who:
- 2.1.6.1. performs any work for or supplies any services to any Employer; or
 - 2.1.6.2. receives any instructions or training in the activity, business, work, trade, occupation or profession of the Employer.
- 2.1.7 "Employer" shall mean any person who as the owner, Proprietor, manager, superintendent or overseer of any activity, business, work, trade, occupation or profession, has control over or direction of, or is directly or indirectly responsible for the employment of, a person therein;
- 2.1.8 "Exclusive Use Accommodation Space" shall mean a commercial accommodation unit within a Designated Public Building located within C2 Tourist Commercial District zoning or C3 Tourist Commercial Town Centre District zoning and intended and routinely let on a nightly or similar short-term basis for the exclusive accommodation use of one or more persons and which is provided with a separate private entrance from the exterior of a Building or from within a Building, but does not include any space shared with other residents of the Building or with visitors to the Building including entries and exits, lobbies, foyers, stairways, elevators, hallways, enclosed parking areas, common rooms, laundry facilities or other such spaces;
- 2.1.9 "Exclusive Use Residential Space" shall mean living premises located within a Designated Public Building intended and routinely let on a monthly or longer basis for the domestic residential use of one or more persons, and which is provided with a separate private entrance from the exterior of the Building or from within the Building, but does not include any space shared with other residents or with visitors to the Building including entries and exits, lobbies,

foyers, stairways, elevators, hallways, enclosed parking areas, common rooms, laundry facilities or other such spaces;

- 2.1.10 “*Jasper Community Plan 2001*” shall mean the plan of the same name catalogued as ISBN: 0-0-660-963-32-9 and signed by the Minister of Canadian Heritage;
- 2.1.11 “*Lessee*” shall have the meaning ascribed to that term in the National Parks of Canada Lease and License of Occupation Regulations, SOR/2002-237, s. 1;
- 2.1.12 “*Municipal Manager*” shall mean the Municipal Manager of the Municipality of Jasper and includes any person authorized to act for or in the name of the Municipal Manager;
- 2.1.13 “*Municipality of Jasper*” and “*Municipality*” shall mean the Specialized Municipality of Jasper created pursuant to the June 13th 2001 “Agreement for the Establishment of Local Government in the Town of Jasper” signed by the Minister of Canadian Heritage;
- 2.1.14 “*Municipal Violation Ticket*” shall mean a ticket or similar document issued by the Municipality pursuant to the *Municipal Government Act R.S.A. 2000, c. M-26*, as amended;
- 2.1.15 “*Outdoor Patio*” shall mean an area outside of a Designated Public Building intended for the consumption of food or beverage by patrons of a business providing such food or beverage, and which, while the business is engaged in providing such food or beverage service, is furnished or equipped for that purpose, and includes;
- 2.1.15.1. a public premises where food or beverages are served and which is not contained or not fully contained within a Building; and
- 2.1.15.2. an outside extension of an eating or drinking establishment furnished with chairs, benches or tables intended for the use of the establishment’s patrons regardless of whether food or beverages are served in such outside extension.
- 2.1.16 “*Peace Officer*” shall mean:
- 2.1.16.1. a member of the Royal Canadian Mounted Police;
- 2.1.16.2. a Bylaw Enforcement Officer; or
- 2.1.16.3. a special constable; and
- 2.1.16.4. a Peace Officer shall be a Designated Officer pursuant to sections 542 to 545 of the *Municipal Government Act, R.S.A. 2000, c.M-26*, as amended;
- 2.1.17 “*Person*” shall mean an individual, proprietorship, corporation or society;
- 2.1.18 “*Proprietor*” shall mean the owner of a Designated Public Building or Outdoor Patio or the Lessee of the land upon which a Designated Public Building or Outdoor Patio is located, or his agent or representative, and includes any person in charge thereof or anyone who controls, governs or directs the activity carried on therein, and where applicable includes;

- 2.1.18.1. the person who ultimately controls, governs or directs the activity carried on within any premises within a Designated Public Building or Outdoor Patio and includes the person usually in charge thereof;
 - 2.1.18.2. a Regional Health Authority Board appointed pursuant to the provisions of the Regional Health Authority Act; and
 - 2.1.18.3. the Board of Governors, Board of Trustees, or President of an Educational Institution.
- 2.1.19 “*Provincial Violation Ticket*” shall mean a ticket issued pursuant to Part II of the *Provincial Offences Procedure Act, R.S.A. 2000 c. P-34*, as amended and regulations thereunder;
- 2.1.20 “*Public*” shall mean any and all Persons except that in respect of a particular Designated Public Building it shall mean any and all Persons other than an Employer operating in such particular Designated Public Building and other than the Proprietor of such particular Designated Public Building and other than an Employee working in such particular Designated Public Building;
- 2.1.21 “*Public Transportation Vehicle*” shall mean a bus, taxicab, limousine, van or other similar vehicle furnished with a driver and provided by its Registered Owner for the purpose of supplying transportation to members of the Public, whether or not a fee is levied for such services;
- 2.1.22 “*Registered Owner*” shall have the meaning ascribed to it in the Traffic Safety Act, Alberta, T-6, RSA 2000;
- 2.1.23 “*Regulations Respecting the Use of Land in the Town of Jasper*” shall mean the draft regulations of the same name established by Parks Canada, Jasper National Park, in accordance with the provisions of the Jasper Community Plan 2001;
- 2.1.24 “*Smoke*” or “*Smoking*” shall mean the carrying, holding or otherwise controlling of a lighted cigar, cigarette, pipe or any other lighted smoking equipment;
- 2.1.25 “*Town*” and “*Town of Jasper*” shall mean the Town of Jasper as defined in the Agreement for the Establishment of Local Government in Jasper dated June 13th, 2001;
- 2.1.26 Words importing the masculine gender only include the feminine gender whenever the context so requires and vice versa.
- 2.1.27 Words importing the singular shall include the plural whenever the context so requires and vice versa.

3. GENERAL PROVISIONS

- 3.1 No Person shall Smoke in a Designated Public Building, whether or not a “No Smoking” sign is posted or visible.
- 3.2 No Proprietor or Employer shall permit smoking in a Designated Public Building, whether or not a “No Smoking” sign is posted or visible.

4. OUTDOOR PATIOS

- 4.1 No Person shall Smoke on or within the confines of an Outdoor Patio.
- 4.2 No Proprietor or Employer shall permit smoking within the confines of an Outdoor Patio, whether or not a “No Smoking” sign is posted or visible.

5. ASHTRAYS

- 5.1 The Proprietor of every Designated Public Building or Outdoor Patio and any Employer operating in such place shall ensure that no ashtrays are placed or allowed to remain in such Designated Public Building or within the confines of such Outdoor Patio.

6. EXCLUSIVE USE SPACES

- 6.1 Notwithstanding the provisions of Sections 3, 4 and 5 herein, a Proprietor may at his sole discretion:
 - 6.1.1 allow Smoking within some or all Exclusive Use Residential Spaces under his control, and whether or not he does so allow, Smoking in such spaces shall not be an offence within the meaning of this Bylaw; and
 - 6.1.2 allow Smoking within some or all Exclusive Use Accommodation Spaces under his control, and whether or not he does so allow, Smoking in such spaces shall not be an offence within the meaning of this Bylaw unless ‘No Smoking’ signs are posted in accordance with the provisions of Section 8 herein in each Exclusive Use Accommodation Space the Proprietor designates as non-Smoking.

7. PUBLIC TRANSPORTATION VEHICLES

- 7.1 No Person shall Smoke within a Public Transportation Vehicle.
- 7.2 No Registered Owner of a Public Transportation Vehicle shall allow any Person to Smoke in such vehicle.

8. SIGNS

- 8.1 The Municipal Manager may, at his discretion, require the Proprietor of a Designated Public Building or Outdoor Patio, or the Lessee of the land upon which a Designated Public Building or Outdoor Patio is located, or the Registered Owner of a Public Transportation Vehicle, to install in such Designated Public Building or Outdoor Patio or Public Transportation Vehicle signage, provided that such signage is in accordance with Federal signage regulations, indicating smoking is prohibited and of a size, character, quality and number satisfactory to the Municipal Manager.
- 8.2 No person shall remove, alter, conceal, deface or destroy any sign posted pursuant to Section 8.1 of this bylaw without permission in writing from the Municipal Manager.

9. PENALTIES

- 9.1 Any Proprietor contravening the provisions of this bylaw shall be guilty of an offence and liable on conviction to a fine not exceeding two thousand dollars (\$2,000) and as prescribed in Schedule ‘A’ herein.

- 9.2 Any member of the Public contravening the provisions of this bylaw shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand dollars (\$1,000) and as prescribed in Schedule 'A' herein.
- 9.3 In the case of an offence that is of a continuing nature, a contravention shall constitute a separate offence in respect of each day, or part of a day, on which that offence continues.
- 9.4 The Municipality may in respect of a Proprietor guilty of an offence pursuant to this Bylaw and who fails to pay the fine specified for such offence in Schedule 'A' charge such cost against the Proprietor's property as a special assessment to be recovered in like manner as other taxes.

10. MUNICIPAL VIOLATION TICKETS

- 10.1 A Peace Officer is hereby authorized and empowered to issue a Municipal Violation Ticket to any person who the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this bylaw.
- 10.2 A Municipal Violation Ticket shall be deemed to be sufficiently served:
- 10.2.1 if served personally on the accused; or
 - 10.2.2 in the case of a corporation, by mailing a copy by registered mail, or serving a person who is the agent, representative, or a person in charge of the Designated Public Place in which the offence is alleged to have occurred.
- 10.3 The Municipal Violation Ticket shall be in a form approved by the Municipal Manager and shall state:
- 10.3.1 the name of the Person alleged to have committed the offence;
 - 10.3.2 the offence;
 - 10.3.3 the municipal or legal description of the land on or near where the offence took place;
 - 10.3.4 the penalty for the offence as specified in Section 6 of this bylaw;
 - 10.3.5 that the penalty shall be paid within 30 days of the issuance of the Municipal Violation Ticket; and
 - 10.3.6 any other information as may be required by the Municipal Manager.
- 10.4 Where a Municipal Violation Ticket is issued pursuant to Section 7 of this bylaw, the Person to whom such ticket is issued may, in lieu of being prosecuted for the offence, pay to the Municipality the penalty specified within the time period indicated on the Municipal Violation Ticket.

11. PROVINCIAL VIOLATION TICKET

- 11.1 In those cases where a Municipal Violation Ticket has been issued and the penalty specified on such ticket has not been paid within the prescribed time, a Peace Officer is hereby authorized and empowered to issue a Provincial Violation Ticket pursuant to *Part II of the Provincial Offences Procedure Act, R.S.A. 2000, c.P-34* as amended.

11.2 Nothing in this bylaw shall prevent a Peace Officer from immediately issuing a violation ticket pursuant to *Part II of the Provincial Offences Procedure Act, R.S.A. 2000, c.P-34*, as amended, to any Person who the Peace Officer has reasonable grounds to believe has contravened any provision of this bylaw.

12. SEVERABILITY

12.1 If any provision herein is adjudged by a Court of competent jurisdiction to be invalid for any reason, then that provision shall be severed from the remainder of this Bylaw and all other provisions of this Bylaw shall remain valid and enforceable.

13. ENFORCEMENT

13.1 For the enforcement of this bylaw, a Peace Officer, upon producing proper identification, may at all reasonable hours, enter any Designated Public Building and may make examinations, investigations and inquiries.

14. COMING INTO EFFECT

14.1 This Bylaw shall come into force and effect on April 15th, 2005

14.2 If any provision herein is adjudged to be repugnant to any federal regulation or legislation, this Bylaw shall continue in full force and effect but any such repugnant provision shall be of no force or effect until such time as the repugnancy is removed by repeal or amendment of the federal legislation or regulation.

GIVEN FIRST READING THIS 18th DAY OF JANUARY A.D., 2005

GIVEN SECOND READING THIS 1st DAY OF MARCH A.D., 2005

GIVEN THIRD AND FINAL READING THIS 15th DAY OF MARCH A.D., 2005

MAYOR

MUNICIPAL MANAGER

SCHEDULE A

<u>Section</u>	<u>Provisions</u>	<u>Penalty</u>
3.1	Smoke in Designated Public Building in contravention of this Bylaw.	
	1 st Offence	\$250
	2 nd Offence within 30 days of 1 st Offence	\$500
	3 rd and subsequent Offence within 30 days of 1 st Offence	\$1000
3.2	Proprietor permit Smoking in Designated Public Building in Contravention of this Bylaw.	
	1 st Offence	\$500
	2 nd Offence within 30 days of 1 st Offence	\$1000
	3 rd and subsequent Offence within 30 days of 1 st Offence	\$2000
4.1	Smoke on or within confines of Outdoor Patio.	
	1 st Offence	\$250
	2 nd Offence within 30 days of 1 st Offence	\$500
	3 rd and subsequent Offence within 30 days of 1 st Offence	\$1000
4.2	Proprietor permit Smoking on or within confines of Outdoor Patio.	
	1 st Offence	\$500
	2 nd Offence within 30 days of 1 st Offence	\$1000
	3 rd and subsequent Offence within 30 days of 1 st Offence	\$2000
5.1	Proprietor or Employer allow ashtray to be placed or to remain in Designated Public Building or within confines of Outdoor Patio.	
	1 st Offence	\$250
	2 nd Offence within 30 days of 1 st Offence	\$500
	3 rd and subsequent Offence within 30 days of 1 st Offence	\$1000
7.1	Smoke within a Public Transportation Vehicle.	
	1 st Offence	\$250
	2 nd Offence within 30 days of 1 st Offence	\$500
	3 rd and subsequent Offence within 30 days of 1 st Offence	\$1000
7.2	Registered Owner permit Smoking within Public Transportation Vehicle.	
	1 st Offence	\$500
	2 nd Offence within 30 days of 1 st Offence	\$1000
	3 rd and subsequent Offence within 30 days of 1 st Offence	\$2000

8.1	Proprietor, Lessee or Registered Owner fails to post Signs in accordance with Municipal Manager's requirements.	
	1 st Offence	\$250
	2 nd Offence within 30 days of 1 st Offence	\$500
	3 rd and subsequent Offence within 30 days of 1 st Offence	\$1000
8.2	Person removes, alters, conceals, defaces or destroys sign posted pursuant to Section 8.1.	
	1 st Offence	\$250
	2 nd Offence within 30 days of 1 st Offence	\$500
	3 rd and subsequent Offence within 30 days of 1 st Offence	\$1000