

Now therefore the Council for the Village of Nakusp in open meeting assembled, enacts as follows:

TITLE

1. (1) This bylaw may be cited as Use of Public Property Bylaw No. 720, 2023.

DEFINITIONS

2. (1) For the purpose of this bylaw the following terms are defined as:
 - (a) “Applicant” means a person applying for the use of *public property*;
 - (b) “Building Inspector” means the person hired by the Regional District of Central Kootenay to ensure compliance with national and provincial building codes;
 - (c) “Business” means carrying on a commercial, industrial undertaking of any kind or nature, or the providing of professional, personal, or other services for the purpose of gain or profit;
 - (d) “Bylaw Notice Enforcement” means the current *Village* of Nakusp Bylaw Notice Enforcement and Dispute Adjudication System Bylaw as amended;
 - (e) “CAO” means the Chief Administrative Officer for the *Village* of Nakusp or their designate;
 - (f) “Council” means the elected Mayor and Councillors for the Village of Nakusp;
 - (g) “Farmers Market” means a temporary market for the sale of farm produce and products, or other local vendors, merchants, or participants to gather in one physical location with more than three (3) different vendor tables;
 - (h) “Fees and Charges Bylaw” means the Village of Nakusp Fees and Charges Bylaw, as amended;
 - (i) “Food Truck” means a motorized mobile unit that is set up to cook and sell food and drinks and can also be a trailer that is hauled behind a motor vehicle;
 - (j) “Free Passage” means the unobstructed portion of the sidewalk from the building or the curb where pedestrians may walk, and shall not be less than 1.6 m. wide;

Bylaw Notice
Enforcement
Bylaw 694, 2020

Fees and Charges
Bylaw 693, 2020

- (k) “MIABC” means the Municipal Insurance Association of British Columbia.
- (l) “Mobile Food Cart” means a cart that attaches behind a bike or pushed like a wheelbarrow for the sale of food, drinks, ice cream, etc.;
- (m) “Nakusp Hot Springs” means campsite #32 located in the campground at the *Nakusp Hot Springs Chalet and Campground*, 8500 Hot Springs Road;
- (n) “Not for Profit” means a legal entity organized and operated for a collective, public or social benefit which includes registered charities and registered *not for profit* organisations in contrast with an entity that operates as a *business* aiming to generate profit for its owners;
- (o) “Park Area” means Centennial Park, Waterfront walk-way, Waterfront Gardens or *Public Beach* in Nakusp BC;
- (p) “Public Beach” means the parking lot at 902 *Broadway Street*, Nakusp BC;
- (q) “Public Property” means land owned by the *Village* of Nakusp;
- (r) “Sandwich Boards” means a portable sign that rests on the ground and consists of two flat surfaces attached at one end;
- (s) “Seasonal Patio Expansion” means a structure made or an area cordoned off to provide a temporary patio on a vehicle parking stall or road shoulder that will be furnished with table and chairs for the purpose of extending a service area for food and drink establishments out of doors;
- (t) “Street” means the paved or unpaved portion of a *street*, avenue, alley, or boulevard owned by the *Village*;
- (u) “Licence of Occupation” means the exclusive use of *Village* owned land by an *applicant* on a temporary basis to conduct *business*;
- (v) “Village” means the Corporation of the *Village* of Nakusp;
- (w) “Village Office” means the *Village* of Nakusp Office located at 91 *1st Street*, Nakusp BC; and,
- (x) “Zoning Bylaw” means the current *Village* of Nakusp *Zoning Bylaw* as amended.

Zoning Bylaw 614, 2008

GENERAL

- 3. (1) A person occupying *public property* must comply with the provisions of this bylaw and, if applicable; to the terms within a *licence of occupation* as prepared by the *Village*.

- (2) A *person* must remove any items placed on *public property* and pursuant to this bylaw:
 - (a) 24 hours after notice was provided to *applicant*;
 - (b) Immediately if ordered by the *CAO* due to an emergency as deemed so by the *CAO*;
 - (c) Removal of items shall be at the *applicant's* expense;
 - (d) Removal of items by the *Village* due to non-compliance of sections 3.2(a) and 3.2(b) will be invoiced to the *applicant* by the *Village*;
 - (e) Replacement of items on *Village* property is at the expense of the *applicant*; and,
 - (f) Non-payment by the *applicant* for reasons subject to this section shall prohibit the renewal or new application from being approved by the *Village*.
- (3) A *person* must not place any item(s) in a flower bed that is maintained by the *Village* without written consent provided by the *CAO*.
- (4) An *applicant* wishing to occupy *public property* must provide proof of \$2 million, third-party, commercial general liability insurance, listing the *Village* as an additional insured party;
- (5) Notwithstanding section 3.4 the *Village* may require a higher limit of coverage under the recommendation of *MIABC*.
- (6) *Council* delegates the authority to approve or deny any use of public property, pursuant to this bylaw, to the *CAO*, provided that the use is for one year or less; any use of public land in excess of one (1) year must be approved by *Council*.
- (7) For certainty, nothing within this Bylaw shall limit a person's right to assemble, or demonstrate on *public property* as allowed for in applicable laws and statutes of the province of British Columbia or Canada.

USE OF VILLAGE SIDEWALKS

4. (1) Any *business* operating within C1 or LD1 zones of the *Zoning Bylaw* with one or more *businesses* may occupy a portion of the sidewalk for one (1) of the following uses:
 - (a) Placement of not more than two (2) chairs with one (1) table;
 - (b) Placement of not more than two (2) chairs;
 - (c) Placement of one or more racks, or merchandise of up to 3 m in length;
or,
 - (d) A display stand or table, not longer than 3 m in length, for the display of goods for sale.
- (2) Notwithstanding section 4.1, a person shall not place any items on a sidewalk that:
 - (a) obstruct the *free passage* of pedestrians travelling on the sidewalk;

- (b) Includes fliers or other publications that may from time to time be subject to deterioration due to inclement weather or scattered by the wind;
 - (c) Includes words or messages written or projected on the sidewalk by any means, including chalk.
- (3) A *person* shall not place any items that interfere with the use of a crosswalk where pedestrians cross a *street*.

SANDWICH BOARD SIGNS

- 5. (1) A person operating a *business* may place one (1) *sandwich board* sign on the sidewalk which complies with the following provisions:
 - (a) The sign shall be located immediately in front of the *business* it is advertising for;
 - (b) The sign shall not contain vulgar or offensive language or images;
 - (c) Adhere to the provisions of this bylaw noted in section 4.2(a).

LICENCE OF OCCUPATION

- 6. (1) A person who wishes to exclusively occupy a designated area of *public property* must apply for a *licence of occupation* from the *Village*.
- (2) An approved permitted site shall remain accessible by the *Village* to perform tasks related to the maintenance, repair, construction or installation of any *Village* work, utility or service pursuant to section 3.2 of this bylaw.
- (3) An *applicant* who contravenes the terms and conditions of the *licence of occupation* agreement between itself and the *Village* shall not be eligible to renew the application the following year.

MOBILE FOOD CART

- 7. (1) A maximum of two (2) seasonal *mobile food carts* shall be allowed to operate within the municipal boundaries of the *Village* at one time.
- (2) The *mobile food cart* operating season shall be May 1st to October 31st of each year.
- (3) A *mobile food cart* shall not stop for more than fifteen (15) minutes in any particular location.
- (4) A *mobile food cart* that has been stopped for 15 minutes, must move a minimum of one (1) block in any direction away from the current location.
- (5) An application to operate a *mobile food cart* must provide the following documentation

to receive a permit to operate:

- (a) Valid Interior Health food permit;
- (b) Plan for disposal of garbage;
- (c) Food Safe BC Certificate;
- (d) Route for sales; and,
- (e) Schedule for hours of operation.

FOOD TRUCK

8. (1) A maximum of three (3) seasonal *food trucks* shall be allowed to operate under a permit at one time on *public property*, and only in the following locations:
- (a) Up to two (2) at the *public beach*; and
 - (b) No more than one (1) at the *Nakusp Hot Springs*.
- (2) Notwithstanding section 8.1, a fourth (4th) seasonal *food truck* may be permitted to operate at Council's discretion, pursuant to the following:
- (a) The applicant must submit an application to the Village which will be reviewed by Council during a regular meeting;
 - (b) The applicant must submit the associated fees as set out in the *Fees and Charges* bylaw prior to Council's review;
 - (c) Council will specify the location for a fourth (4th) food truck to operate; and,
 - (d) If Council denies the application, a full refund of the above fees will be provided to the applicant.
- (3) A *food truck* operating season is May 1st to October 31st of each year.
- (4) *Applicants* for a *food truck* must provide the following documentation to receive a permit to operate:
- (a) Valid Interior Health food permit;
 - (b) Plan for disposal of garbage;
 - (c) Plan for power supply;
 - (d) Food Safe BC Certificate;
 - (e) Schedule for hours of operation;
 - (f) Proof the *food truck* meets fire safety regulations, to the satisfaction of the *Village*;
 - (g) Plan for the disposal of domestic & grey water; and,
 - (h) Approved *licence of occupation* agreement.
- (5) Notwithstanding the limits imposed in section 8(1), additional *food trucks* shall be permitted to operate within the *Village* during special events taking place on *Public Property* pursuant to the following conditions:
- (a) An *applicant* shall provide the same information stated in section 8(4) to receive a permit to operate;

- (b) An *applicant* shall pay the associated fees as set in the *Fees and Charges Bylaw*;
 - (c) An *applicant* shall only operate during a special event that has received approval from the *Village* to proceed; and,
 - (d) The special event is for a duration of less than six days.
- (6) For clarity, an *applicant* who already holds a valid permit to operate a *food truck* within the *Village* is not required to obtain an additional permit to operate during a special event.

SEASONAL PATIO EXPANSION

9. (1) The *seasonal patio expansion* operating season is May 1st to October 15th of each year.
- (2) A *seasonal patio expansion* must be located on a *street* adjacent to the *business*, but not on Broadway Street.
- (3) A *seasonal patio expansion* constructed above grade must pass an inspection by the *Building Inspector* prior to the *seasonal patio expansion* being open for use by customers.
- (4) An *applicant* wishing to operate a *seasonal patio expansion* must apply for and obtain a *licence of occupation* from the *Village*.
- (5) An *applicant* wishing to renew a *seasonal patio expansion* must:
- (a) provide a new proof of final inspection report from the *Building Inspector*; and,
 - (b) hold a valid *licence of occupation* agreement.

NOT FOR PROFIT ORGANIZATION(S) USE OF PARK AREA

10. (1) A *not for profit* organization may use the *park area* free of charge provided:
- (a) Event or Programming is for the community; and,
 - (b) Event or Programming is free of charge to the community to attend.
- (2) All *not for profit* organizations must have a completed rental agreement with *Village* to use the *park area(s)*.
- (3) A *not for profit* organization must provide a damage deposit for all bookings.

PARADE PERMITS

11. (1) An *applicant* wishing to organize a parade, procession or road race shall make an application in writing to the *CAO*.

- (2) A *person* shall not march or join in any parade, procession or road race of any kind on any *Village Street*, until permission for such parade, procession or road race has been provided in writing by the *CAO*.

TEMPORARY CLOSURE OF VILLAGE STREET

12. (1) A person wishing to close a *Village Street* must make an application in writing to the *CAO*.
- (2) A *person* must not temporarily close a *Village Street* until permission has been granted in writing by the *CAO* and may require entering into a *licence of occupation* Agreement.

FARMERS MARKET

13. (1) A *Farmers Market* operating season is May 1st to October 31st of each year.
- (2) An *applicant* wishing to operate a *Farmers Market* must obtain a valid *business* licence each year it is operating.
- (3) An *applicant* wishing to hold a *Farmers Market* must provide the following documentation:
- (a) Plan for the disposal of garbage;
 - (b) Schedule of operation, dates and times;
 - (c) Traffic detour plan; and,
 - (d) Valid *licence of occupation* agreement.

COUNCIL RECONSIDERATION OF DENIAL, SUSPENSION OR CANCELLATION

14. (1) If the *CAO* requires an *applicant* to abandon an area under an active *licence of occupation* agreement for the purpose of an emergency, the *CAO* decision will not be reconsidered by *Council*.
- (2) If the *CAO* proposes to exercise their authority to deny, suspend or cancel the *licence of occupation* agreement, the *CAO* must provide the *applicant* written notice of the *CAO's* proposed action and that the *applicant* is entitled to have *Council* reconsider the matter.
- (3) Notwithstanding section 14.1, an *applicant* whose application has been denied by the *CAO* may submit a request to have *Council* reconsider the *CAO's* decision provided that the request is received by the *Village Office* in writing within ten (10) calendar days from the day the notification of denial was delivered.

- (4) The request for *Council* to reconsider must state concisely the grounds upon which the appeal is based.
- (5) A person who submits a request to petition *Council*, but does not appear at the council meeting when the petition is scheduled shall be deemed to have withdrawn their petition.
- (6) *Council's* decision to uphold or overturn the *CAO's* decision is final and may not be reconsidered.

ENFORCEMENT AND FINES

- 15. (1) Any person who violates any provision of this bylaw or who suffers or permits any act or thing to be done in contravention of this bylaw, or who neglects to do or refrains from doing any act or thing which is required by any of the provisions of this bylaw, commits an offence punishable on summary conviction.
- (2) Every person who violates any provision of this bylaw and who commits an offence punishable on summary conviction shall be liable to a fine set out in the current *Bylaw Notice Enforcement Bylaw*.
- (3) Each day that the offence continued may be considered to be a separate offence under this bylaw.
- (4) This bylaw is enforceable by:
 - (a) The *CAO* and their designate;
 - (b) Fire Chief; and,
 - (c) Peace Officers.

SEVERERABILITY

- 16. (1) If any part, section, sub-section clause or sub-clause of this bylaw is, for any reason, held to be invalid by the decision of a Court of competent jurisdiction, such decision does not affect the validity of the remaining portions of this bylaw.

READ A FIRST TIME THIS 13th DAY OF March, 2023.

READ A SECOND TIME THIS 13th DAY OF March, 2023.

READ A THIRD TIME THIS 24th DAY OF April, 2023.

ADOPTED THIS 8th DAY OF May, 2023.

Mayor

Chief Administrative Officer