

TOWN OF BANFF
BYLAW 124-1
Street and Public Place Use Bylaw

A Bylaw to Control and Regulate the Use of Streets and Public Places in the Town and to Restrict and Regulate Activities On, Adjacent, or Near to Streets and Public Places

WHEREAS the Government of Canada as represented by His Majesty the King, in the Right of Canada as represented by Parks Canada Agency, has issued to the Town of Banff leases for certain lands in accordance with the Town of Banff Incorporation Agreement;

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

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

AND WHEREAS the *Traffic Safety Act* (Alberta) provides that Council of the Town of Banff may pass bylaws respecting the removal and impoundment of vehicles that are parked in contravention of a bylaw.

NOW THEREFORE the Council of the Town of Banff, in the Province of Alberta, duly assembled, ENACTS AS FOLLOWS:

1.0 CITATION

1.1 This bylaw may be cited as the “Street and Public Place Use Bylaw”.

2.0 DEFINITIONS

2.1 In this Bylaw:

- a) Where another Town of Banff Bylaw is referenced anywhere within the Street and Public Place Use 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;
- b) **Advertising Matter** means a bill, pamphlet, leaflet or notice or a sign as defined in the Land Use Bylaw;
- c) **Boulevard** means that part of a Street in an urban area that:
 - i. Is not a Roadway, and
 - ii. Is that part of the Sidewalk that is not especially adapted to the use of or ordinarily used by pedestrians.
- d) **Busking** means performing in a public space in exchange for voluntary donations;

- e) **Bylaw Enforcement Officer** means an employee of the Town who has been appointed to the position of Bylaw Enforcement Officer pursuant to the Bylaw Enforcement Officers Bylaw.
- f) **Camp or Camping** means sleeping in the open air, a vehicle, tent, trailer, or any other outdoor structure between the hours of 9 p.m. and 9 a.m.;
- g) **Cannabis** means cannabis as defined in the Cannabis Act.
- h) **Cannabis Act** means the *Federal Cannabis Act, Bill C-45, An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts*;
- i) **Dispose** means littering, discharging, and/or dumping, placing, throwing, dropping, discarding, abandoning, spilling, leaking, pouring, emitting, or emptying;
- j) **Electronic Smoking Device** means an electronic device that can be used to deliver a vapour, emission, or aerosol to the person inhaling from the device, including but not limited to an electronic cigarette, cigar, cigarillo or pipe;
- k) **Encroachment** means the temporary occupation of any portion of the Street or other Public Place and includes the airspace over such Street and any area beneath the surface of the Street;
- l) **Gaming, Liquor and Cannabis Act** means *Bill 26, an Act to Control and Regulate Cannabis*;
- m) **Line Assignment** means that portion of a Street, utility right-of-way or public land approved by the Town for the installation of a Public Utility;
- n) **Material** means sand, gravel, earth, or building products;
- o) **Owner** means:
 - i. In respect of unpatented land, the Crown,
 - ii. In respect of other land the Person who is registered under the Land Titles Act as the owner of the fee simple estate in the land,
 - iii. A Person who is the lessee of Crown land and that Person's successors and assigns, and
 - iv. In respect of any property other than land, the actual owner, occupant, operator or Person in lawful possession of the property.
- p) **Peace Officer** means the following persons while that person is in the exercise of or discharge of their powers or duties, including a Community Peace Officer appointed under the Peace Officer Act, a member of the Royal Canadian Mounted Police, or a park warden appointed under the Parks Canada Agency Act (Canada).
- q) **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 in a normal seated fashion.
- r) **Permit Holder** means the holder of a valid and subsisting permit issued pursuant to the provisions of this Bylaw.
- s) **Person** includes a corporation and the heirs, executors, administrators or other legal representative of a person.
- t) **Protective Barrier** means a barrier designed to keep the public separate from a site and may include hoarding, fencing, and/or longitudinal barriers, including barricades, designed to redirect vehicles, pedestrians, and cyclists.
- u) **Public Places** means lands other than Streets leased to the Town or under the Town's management and control, within the Town of Banff including:
 - i. Any land developed, used or managed by the Town as a public park, sports or athletic field, playground or recreational area;

- ii. Any land acquired by the Town through subdivision as Municipal Reserve or Environmental Reserve;
- iii. Any land developed, used or managed by the Town as a parking lot;
- iv. Any land developed by the Town as a pathway or trail;
- v. Any land developed, used or managed by the Town for public utilities.

v) **Public Utility** means a system or works used to provide one or more of the following for public consumption, benefit, convenience of use:

- i. Water or steam;
- ii. Sewage disposal;
- iii. Public transportation operated by or on behalf of the municipality;
- iv. Irrigation;
- v. Drainage;
- vi. Fuel;
- vii. Electric power;
- viii. Heat;
- ix. Waste management;
- x. Residential and commercial street lighting;
- xi. Communications;

And includes the thing that is provided for public consumption, benefit, convenience, or use.

- w) **Roadway** means any part of a Street intended for use by vehicular traffic.
- x) **Shopping Cart** means a 4-wheeled device or other device commonly known as a shopping cart provided for or made available for use by customers in a retail grocery store or other retail store.
- y) **Sidewalk** means that part of a Street especially adapted to the use of or ordinarily used by pedestrians, and includes that part of a Street between:

- i. The curb line, or
- ii. Where there is no curb line, the edge of the Roadway, and the adjacent property line, whether or not it is paved or improved.

z) **Smoke or Smoking** means:

- i. inhaling or exhaling the smoke produced by burning or heating cannabis; or
- ii. holding or otherwise having control of any device or thing containing lit or heated cannabis.

aa) **Special Event** means any activity or event in Streets or Public Places that is open to, or intended to attract, the general public.

bb) **Street** means any thoroughfare, Sidewalk, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestle way or other place 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 and includes:

- i. A sidewalk, including a Boulevard adjacent to the sidewalk;
- ii. If a ditch lies adjacent to and parallel with the Roadway, the ditch, and;

- iii. If a Street right of way is contained between fences or between a fence and one side of the Roadway, all the land between the fences, or all the land between the fence and the edge of the roadway, as the case may be, but does not include a place declared by provincial regulation not to be a highway.
- cc) **Street and Public Place Use Permit** means a permit issued by the Town of Banff authorizing use of a Street or portion of a Street.
- dd) **Temporary Conditions Signs and Devices** means any temporary sign or device used to regulate, warn, and guide drivers, cyclists, and pedestrians in work zones where Construction, maintenance or utility activities, or other temporary and unusual conditions are on or adjacent to the road. Temporary Conditions Signs may be regulatory, warning, or informational in nature.
- ee) **Town** means the Corporation of the Town of Banff and, where the context requires, the land included within the boundaries of the Town of Banff.
- ff) **Traffic Control Device** means any sign, signal, marking or device placed, marked or erected under the authority of the Traffic Safety Act for the purpose of regulating, warning or guiding traffic.
- gg) **Town Manager or designate** means a person appointed as Chief Administrative Officer by Council, and the person designated by the Town Manager to act on their behalf.
- hh) **Town of Banff Notice of Offence** means any ticket or tag, in a form approved by the Town 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.
- ii) **Vape or Vaping** means:
 - i. Inhaling or exhaling the vapour, emissions or aerosol produced by an electronic smoking device or similar device containing cannabis;
 - ii. Holding or otherwise having control of any device or thing containing lit or heated cannabis.
- jj) **Walkway** means a right-of-way set aside for the use of and ordinarily used for pedestrian travel of the general public, whether publicly or privately owned and includes a Sidewalk and Boulevard.

3.0 INTERPRETATION

3.1 In this bylaw:

- a) any reference to a named act is a reference to an Act of the Legislature of Alberta and/or a Federal Act, as amended from time to time.
- b) any reference to a Town of Banff staff position, department or committee, the reference is deemed to be to the current name that the staff position, department- or committee is known by.
- c) the definitions in Section 2 will apply to the corresponding words if the first letter of that word is capitalized in this bylaw.
- d) the headings in the body of this bylaw form no part of the bylaw and are inserted for convenience and reference only.

4.0 STREET AND PUBLIC PLACE USE

- 4.1 No Person shall stop or restrict Pedestrians, cyclists, or vehicles in the lawful use of a Street or Public Place, unless:
- a) A Street and Public Place Use Permit has been issued authorizing use of a Street or Public Place, or a portion of either;
 - b) An Encroachment Agreement has been entered into for the temporary occupation of any portion of the Street or other Public Place, including the airspace over and any area beneath the surface of the Street or Public Place;
 - c) A Special Event Permit has been issued authorizing use of a Street or Public Place, or a portion of either;
 - d) An agreement or authorization for a Public Utility installation has been entered into.

A. STREET AND PUBLIC PLACE USE PERMITS

- 4.2 A Street and Public Place Use Permit is required to undertake any of the following activities on any portion of a Street or Public Place:
- a) Placement of any building materials or building tools or machinery or construction device;
 - b) Parking, leaving, standing, or stationing a mobile crane or other mobile building construction machine;
 - c) Loading or unloading Material, machinery, or equipment of any kind;
 - d) Leave standing a portable waste or recycling bin;
 - e) Placement of scaffolding
 - f) Placement of a vending machine;
 - g) Excavation/breaking up the surface of a Street or Public Place;
 - h) Commercial Filming;
 - i) A Special Event;
 - j) Busking;
 - k) Installation of Sidewalk Seating/Café;
 - l) Installation of Outdoor Merchandise Display.
- 4.3 Every application for a Street and Public Place Use Permit must provide the following information, in the form required by the Town Manager or designate:
- a) The type of Street or Public Place use requested;
 - b) The purpose of the Street or Public Place use;
 - c) The date(s) and time(s) the Street or Public Place use is required;
 - d) The full name, mailing address, email and telephone number of the applicant;
 - e) 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;
 - f) Any other information the Town Manager or designate may reasonably require.
- 4.4 An application for a Street and Public Place Use Permit shall not be processed until the application is completed to the satisfaction of the Town Manager or designate.
- 4.5 An application for a Street and Public Place Permit, other than Busking, shall not be processed by the Town Manager or designate until the applicant has provided evidence

of general liability insurance coverage for a minimum amount of Five Million (\$5,000,000) dollars to cover any loss, claim, liability or damage of any kind which is suffered by any Person using the Street or Public Place by reason of the existence or presence of the activity, under which the Town of Banff and His Majesty the King in the Right of Canada as represented by the Parks Canada Agency shall be an additional insured.

4.6 A Street and Public Place Use Permit shall not be issued by the Town Manager or designate until fees as set out in the Fees and Charges Bylaw have been received by the Town.

4.7 A Street and Public Place Use Permit Holder must ensure that:

- a) All fees have been paid before the permit start date. Permit fees received after the permit start date are subject to an additional penalty of 50 percent;
- b) Roadway and Sidewalk widths are maintained in accordance with Schedule “B” to ensure adequate provision of safe access for vehicles, pedestrians and cyclists;
- c) Any Temporary Conditions Signs and Devices and Protective Barriers required by the Town Manager or designate and to be provided by the Permit Holder are in place prior to commencement of the operations, maintained, and removed from the Street or Public Place upon completion of the operation to the satisfaction of the Town Manager or designate;
- d) Any required Protective Barrier around the applicable portion of the Street or Public Place meets the approval of the Town Manager or designate;
- e) Access is maintained to all fire hydrants and water valves;
- f) Any required Temporary Conditions Signs and Devices are erected, at the cost and expense of the Permit Holder. Any cost or expense incurred by the Town in regard to erecting or providing Temporary Conditions Signs and Devices are a debt due to the Town from the Permit Holder;
- g) Once the activity for which the Street and Public Place Use Permit was issued has ended, the Street or Public Place is returned to its original condition, to the satisfaction of the Town Manager or designate; and
- h) All conditions imposed on the Streets and Public Place Use Permit are complied with.

4.8 The Town Manager or designate may revoke any permit or authorization given or made under the terms of this Bylaw if:

- a) The Permit Holder fails to comply with the terms and conditions of the Permit, or
- b) The Town Manager or designate is of the opinion that the Street and Public Place Use Permit or authorization was given in error or on the basis of false or inaccurate information.

4.9 A Person who, without written authorization in the form of a Street and Public Place Use Permit or contrary to any such Street and Public Place Use Permit, restricts any portion of a Street or Public Place, notwithstanding any penalty assessed under this Bylaw, upon direction of a Peace Officer or Town Manager or designate, shall immediately cease such use and remove any and all things from the Street or Public Place.

B. EXCAVATION

- 4.10 In addition to the requirements of Sections 4.4 and 4.5, an application for Street and Public Place Permit for the purposes of excavation shall not be processed by the Town Manager or designate until the Town is supplied with:
- a) a performance security to the satisfaction of and in an amount established by the Town Manager or designate, valid for at least one year, guaranteeing the rehabilitation of the Street or Public Place arising from any work performed in connection with the proposed Street and Public Use Permit;
 - b) a detailed engineering drawing of the excavation and any related construction indicating location, type, height above or depth below the surface of the Street or Public Place.
- 4.11 The holder of a Street and Public Place Use Permit issued for the purposes of excavation shall:
- a) obtain the location of all underground utilities, including but not limited to sewer lines, water lines, television cable line, electrical transmission line, and communications link, from the Owners of such facilities, before commencing any excavation or trenching work using power tools or equipment of any kind;
 - b) erect a Protective Barrier to prevent vehicles from damage or pedestrians from injury by the presence of a broken-up portion of, or an excavation or hole in, a Street or Public Place or by any machinery or equipment used in or in connection therewith;
 - c) provide Temporary Conditions Signs and Devices for the daylight period to the satisfaction of the Town Manager or designate;
 - d) provide to the satisfaction of the Town Manager or designate, Temporary Conditions Signs and Devices for the period of one hour before dusk to one hour after dawn, positioned in such a manner as to provide adequate warning to pedestrians and operators of motor vehicles of the condition of the Street or Public Place surface;
 - e) restrict the excavation to the smallest dimensions practical and provide adequate shoring to the satisfaction of the Town Manager or designate; and
 - f) comply with the conditions imposed upon the Street and Public Place Use Permit.
- 4.12 In addition to the requirements of Section 4.11, when the covering for the excavation or opening under the Street or Public Place is exposed and not covered with the surfacing material of the Street or Public Place, the Permit Holder shall, to the satisfaction of the Town Manager or designate:
- a) maintain the covering in good, safe and serviceable condition at all times, and
 - b) keep any movable opening or covering closed at all times except when actually being used.
- 4.13 A Person making an excavation in the Street or Public Place and a Person installing the support for the Street or Public Place and restoring the surface thereof shall not be relieved of any liability imposed by the provisions of this Bylaw, by the insurance and security provided for in Sections 4.5 and 4.10, by a statute or any rule of law, or by reason of any approval granted by the Town Manager or designate.

C. SPECIAL EVENTS

- 4.14 When a Special Event permit has been issued:
- a) a person or persons may congregate on the Sidewalks or a portion of a Street designated for that purpose in order to view the Special Event,
 - b) the Town Manager or designate may close all or portions of the Street along the route or location set out in the Street and Public Place Use Permit for the anticipated time of the Special Event and for such additional time as necessary to again clear the Street for normal traffic,
 - c) the Town Manager or designate may temporarily suspend parking and loading privileges on all or a portion of Street on the proposed route or location.
- 4.15 Notwithstanding the insurance required by Section 4.5, the Owner, sponsor, driver or operator of a vehicle, animal, or float and all Persons on such vehicle, animal, or float taking part in the Special Event shall ensure that:
- a) no part of the vehicle, animal, or float will come into contact with and/or damage the Street or Public Place, electric or telephone poles or wires, streetlights, transit posts, cables or supports, traffic signal lights or signs, fire hydrants, or any other property of the Town or of a Public Utility in a Street or Public Place, and
 - b) the vehicle, animal, float, or anything thereon or attached thereto will not injure any Person or cause damage to any real or Personal property.

D. VENDING MACHINES

- 4.16 When a Street and Public Place Use Permit has been granted for a vending machine, in addition to any requirements of this Bylaw and the Street and Public Place Use Permit, the following conditions apply:
- a) The size, appearance, and locations of vending machines are subject to the approval of the Town Manager or designate and are placed at the sole risk, responsibility, and expense of the Owner.
 - b) The Owner of a vending machine placed in the Street or on Public Place is responsible for maintaining the vending machine and its contents in a neat and tidy condition at all times.
 - c) Notwithstanding the issue of a Streets and Public Place Use Permit for the placement of a vending machine in the Street or Public Place, the Town Manager or designate may request the Permit Holder to remove or relocate any such vending machine or may alter or amend any condition imposed upon a Streets and Public Place Use Permit if the Town Manager or designate, in their discretion, determines such action is necessary. The Permit Holder shall comply with the request of the Town Manager or designate within five (5) days of receiving a request from the Town Manager or designate. If a request by the Town Manager or designate under this section is not complied with by the Permit Holder, the Town Manager or designate may take all steps the Town Manager or designate determines are necessary to comply with the request made to the Permit Holder including removal of the vending machine from a Street or Public Place and cancellation of the Street and Public Place use Permit.

E. ENCROACHMENTS

- 4.17 Where any portion of an existing or proposed building or structure of any kind encroaches into the space on, below or above a Street or Public Place, the Owner of such building or structure shall enter into an encroachment agreement with the Town and may be required to pay to the Town a fee for the use of the Street or Public Place. Such fee may be a one-time fee or an annual fee.
- 4.18 If an encroachment agreement is authorized for the location and purpose of the use of the space under the Street or Public Place, the excavation and other work in connection with preparation and use of the space and the restoration and protection of the surface of the Street or Public Place shall comply with the applicable provisions of this Bylaw.
- 4.19 No Person shall construct a projection from a building or other structure which extends over a portion of a Street or Public Place except for:
- a) A fire escape that complies with the Alberta Fire Code, the Alberta Building Code and the following conditions:
 - b) A fire escape that complies with the Alberta Fire Code, the Alberta Building Code and the following conditions:
 - i. When a fire escape exists over a Street or Public Place, the movable portion thereof shall be kept in a raised position at all times except when the same is being used during a fire drill, danger of fire, a fire, or other emergency.
 - c) a sign which complies with the provisions of the Land Use Bylaw as amended from time to time, and
 - d) a canopy, awning, or other projection which complies with the provisions of the Land Use Bylaw as amended from time to time.

F. PUBLIC UTILITIES

- 4.20 A Person who owns or operates a Public Utility of any nature whether buried beneath the surface of a Street or Public Place or erected on an above ground structure of any type in a Street or Public Place, shall, prior to commencing any work on the Public Utility, furnish to the Town Manager or designate:
- a) a detailed engineering drawing of the Public Utility facility and control devices indicating location, type, height above or depth below the surface of the Street or Public Place, and
 - b) a detailed engineering report, signed and stamped by a Professional Engineer licensed to practice engineering in the Province of Alberta, containing the purpose of the facility, physical and chemical characteristics of the Public Utility which it conveys whether benign or hazardous operating and maximum allowable pressures where applicable and a description of control devices for systems operations and procedures for containment of potential hazards which may affect public safety and the environment.

- 4.21 Where there is no agreement in effect governing the installation of a Public Utility, a Person applying for authorization to install a Public Utility of any nature, whether to be installed beneath the surface of a Street or Public Place or a temporary service erected above the surface on a structure of any type, shall furnish to the Town:
- a) Detailed engineering drawings, stamped by a Professional Engineer licensed to practice engineering in the Province of Alberta, to the satisfaction of the Town Manager or designate,
 - b) a performance security guaranteeing the rehabilitation of the Street or Public Place to the satisfaction of the Town Manager or designate,
 - c) In addition to the requirements of Sections 4.5 and 4.10, a certificate of insurance and indemnity agreement saving the Town harmless from any liability arising from anything done in connection with the work for which authorization has been granted and costs or damages incurred by an accident of any nature which may arise from the installation of the Public Utility within any portion of a Street or Public Place.
- 4.22 Any Person who excavates any portion of a Street or Public Place for the purposes of installing or repairing a Public Utility of any nature shall apply for and obtain authorization in the form of a Street and Public Place Use Permit and shall comply with those conditions listed on such permit.
- 4.23 Any Person making an application for authorization to install a new permanent Public Utility or structure above or below the surface of the Street or Public Place, shall first apply to the Town Manager or designate to obtain a Line Assignment for such installation and shall provide the Town Manager or designate with plans showing existing and proposed Public Utilities.
- 4.24 Any Person who has received authorization in the form of a Line Assignment for the installation of a new permanent Public Utility or structure above or below the surface of the Street or Public Place shall apply for and obtain a Street and Public Place Use Permit and shall comply with those conditions listed on such permit.

G. SIDEWALK SEATING/CAFÉ AND OUTDOOR MERCHANDISE DISPLAY

- 4.25 When a Street and Public Place Use Permit has been granted for a sidewalk seating/café area, in addition to any requirements of this Bylaw and the Street and Public Place Use Permit, the following conditions apply:
- a) Sidewalk seating/café areas shall be permitted only in the CD (Downtown) Land Use District.
 - b) The size, appearance, and locations of sidewalk seating/café areas are subject to Policy C7005-1 Sidewalk Seating, and the approval of the Town Manager or designate and are placed at the sole risk, responsibility, and expense of the Owner.
 - c) The permit holder for a sidewalk seating/café area placed in the Street or on a Public Place is responsible for maintaining the sidewalk seating/café area to ensure furniture is physically sound and aesthetically acceptable.

- d) The permit holder for a sidewalk seating/café area placed in the Street or on a Public Place is responsible for cleaning the sidewalk seating/café area and ensuring that litter is removed from in and around the seating/café area and disposed of within the commercial garbage provisions on site.
- e) 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.
- f) 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 those intended for seating, dining or circulation.
- g) Use of sidewalk seating/café is permitted between the hours of 7 a.m. and 11 p.m., with active service ending at 10:00 p.m.
- h) Notwithstanding the issue of a Streets and Public Place Use Permit for the placement of a sidewalk seating/café in the Street or Public Place, the Town Manager or designate may request the permit holder to remove or relocate any such sidewalk seating/café or may alter or amend any condition imposed upon a Streets and Public Place Use Permit if the sidewalk seating/café, in their discretion, determines such action is necessary. The permit holder shall comply with the request of the Town Manager or designate within twenty-four hours of receiving a request from the Town Manager or designate. If a request by the Town Manager or designate under this section is not complied with by the permit holder, the Town Manager or designate may take all steps the Town Manager or designate determines are necessary to comply with the request made to the permit holder including removal of the sidewalk seating/café from a Street or Public Place and cancellation of the Street and Public Place Use Permit.

4.26 When a Street and Public Place Use Permit has been granted for an outdoor merchandise display area, in addition to any requirements of this Bylaw and the Street and Public Place Use Permit, the following conditions apply:

- a) Outdoor merchandise display areas shall be permitted only in the CD (Downtown) Land Use District.
- b) The size, appearance and locations of outdoor merchandise display areas are subject to the Policy C5006 Outdoor Merchandise Display policy and the approval of the Town Manager or designate and are placed at the sole risk, responsibility, and expense of the Owner.
- c) The permit holder for an outdoor merchandise display placed in the Street or on Public Place is responsible for maintaining the outdoor merchandise display area to ensure fixtures are physically sound and aesthetically acceptable.
- d) The permit holder for an outdoor merchandise display area placed in the Street or on Public Place is responsible for ensuring that the outdoor merchandise display remains within the approved area and that pedestrian clearances and safety requirements are maintained at all times.
- e) The permit holder shall bear all financial responsibility for any and all improvements necessary to the public space, both within and surrounding the outdoor merchandise display area. At no time and for no reason shall public funds be expended for improvements designated to benefit the permit holder.
- f) Use of outdoor merchandise display areas may operate year-round, provided the display is maintained in all weather.

- g) Hours of operation must coincide with the hours of operation of the associated permit holder. All outdoor merchandise display components must be removed and stored within the associated premises during non-business hours.
- h) No portion of an outdoor merchandise display area may be used for any purpose other than the display of items. All elements of an approved outdoor merchandise display must have received approval through a Street and Public Place Use Permit.
- i) Notwithstanding the issue of a Streets and Public Place Use Permit for the placement of an outdoor merchandise display in the Street or Public Place, the Town Manager or designate may request the permit holder to remove or relocate any such outdoor merchandise display or may alter or amend any condition imposed upon a Streets and Public Place Use Permit if the outdoor merchandise display area, in their discretion, determines such action is necessary. The permit holder shall comply with the request of the Town Manager or designate within twenty-four hours of receiving a request from the Town Manager or designate. If a request by the Town Manager or designate under this section is not complied with by the permit holder, the Town Manager or designate may take all steps the Town Manager or designate determines are necessary to comply with the request made to the permit holder including removal of the outdoor merchandise display from a Street or Public Place and cancellation of the Street and Public Place Use Permit.

5.0 CARE AND MAINTENANCE OF STREETS AND PUBLIC PLACES

A. GENERAL

- 5.1 The Owner of property which slopes at an angle greater than 2 horizontal to 1 vertical and is adjacent to a Street or Public Place shall construct a retaining wall subject to approval by the Town Manager or designate, to prevent any rocks, earth, or other Material from being deposited onto any portion of the Street or Public Place.
- 5.2 Unless otherwise authorized, no portion of any structure erected pursuant to section 4.26 may encroach into the Street or Public Place.
- 5.3 A registered Owner of a vehicle shall prevent engine or transmission fluids, or vehicle fluids of any type, from being deposited onto a Street or Public Place or remove the fluid from the Street or Public Place promptly.
- 5.4 No Person shall Dispose of or place anything on any portion of a Street or Public Place unless otherwise authorized, or unless it consists of sand, gravel, or de-icer approved by the Town of Banff placed upon icy portions of a Sidewalk to minimize the danger of slippery conditions.
- 5.5 The Owner or occupant of any private property adjacent to a Street shall not:
 - a) allow any hedge, shrub or tree which may overhang from such property to interfere with or obstruct a pedestrian or vehicular traffic or the sight line of vehicular traffic lawfully using such Street or Walkway; and
 - b) allow any hedge, shrub or tree on private property within the area shown on Schedule “D” of this bylaw, whether planted before or after the date of the passing of this bylaw, to exceed (1) meter in height.
 - c) Allow any hedge, shrub or tree to obstruct the view of Traffic Control Devices.

B. PRIVATE CONSTRUCTION ADJACENT TO A STREET OR PUBLIC PLACE

- 5.6 No Person may in the course of developing private land adjacent to a Street or Public Place, alter in any manner the existing grade of the Street or Public Place adjacent to the private land without prior approval from the Town.
- 5.7 A Person who has received authorization in the form of any required permits from the Town to carry out construction activities or development of any nature adjacent to a Street or Public Place shall ensure that any type of structure erected in connection with such construction or development activities will not block or reduce the visibility of street address signs, pedestrian walk signals or any other Traffic Control Device located on the Street or Public Place adjacent to such construction site.
- 5.8 A Person authorized by permit to develop private land or a Public Place adjacent to a Street, or the general contractor or other Person acting on behalf of such Person, shall not allow mud, dirt, or other construction debris to be tracked by vehicles onto a Street.
- 5.9 The registered Owner of private property adjacent to a Street or Public Place shall, at the time such property is being developed in any manner, be responsible for the following, to the satisfaction of the Town Manager or designate:
- a) The protection of any shrubbery or trees located on the Street or Public Place,
 - b) the replacement of any shrubbery or trees located on the Street or Public Place which have been damaged or removed during the process of development,
 - c) the rehabilitation of the trail, pathway or Boulevard area, and
 - d) any repairs or replacement of the Sidewalk, curb or gutter including the removal and rehabilitation of any existing unused driveway crossings and driveway aprons.

C. EXCAVATIONS ADJACENT TO A STREET OR PUBLIC PLACE

- 5.10 Where a building permit has been issued for private land, a Person making an excavation on property adjacent to a Street or Public Place shall erect Protective Barricades required for the construction site in compliance with regulations relating to such Protective Barricades as contained in the Alberta Building Code and Occupational Health and Safety Regulations.
- 5.11 If the Town Manager or designate is of the opinion that an excavation adjacent to the Street or Public Place does or may create a danger to Persons using the Street or Public Place, or may be liable to damage the Street or Public Place, they may require the Person making the excavation to apply and obtain authorization in the form of an indemnification agreement furnishing such necessary insurance and security as required in Sections 4.5 and 4.10 to secure the proper performance of the excavation and saving harmless the Town and public utilities as may be affected by the excavation from any liability, loss, or damage arising from the existence of the excavation.
- 5.12 No Person shall direct a flow of water resulting from an excavation onto or across any portion of a Street or Public Place from private property adjacent to a Street or Public Place.

- 5.13 Where an excavation of private property adjacent to a Street or Public Place has been authorized by the issuance of a permit, no water may be discharged from the site to a Street, Public Place or sewer system without prior approval of the Town Manager or designate.

D. SIDEWALKS

- 5.14 No Person shall paint, damage, cut away, or break or remove portions from a gutter, curb or Sidewalk.
- 5.15 An Owner or occupant of private property adjacent to a Street shall not allow storm water roof drainage controlled by eavestroughing to be directed onto any portion of a Street unless otherwise authorized by the Town Manager or designate.
- 5.16 The Owner or occupant of any private property adjacent to a Sidewalk shall remove or cause to be removed ice, snow, dirt, debris, litter or other Materials from any Sidewalk, inclusive of benches and bike racks, adjoining the private land within 24 hours after the ice, snow, dirt, debris, litter or other Materials have been deposited or formed.
- 5.17 No Person shall remove ice, snow, dirt, debris, litter or other Materials from any Sidewalk by causing such material to be placed upon any other portion of the Sidewalk or other Public Place other than the Roadway.
- 5.18 Every Owner or occupant of any building or structure abutting on or erected within three (3) metres of any Street or Public Place shall, whenever snow or ice shall accumulate on the roof or eaves of such building to an extent that a danger is created to Persons passing, cause the same to be immediately removed, and every Person while removing the same shall take due and proper care and precaution for the warning and safety of Persons passing.
- 5.19 The Owner or occupant who has an awning or other projection extending from a portion of their premises over a Sidewalk or portion thereof shall keep the awning or other projection free from snow or ice.
- 5.20 If water drips from an awning or other projection upon a Sidewalk the Owner or occupant of the premises shall prevent ice from forming on the Sidewalk or promptly remove such ice.
- 5.21 A Person may, in such a way as not to cause injury or unduly interfere with any Person lawfully using the Sidewalk, use a power driven device that is sufficiently light and of such construction that it will not damage the surface of the Sidewalk to remove ice, snow, or other Materials from any portion of a Sidewalk.

E. BOULEVARDS

- 5.22 The Owner or occupant of any private property adjacent to a Boulevard where grass is planted or naturally growing shall be responsible for cutting such grass at such regular intervals as is necessary to keep the Boulevard in a tidy and attractive condition.
- 5.23 No Owner or occupant of private property adjacent to a Street shall plant any trees, plants, or shrubbery of any nature on the Boulevard without first obtaining a Line Assignment and Street and Public Place Use Permit.
- 5.24 No Owner or occupant of private property adjacent to a Street shall place lights in or on any trees, plants, or shrubbery of any nature on the Boulevard without first obtaining approval from a development approving authority as identified in the Land Use Bylaw.

F. SIDEWALK AND BOULEVARD CROSSINGS

- 5.25 Every Owner or occupant of any premises or lot, who for the purpose of entering the premises or lot, is required to drive a vehicle across a Sidewalk or Boulevard, or both, shall cause to be constructed, at the expense of the Owner or occupant, a crossing in a manner and of materials which are satisfactory to the Town Manager or designate.
- 5.26 Where a depressed curb already exists in order to enable a Person to have a driveway from the Roadway to their land which adjoins the Street and where there is no Sidewalk or where there is a monolithic Sidewalk, the Person for whom the depressed curb is provided shall, at their own expense, complete the driveway across the Boulevard in a manner and of materials which are satisfactory to the Town Manager or designate.
- 5.27 Unless a property fronts on a Sidewalk finished as a rolled monolithic Sidewalk or rolled curb and gutter, a Person who constructs or who has constructed a driveway to connect their property with a Street except for a lane, shall apply to the Town for authorization to construct at the expense of the applicant the necessary depressed curb, concrete apron, and Sidewalk crossing or any of them which are required to enable vehicles from the property to enter the Roadway from the applicant's property.
- 5.28 After a Person has applied to the Town as required by Section 5.26, received approval of the application and provided a deposit in accordance with the Fees and Charges Bylaw, the applicant will construct the necessary depressed curb, concrete apron and Sidewalk crossing or any of them which are required to enable vehicles to cross from the property of the applicant to the Roadway.
- 5.29 A Person constructing a driveway to connect their property to the Roadway shall be liable to pay the Town the cost of all damage caused to the Roadway to which the driveway is connected and to the curb, Boulevard and Sidewalk, if any, between the Roadway and the property.

6.0 PROHIBITIONS

- 6.1 Unless otherwise authorized, the following activities are prohibited on all Streets and Public Places:
- a) Propelling a golf ball in any manner;
 - b) Archery;
 - c) The use of a sling shot;
 - d) The shooting of a projectile of any nature;
 - e) The discharge of fireworks or firecrackers;
 - f) The use of any airborne device, excluding kites, in public places;
 - g) The Smoking or Vaping of Cannabis;
 - h) Camping;
 - i) Removal of any natural material, including deadfall, cut wood, flora and fauna.
- 6.2 In relation to Section 6.1 (g) of this bylaw:
- a) A Person who is entitled to use Cannabis pursuant to the *Access to Cannabis for Medical Purposes Regulation, SOR/2016-230* is not subject to Section 6.1 (g) of this bylaw, but must adhere to the provincial regulations that govern public consumption,
 - b) A Person referred to in Section 6.1 (g) must, on demand of a Peace Officer, produce a copy of the person's medical document
- 6.3 No Person shall climb on or damage, deface, destroy, remove or interfere with any trees, shrubs or other natural vegetation, street furniture, fencing, protection system, signs, improvements in Public Places or any Public Utility system or work of the Town.
- 6.4 While in any Public Place used as a park or recreational area, no Person shall:
- a) Have a fire except in the fireplaces or barbecues provided for this purpose;
 - b) Leave a fire unattended;
 - c) Disobey a directive sign placed in any Public Place used as a park or recreational area.
- 6.5 No Person shall tamper, damage, or interfere with a life saving device placed on Streets or Public Places for the purpose of helping someone in distress, unless such life saving device is used for that purpose.
- 6.6 No Person shall place or allow to be placed anything that creates an obstruction over or across any portion of a Street or Public Place, unless otherwise authorized.
- 6.7 No Person shall tamper with or remove a manhole cover or valve cover from its seat-base installed in a Street. Removal of or work associated with any manhole cover or valve cover in a Street requires prior authorization by the Town Manager or designate.
- 6.8 Unless otherwise authorized, no Person shall attach Advertising Matter to or on a building, bridge, fence, sign or sign post, streetlight pole, electric pole, bicycle rack, railing, monument, overpass, or receptacle of any kind that is the property of the Town unless and except where such property, receptacle or structure has been provided for

the express purpose of posting of notices, or advertising, as in the case of a kiosk or notice board.

- 6.9 Unless otherwise authorized, no Person shall attach a bicycle or any other object to or on a building, bridge, fence, sign or sign post, streetlight pole, electric pole, railing, monument, overpass, tree, or receptacle of any kind that is the property of the Town unless and except where such property, receptacle or structure has been provided for the express purpose of parking bicycles or the storage of other objects.
- 6.10 Unless otherwise authorized, no Person shall erect or place a sign on or over any portion of a Street or Public Place.
- 6.11 The Town is entitled to remove all Advertising Matter, bicycles or any other object attached to property of the Town and all signs placed on or over any portion of a Street or Public Place, except where such Town property has been provided or designated for that purpose.
- 6.12 The Town is entitled to remove and impound any items, structures or vehicles that are used in contravention of this bylaw.
- 6.13 No Owner or occupant of a premises adjacent to a Street or Public Place shall construct or maintain a gate or door so placed that it will obstruct the free use of any portion of a Street or Public Place.
- 6.14 The Owner or occupant of premises adjacent to a Street or Public Place shall not allow any object to project into any portion of a Street or Public Space except as provided for in this Bylaw.
- 6.15 A Person shall not operate on a Street or Public Place any machinery or equipment of any kind equipped with lugs, cleats, or tracks which may damage in any way the surface of the Street or Public Place.
- 6.16 Panhandling is prohibited on all portions of the Street identified in Schedule “C”.
- 6.17 All retail outlets or stores of any nature within the Town that provide Shopping Carts shall:
 - a) have the name of such retail outlet or store and a unique number displayed on each Shopping Cart for identification purposes.
 - b) not permit a Person to remove a Shopping Cart more than 50 metres from the legal boundaries of the property where the retail outlet or store is located, and
 - c) ensure any Shopping Cart abandoned outside of the retail or store property is returned to the store within 24 hours.
- 6.18 No Person shall tamper with or conceal Town of Banff signage or property.

7.0 VIOLATIONS AND ENFORCEMENT

- 7.1 Any Person who contravenes this bylaw is guilty of an offence and is liable for a penalty set out in Schedule “A” or, if no penalty is specified in Schedule “A” for the particular offence, for the penalty in accordance with Section 7.13 of this Bylaw.
- 7.2 For the purposes of this bylaw, an act or omission by a lessee is deemed also to be an act or omission of the Owner of the real property on which the offence occurred.
- 7.3 When a Business commits an offence under this bylaw, every principal, director, manager, employee or agent of the Business who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence whether or not the Business has been prosecuted for the offence.
- 7.4 If a vehicle is involved in any contravention of this bylaw, the Owner of that vehicle is guilty of an offence.
- 7.5 In the case of an offence that is of a continuing nature, a contravention 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.
- 7.6 Any Person found to be violating any provision of this bylaw may be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall permanently cease all violations, or carry out or cause to be done any such work as may be required to conform with this bylaw in accordance with the notice.
- 7.7 When a person is alleged to have contravened any provision of this bylaw, a Peace Officer or Bylaw Enforcement Officer may issue a Town of Banff Notice of Offence which shall state:
- a) The nature of the offence;
 - b) The penalty payable in connection with the offence; and
 - c) The time period within which the penalty must be paid.
- 7.8 A Town of Banff Notice of Offence shall be deemed to be sufficiently served for the purposes of this bylaw if:
- a) served personally on the accused; or
 - b) mailed by registered post to the address of the registered Owner of the Premises concerned, or to the Person concerned; or
 - c) attached to or left securely and visibly upon the Vehicle in respect of the offence that is alleged to have been committed.

- 7.9 Nothing in this bylaw shall prevent any Peace Officer or Bylaw Enforcement Officer from issuing a ticket requiring a court appearance of the defendant, pursuant to the provisions of the Provincial Offences Procedure Act or from laying an information in lieu of issuing a Town of Banff Notice of Offence.
- 7.10 In lieu of prosecution, the Person named in a Town of Banff Notice of Offence may elect to voluntarily make payment to the Town of the penalty amount specified in the Town of Banff Notice of Offence.
- 7.11 If the payment specified in the Town of Banff Notice of Offence is not paid in accordance with the terms of the Notice of Offence and in the time required by the Notice of Offence, a prosecution may be commenced for the alleged contravention of this bylaw.
- 7.12 Any Person violating any of the provisions of this bylaw shall become liable to the Town for any expense, loss or damage occasioned to the Town of reason of such violation.
- 7.13 Except as otherwise provided for in this bylaw, a Person who is guilty of an offence under this Bylaw for which a penalty is not otherwise provided, upon summary conviction before a court of competent jurisdiction, shall be liable to a fine not exceeding Ten Thousand Dollars (\$10,000.00) or in the event of nonpayment of the fine, imprisonment for a period not exceeding twelve (12) months unless such fine is sooner paid.
- 7.14 Except as otherwise provided in this bylaw, every Person who, upon summary conviction before a court of competent jurisdiction, is found guilty of a second or subsequent offence under this bylaw, is liable to a fine not exceeding Ten Thousand Dollars (\$10,000.00) or in the event of nonpayment of the fine, imprisonment for a period not exceeding twelve (12) months unless such fine is sooner paid.
- 7.15 Upon the failure by any Person to comply with the provisions of this bylaw, the Town may proceed 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 Town of Banff Notice of Offence and shall be deemed a debt due to the Town by the Person specified in the Town of Banff Notice of Offence. Debts due may be charged against the Premises concerned as a special lien to be recovered in like manner as property taxes.
- a) If, in the opinion of the Town Manager, a contravention of this bylaw requires immediate action, the Town may perform any work necessary to address the contravention of this Bylaw without prior notice and all costs incurred by the Town will be payable by the Person alleged to have contravened this Bylaw.
- 7.16 Notwithstanding any other provision of this bylaw, the imposition of a fine either by issuance of a Town Notice of Offence or by summary conviction in court shall not relieve any Person so fined from any liability to pay to the Town any expenses arising from any damage or loss caused by that Person to Town property.

8.0 SEVERABILITY

- 8.1 If any clause in this bylaw is found to be invalid, it shall be severed from the remainder of the bylaw and shall not invalidate the whole bylaw.

9.0 SCHEDULES

- 9.1 Schedules “A”, “B”, “C”, and “D” form part of this bylaw.

10.0 REPEAL

- 10.1 Bylaw 124, Street and Public Place Use Bylaw, as amended, is repealed.

11.0 ENACTMENT

- 11.1 This bylaw comes into force when it receives third reading and is signed by the Mayor and the Town Manager or designates.

- 11.2 The Town Manager is authorized to consolidate Bylaw 124-1.

READ A FIRST TIME this 13th day of November, 2023.

READ A SECOND TIME, as amended, this 13th day of November, 2023.

READ A THIRD TIME, as amended, this 13th day of November, 2023.

SIGNED AND PASSED 16th day of November, 2023.

On Original

Corrie DiManno
Mayor

On Original

Kelly Gibson
Town Manager

SCHEDULE A– PENALTIES

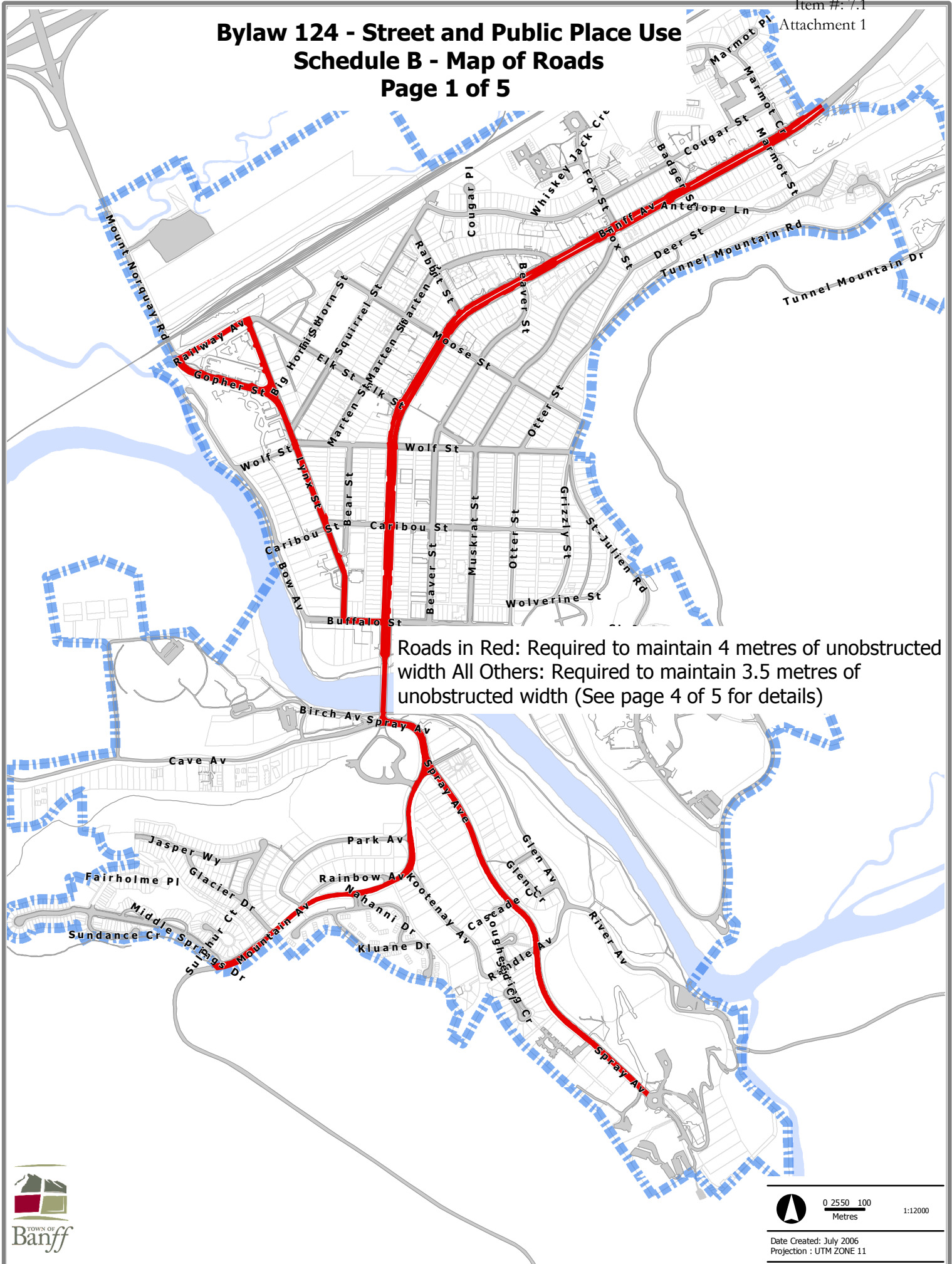
Section	Description	Penalty
4.2	Failure to obtain Street and Public Place Use Permit	\$500
4.3	Provide false information on Street and Public Use Permit Application	\$200
4.7	Failure to follow the conditions in Bylaw and specified in Street and Public Use Permit	\$1000
4.9	Failure to comply with an Order	\$1000
4.16	Unauthorized placement of vending boxes	\$200
4.25	Fail to meet conditions of sidewalk seating/cafe area	\$200
4.26	Fail to meet conditions of outdoor merchandise display area	\$200
5.3	Failure to clean or allow vehicle fluids of any kind from being deposited onto a Street or Public Place	\$250
5.4	Unauthorized items placed on Street or Public Place	\$200
5.7	Block Vision of Traffic Control or Street Signs at Construction Site	\$500
5.8	Tracking mud/dirt onto Roadway	\$250
5.12	Direct water from excavation_ onto Street or Public Place	\$200
5.13	Discharge water from excavation site to a Street, Public Place, or Sewer System (without approval)	\$1000
5.14	Painting, damaging, cutting away, breaking or removing portions of gutter, curb or Sidewalk	\$250
5.15	Allow storm water / roof drainage to be directed onto street	\$200
5.16	Failure to remove snow and/or ice from Sidewalk	\$200 – 1st Offence \$400 – 2 nd Offence, and any further offences, within 365 days of 1 st Offence

5.17	Place ice/snow/dirt/debris from sidewalk onto public place other than roadway	\$200
5.19	Fail to keep awning or other projection over sidewalk free from snow or ice	\$200
5.20	Fail to prevent or remove ice formed on sidewalk by water dripping from awning/projection	\$200
6.1	Unauthorized activity on Street or Public Place	\$200
6.3	Climb on/damage/deface/destroy/remove public property	\$200
6.4 (a)	Have fire in Public Place, outside of provided receptacle	\$200
6.4 (b)	Leave fire unattended in Public Place	\$200
6.4(c)	Disobey a directive sign in a Public Place used as a park or recreational area	\$200
6.5	Tamper with a life saving device	\$200
6.6	Unauthorized obstruction over or across any portion of a Street or Public Place	\$200
6.7	Tampering with or removing a manhole or valve cover	\$400
6.8	Unauthorized placement of Advertising Matter on Street or Public Place	\$200
6.9	Attach bicycle/other object to Town property where unauthorized	\$200
6.10	Unauthorized placement of Signs	\$200
6.13	Construct/Maintain door/gate that obstructs use of Street or Public Place	\$200
6.15	Operate Machinery or equipment with lugs, cleats or tracks	\$500
6.16	Panhandling	\$100

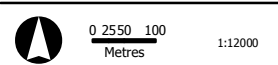
Bylaw 124 - Street and Public Place Use

Schedule B - Map of Roads

Page 1 of 5

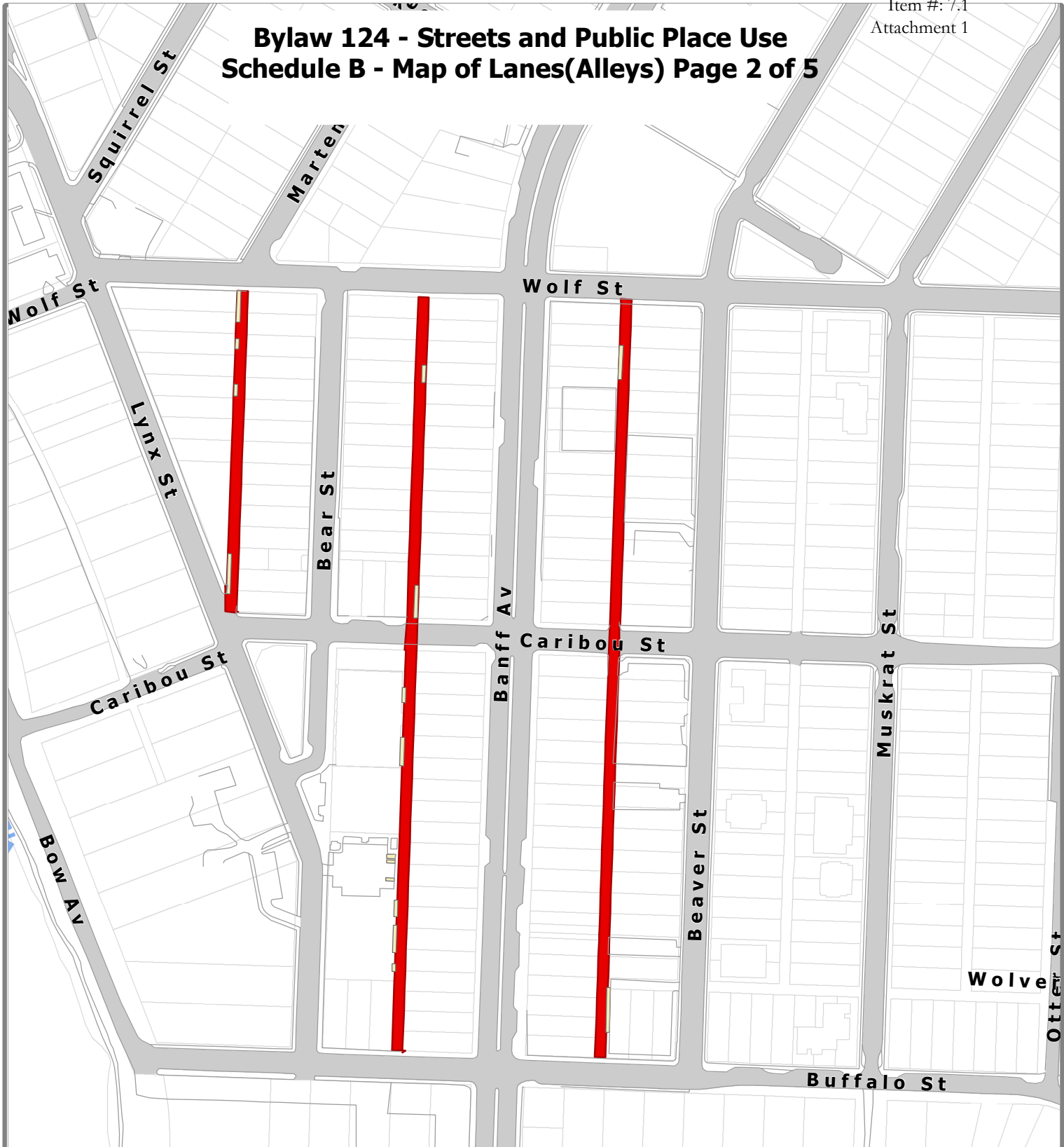


Roads in Red: Required to maintain 4 metres of unobstructed width
All Others: Required to maintain 3.5 metres of unobstructed width (See page 4 of 5 for details)



Date Created: July 2006
Projection : UTM ZONE 11

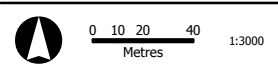
Bylaw 124 - Streets and Public Place Use Schedule B - Map of Lanes(Alleys) Page 2 of 5



Commercial Lanes: As Identified in Red Required to maintain 3.5 metres of unobstructed width

Residential : All Other Lanes
Required to maintain 3 metres of unobstructed width

(See page 5 of 5 for details)

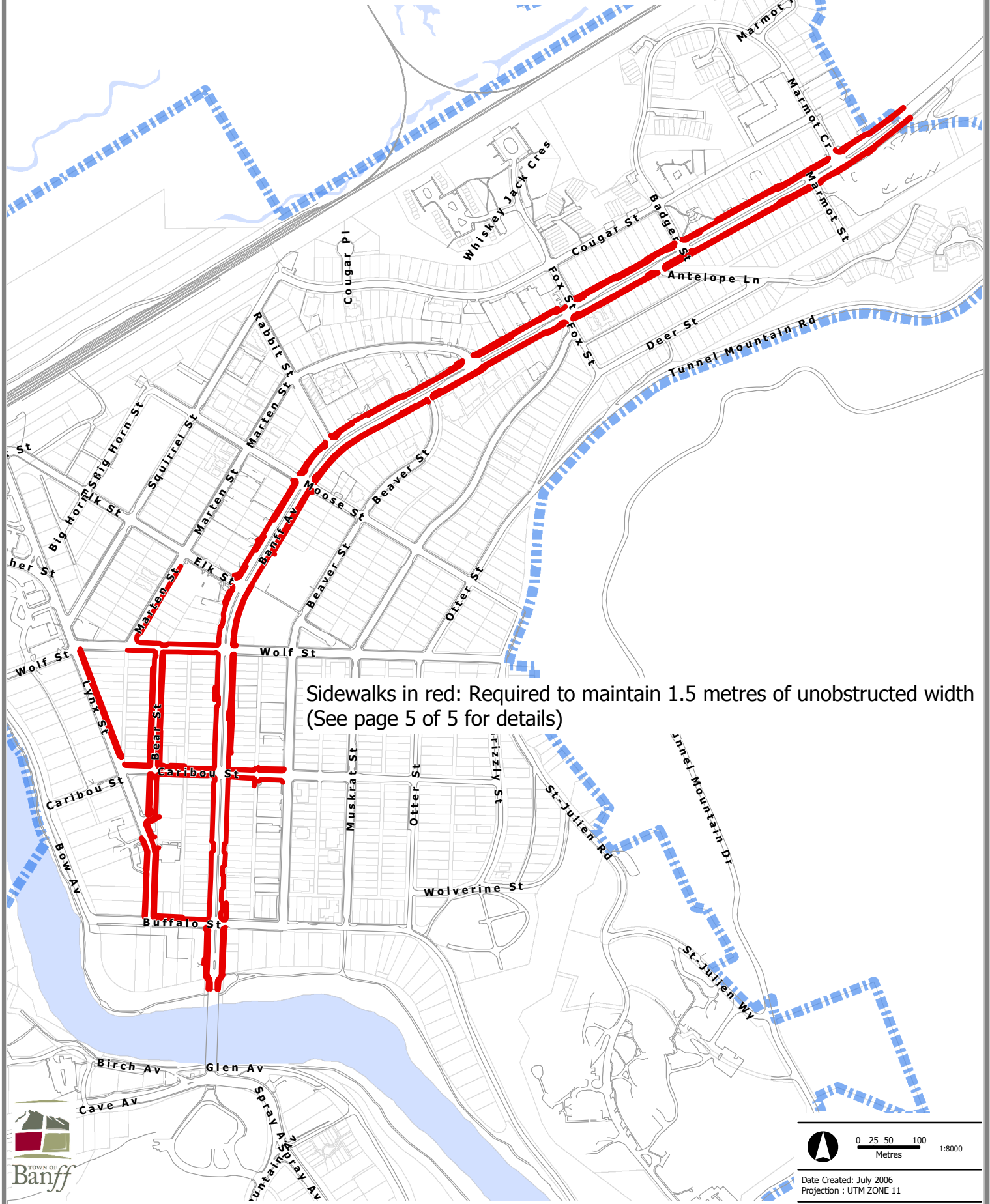


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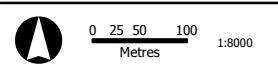
Bylaw 124 - Streets and Public Place Use

Schedule B - Map of Sidewalks

Page 3 of 5



Sidewalks in red: Required to maintain 1.5 metres of unobstructed width
(See page 5 of 5 for details)

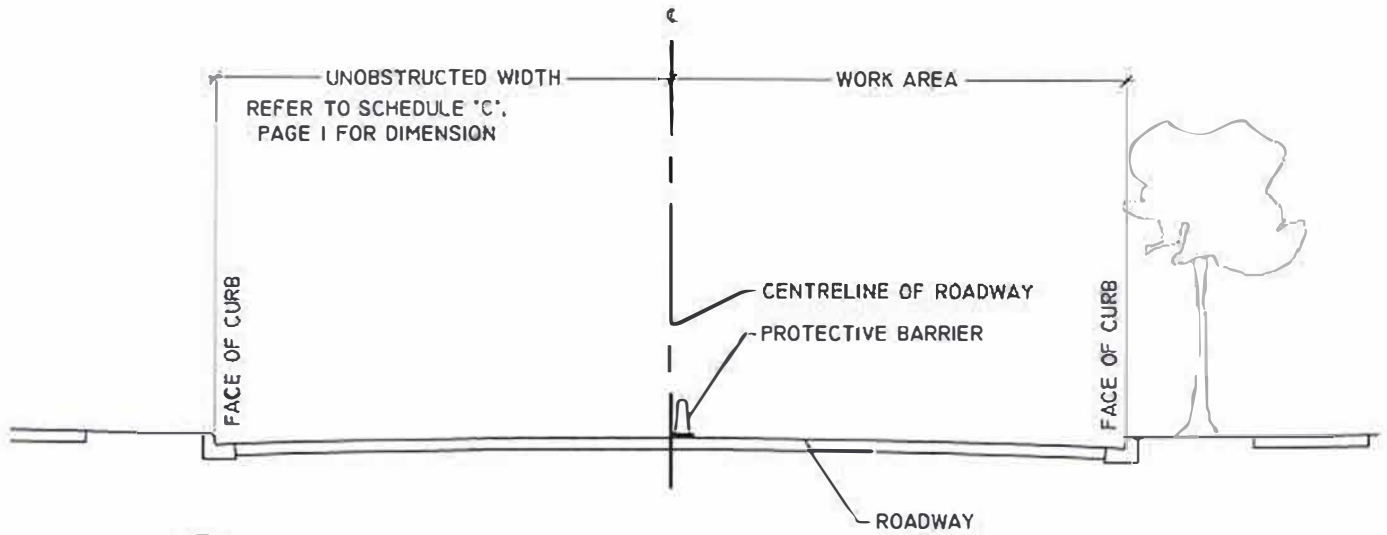


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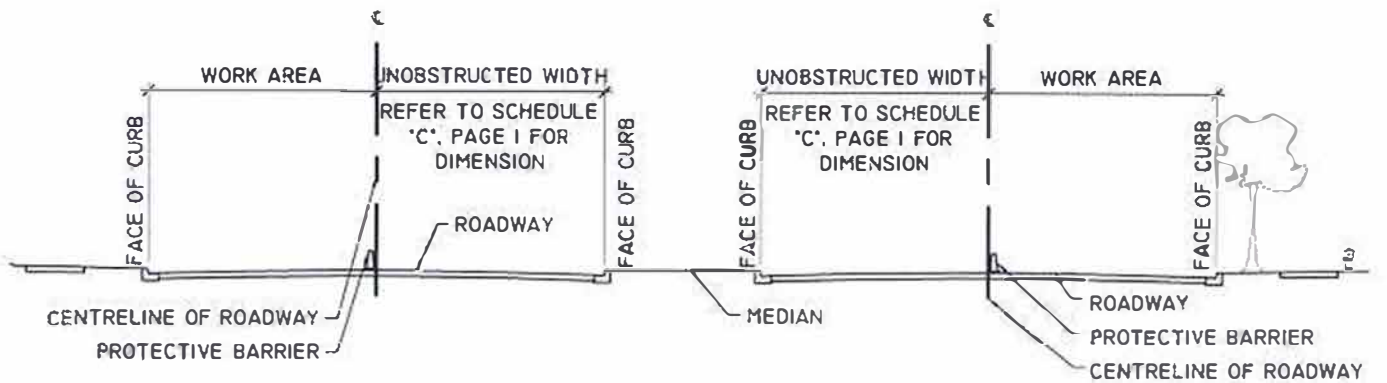
Bylaw 124 - Street and Public Place Use

Schedule B - Road Unobstructed Width Diagrams

Page 4 of 5



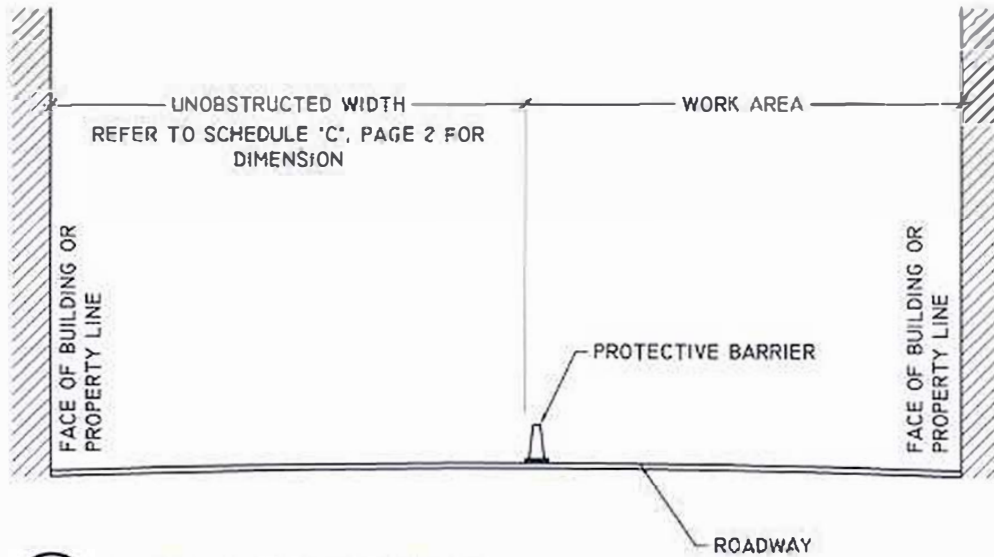
1
4 5
ROADWAY UNOBSTRUCTED WIDTH
SCALE NTS



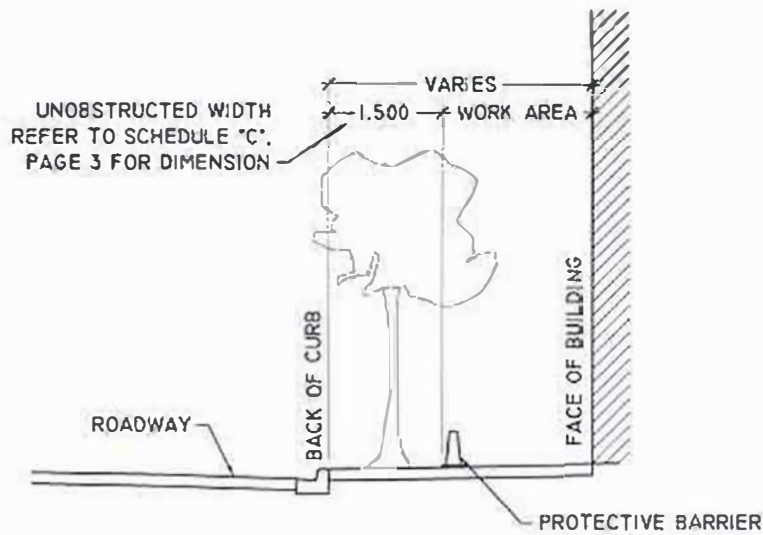
2
4 5
ROADWAY WITH MEDIAN
SCALE NTS

Bylaw 124 - Street and Public Place Use
Schedule B - Alley and Sidewalk Unobstructed Width Diagrams
 Page 5 of 5

Item #: 7.1
 Attachment 1

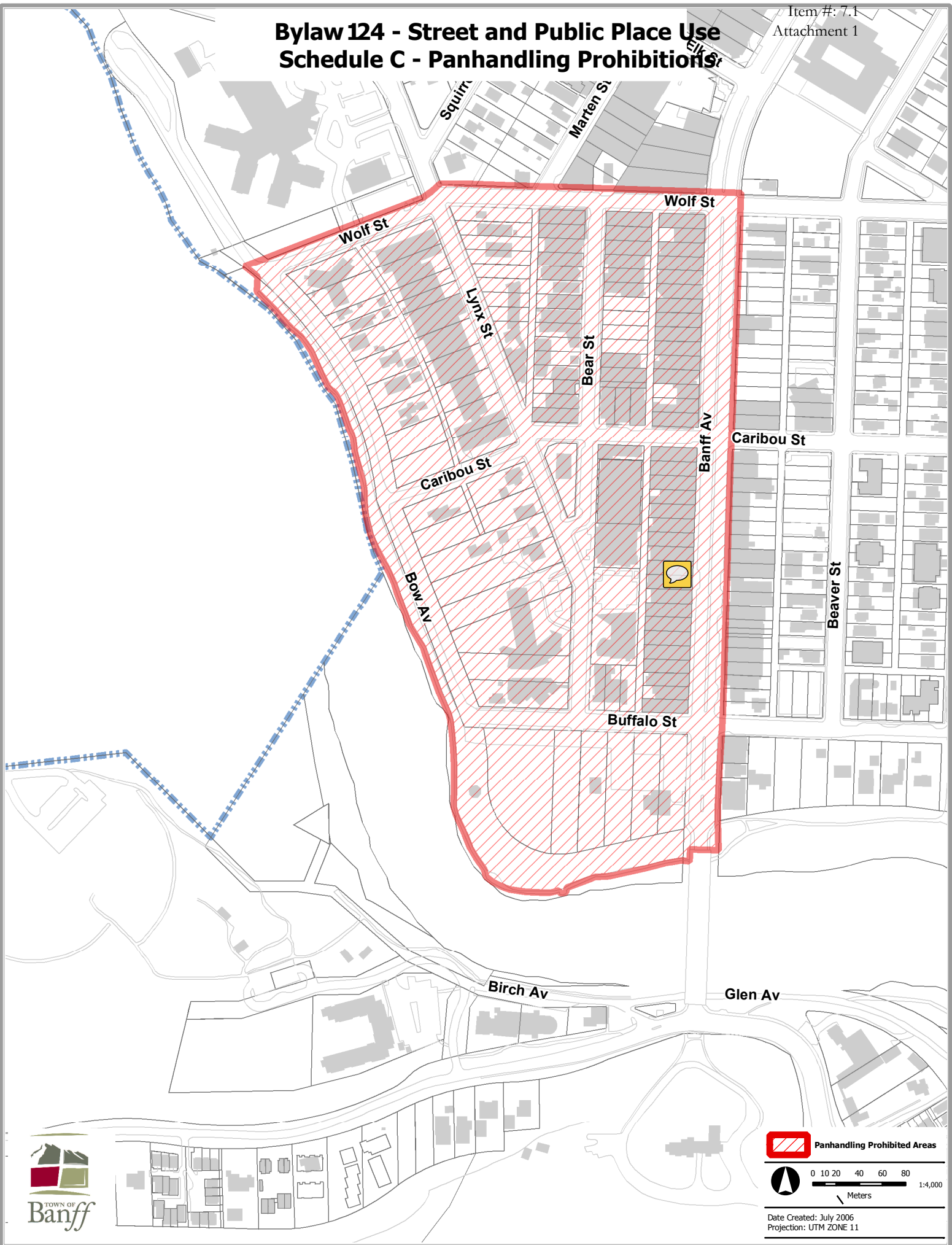


1
 5 5
ALLEY UNOBSTRUCTED WIDTH
 SCALE NTS

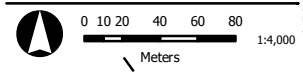


2
 5 5
SIDEWALK UNOSBTRUCTED WIDTH
 SCALE NTS

Bylaw 124 - Street and Public Place Use Schedule C - Panhandling Prohibitions



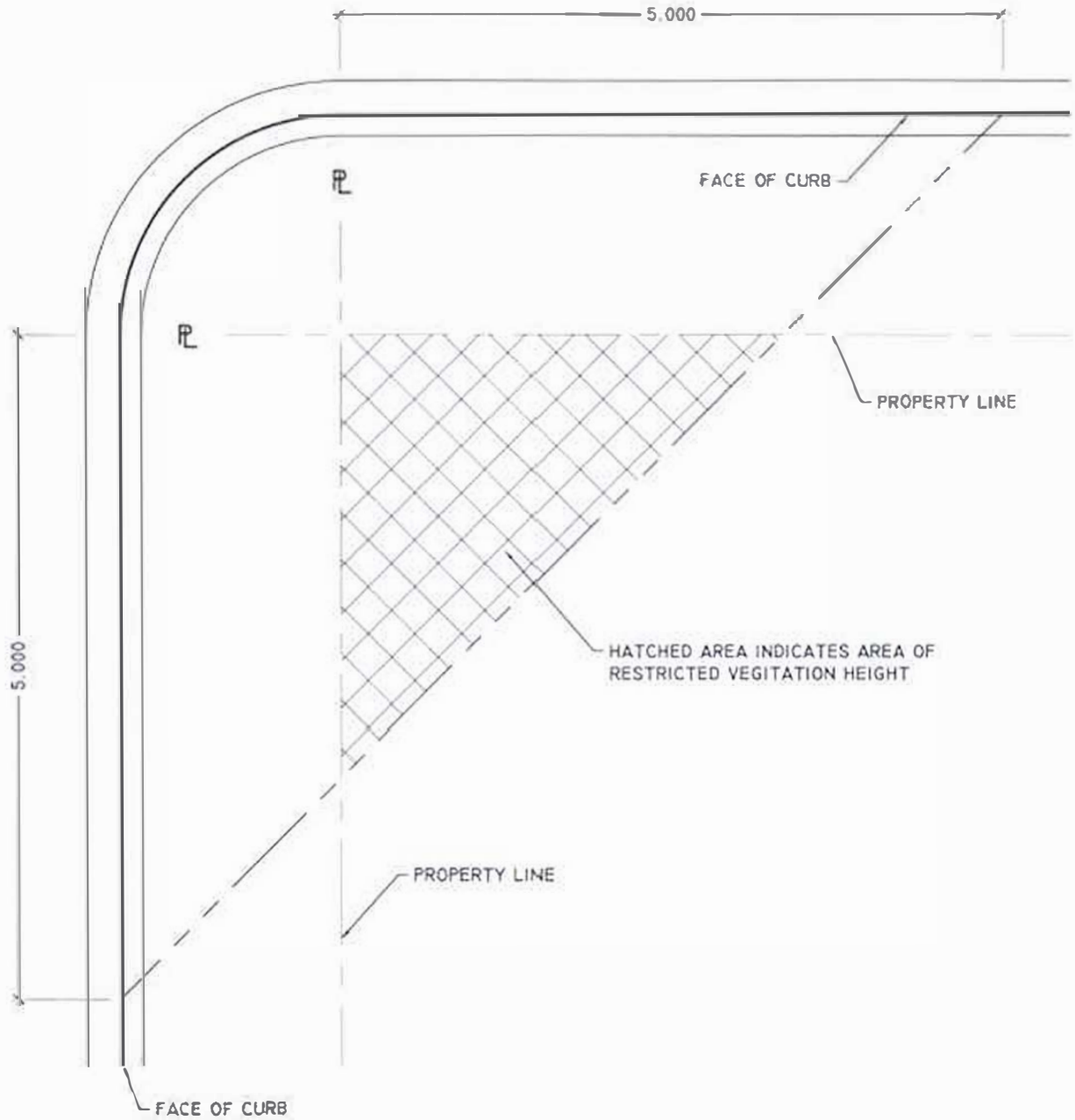
 Panhandling Prohibited Areas



Date Created: July 2006
Projection: UTM ZONE 11

Bylaw 124 - Street and Public Place Use Schedule D - Vegetation Height Diagram

Item #: 7.1
Attachment 1



AREA OF RESTRICTED VEGETATION HEIGHT
SCALE NTS