



CITY OF MOOSE JAW

General Penalty and Enforcement Bylaw

Bylaw No. 5221

Date of Passage July 12, 2004
(effective date July 12, 2004)

Disclaimer:

This information has been provided solely for research convenience. Official bylaws are available at the Office of the City Clerk and must be consulted for purposes of interpretation and application of the law.

BYLAW NO. 5221

A BYLAW OF THE CITY OF MOOSE JAW TO PROVIDE FOR THE ENFORCEMENT OF THE BYLAWS OF THE CITY OF MOOSE JAW AND FOR THE IMPOSITION OF PENALTIES IN THE EVENT OF CONTRAVENTIONS OF SUCH BYLAWS

WHEREAS section 8 of *The Cities Act*, S.S. 2002, c. C-11.1, provides, in part, as follows:

“8(1) A city has a general power to pass any bylaw for city purposes that it considers expedient in relation to the following matters respecting the city:

- (a) peace, order and good government of the city;
- (b) the safety, health and welfare of people and the protection of people and property;
- (c) people, activities and things in, on or near a public place or place that is open to the public;

(2) A city has the power to make bylaws respecting the enforcement of bylaws made pursuant to this or any other Act, including any or all of the following:

- (a) creating offences, including continuing offences;
- (b) for each offence committed by an individual, imposing a fine not exceeding \$10,000 or providing for imprisonment for not more than one year, or both;
- (c) for each offence committed by a corporation, imposing a fine not exceeding \$25,000 or providing for imprisonment of the directors of the corporation for not more than one year, or both;

(e) providing for the imposition of a penalty for an offence that is in addition to a fine or imprisonment so long as it relates to a fee, cost, rate, toll or charge that is associated with the conduct that gives rise to the offence;

(f) providing that a specified penalty is reduced by a specified amount if the penalty is paid within a specified time;

(h) providing that a person who contravenes a bylaw may pay an amount established by bylaw within a stated period and that, if the amount is paid, the person will not be prosecuted for the contravention;

(i) providing for inspections to determine if bylaws are being complied with;”

AND WHEREAS it is deemed expedient and in the public interest to provide for the enforcement of the Bylaws of the City of Moose Jaw and for the imposition of penalties in the event of contravention of such bylaws;

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CITY OF MOOSE JAW ENACTS AS FOLLOWS:

Short Title

1. This bylaw may be cited as the General Penalty and Enforcement Bylaw.

Purpose and Application

- 2(1) The purpose of this Bylaw is to provide for the enforcement of bylaws of the City of Moose Jaw and to establish penalties for contravention of such bylaws.
- (2) The penalties and enforcement procedures in this Bylaw shall apply with respect to any contravention of any bylaw of the City of Moose Jaw, unless a different penalty or procedure is otherwise specified in another bylaw.

Definitions and Schedules

3(1) In this bylaw, in any amending bylaws, and in any schedules attached hereto, the following words and terms shall have the following meanings unless there is something in the subject matter inconsistent therewith:

- (a) the term “**Bylaw Enforcement Officer**” means the persons appointed pursuant to section 4 to enforce the bylaws of the City of Moose Jaw;
- (b) the word “**City**” means the Municipal Corporation of the City of Moose Jaw or, where the context requires, the geographical area within the city limits of the City of Moose Jaw;
- (c) the term “**City Manager**” means the person appointed by Council of the City of Moose Jaw as the Manager of the Municipal Corporation of the City of Moose Jaw and includes his/her duly authorized representative or designate;
- (d) the term “**directors of the corporation**” means the person or persons who are members of the managing board of a company or corporation and, without limiting the generality of the foregoing, include the following:
 - (i) any person shown as a director or officer of a corporation in the profile report for that corporation from the corporate registry of the Corporations Branch of Saskatchewan Justice; and

- (ii) any person named on a **business** license issued to a company or corporation by the City of Moose Jaw for the term of that license;
 - (e) the term “**Fire Chief**” means the person appointed by the City Manager as the designated head of the Fire Department of the City of Moose Jaw and includes his/her duly authorized representative or designate;
 - (f) the word “**Summons**” means a summons within the meaning of the *Criminal Code of Canada*, R.S., c.C-34.
- (2) The words and terms defined for purposes of this Bylaw shall apply with respect to, and aid in the interpretation of, any other bylaws of the City of Moose Jaw unless that word or term, as the case may be, is already defined in such other bylaw, in which case, the definition of that bylaw shall apply.
- (3) The following schedules, appendixes and forms are attached to, and form part of, this Bylaw:
- Form “1” Information.
 - Form “2” - Modified Criminal Code Summons (Front & Back).

Bylaw Enforcement Officers

- 4(1) The following persons are hereby appointed as Bylaw Enforcement Officers for the City of Moose Jaw and, for such purposes, are deemed to be designated officers pursuant to section 324 of *The Cities Act* for the purposes of inspecting places and premises:
- (a) a peace officer within the meaning of the *Criminal Code of Canada*, R.S., c.C-34;
 - (b) a person employed or retained by the City of Moose Jaw and appointed by the Fire Chief as a Fire Prevention Officer for the City of Moose Jaw;
 - (c) a person employed or retained by the City of Moose Jaw and appointed by the City Manager as a Building Inspector for the City of Moose Jaw;
 - (d) a person employed or retained by the City of Moose Jaw and appointed by the City Manager as a Bylaw Enforcement Officer for the City of Moose Jaw.

(2) The persons appointed pursuant to subsection (1) may represent the City of Moose Jaw before a justice of the peace or provincial court judge in the prosecution of anyone who is charged with a contravention of any bylaw of the City of Moose Jaw.

(3) Bylaw Enforcement Officers are entitled, while performing the duties of their office, to all the protection to which peace officers are entitled pursuant to the Criminal Code of Canada.

Inspections

5(1) Subject to the provisions of this Bylaw, a Bylaw Enforcement Officer is authorized to inspect any property or premises in or adjacent to the City of Moose Jaw to determine if any bylaw of the City of Moose Jaw is being complied with or contravened, as the case may be.

(2) All Bylaw Enforcement Officers appointed pursuant to the authority of this Bylaw, during the term of their appointment, are designated for the purpose of conducting inspections within the meaning of section 324 of The Cities Act and all inspections conducted pursuant to the authority of this Bylaw shall be carried out in accordance with the provisions of this Bylaw and The Cities Act.

(3) Subject to subsection (4) and (5), for purposes of inspection, a Bylaw Enforcement Officer may enter and inspect any property during daylight hours or any business premises during normal business hours, with or without the consent of the owner or occupant of that property or premises.

(4) In the event the owner or occupant of a property or premises that is the subject matter of an inspection asks or directs a Bylaw Enforcement Officer to leave, that officer and any person assisting that officer shall promptly and directly exit that property or premises, as the case may be.

(5) No Bylaw Enforcement Officer shall enter a dwelling house or any other building or structure located on residential property without the consent of the owner or occupant of that property.

(6) In the event a Bylaw Enforcement Officer is refused access or entry to any property or premises pursuant to subsections (4) or (5), that Officer may apply to a

justice of the peace or a provincial court judge for a warrant pursuant to section 325 of *The Cities Act*.

Obstruction prohibited

6(1) No person shall obstruct a Bylaw Enforcement Officer or any person assisting a Bylaw Enforcement Officer while conducting an inspection pursuant to section 5.

(2) Every person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to such penalty or penalties as may be determined by provincial court judge.

False statements prohibited

7(1) No person shall knowingly make a false or misleading statement to a Bylaw Enforcement Officer or produce a false document or thing to a person who is acting pursuant to the authority of a bylaw of the City of Moose Jaw.

(2) Every person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to such penalty or penalties as may be determined by provincial court judge.

Notice of violation

8(1) Where a Bylaw Enforcement Officer has reasonable and probable grounds to believe that an offence has been committed contrary to a bylaw of the City of Moose Jaw and where no other enforcement procedure has been set forth, the Bylaw Enforcement Officer may lay an information under oath as to the offence before a Justice of the Peace for the purpose of obtaining a Summons.

(2) The Information shall be in the form or substantially in the form of Form 1.

(3) The Summons shall be in the form or substantially in the form of Form 2 and shall be issued by a Justice of the Peace.

(4) In the event a Summons is issued pursuant to subsection (3), a copy of the Information and the Summons shall be served on the accused by a peace officer or other authorized person.

General penalty

9(1) Every person who contravenes any provision of a bylaw of the City of Moose Jaw is guilty of an offence and liable on summary conviction:

(a) in the case of an individual, to a fine not exceeding \$2,000 and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for each day during which the offence continues;

(b) in the case of a corporation, to a fine not exceeding \$5,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for each day during which the offence continues.

(2) The Court may, in default of payment of a fine imposed under this or any other Bylaw of the City of Moose Jaw, order imprisonment of an individual or director of a corporation for a term not exceeding one (1) year.

Penalties in addition to fines

10. If a person is found guilty of an offence against any bylaw of the City of Moose Jaw, the court may, in addition to a fine, impose an additional penalty so long as the penalty relates to a fee, cost, rate, toll or charge that is associated with the conduct that gives rise to the offence.

Order for compliance in addition to fines and penalties

11(1) If a person is found guilty of an offence against any bylaw of the City of Moose Jaw, the court may, in addition to any other penalty imposed, order the person to comply with the bylaw or a licence, permit or other authorization issued under the bylaw, or a term or condition of any of them.

(2) A person to whom an order is made pursuant to subsection (1) who fails to comply with that order within the time specified by the court is guilty of an offence and liable on summary conviction:

(a) in the case of an individual, to a fine not exceeding \$10,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for each day during which the non-compliance continues;

(b) in the case of a corporation, to a fine not exceeding \$25,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for each day during which the non-compliance continues.

Coming into force

12. This Bylaw shall come into force on the day of its final passing.

PASSED AND ENACTED ON THE 12th DAY OF JULY, A.D. 2004.

(Sgd.) "Al Schwinghammer"
MAYOR

(Sgd.) "Steven D. Schiefner"
CITY CLERK

READ a first time the 12th day of July A.D. 2004

READ a second time the 12th day of July A.D. 2004

READ a third time the 12th day of July A.D. 2004

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FORM "1"

Bylaw No. 5221, the General Penalty and Enforcement Bylaw

Information

INFORMATION

Information No. _____

Ticket No. _____

Canada }
Province of Saskatchewan } **ON BEHALF OF HER MAJESTY THE QUEEN**
Provincial Court, City of Moose Jaw }

THIS IS THE INFORMATION OF [insert name, address and occupation of informant]

(hereinafter called the Informant). The informant says that he/she has reasonable and probable grounds to believe and does believe that:

[insert name, address and birth date of accused] did;

on or about the _____ day of _____, A.D. _____ at the City of Moose Jaw, in the Province of Saskatchewan, commit the following offence:

[insert description of offence]

contrary to the provisions of the _____, being Bylaw No. _____ of the said City.

AND FURTHER the Informant says that a Notice of Violation for the above captioned offence was issued and that no payment has been received in accordance with the instructions contained in the said Notice.

SWORN BEFORE ME this _____ day of _____ A.D. _____, at Moose Jaw in the Province of Saskatchewan.

Signature of Informant

A JUSTICE OF THE PEACE IN AND FOR THE
PROVINCE OF SASKATCHEWAN

FORM "2"

Bylaw No. 5221, the General Penalty and Enforcement Bylaw

Modified Criminal Code Summons (Front)

**SUMMONS TO A PERSON
CHARGED WITH A VIOLATION**

Ticket No. _____

Canada }
Province of Saskatchewan } **ON BEHALF OF HER MAJESTY THE QUEEN**
Provincial Court, City of Moose Jaw }

TO _____ Date of Birth: ____/____/____

WHEREAS YOU HAVE THIS DAY BEEN CHARGED BEFORE ME that, on or about the ____ day of _____, A.D. _____ at the City of Moose Jaw, in the Province of Saskatchewan, you did commit the following offence:

contrary to the provisions of the _____, being Bylaw No. ____ of the said City.

YOU ARE COMMANDED, IN HER MAJESTY'S NAME:

(1) to appear before the presiding judge of **The Provincial Court of Saskatchewan at 110 Ominica Street West, Moose Jaw, Saskatchewan**, on the ____ day of _____ A.D. _____ at ____ o'clock in the ____ noon (Moose Jaw Time) or before any justice for the said Province who is there, and to attend thereafter as required by the Court in order to be dealt with according to law; and

YOU ARE WARNED THAT FAILURE WITHOUT LAWFUL EXCUSE TO ATTEND COURT IN ACCORDANCE WITH THIS SUMMONS IS AN OFFENCE UNDER SUBSECTION 145(4) OF THE CRIMINAL CODE (CANADA).

DATED this ____ day of _____ A.D. _____, at Moose Jaw in the Province of Saskatchewan.

A JUSTICE OF THE PEACE IN AND FOR THE
PROVINCE OF SASKATCHEWAN

FORM "2", continued

Bylaw No. 5221, the General Penalty and Enforcement Bylaw

Modified Criminal Code Summons (Back)

**SUMMONS TO A PERSON
CHARGED WITH A VIOLATION**

PAYMENT AND OTHER INSTRUCTIONS

1. You are warned that failure, without lawful excuse, to attend court in accordance with this summons is an offence under subsection 145(4) of the Criminal Code (Canada), which provides as follows:
 - “(4) Every one who is served with a summons and who fails, without lawful excuse, the proof of which lies on him, to appear at a time and place stated therein, if any, for the purposes of the Identification of Criminals Act (Canada) or to attend Court in accordance therewith, is guilty of:
 - (a) an indictable offence and is liable to imprisonment for a term not exceeding two years; or
 - (b) an offence punishable on summary conviction.”
2. For enquiries, please contact the Moose Jaw Police Service at 694-7660.