

CITY OF NANAIMO
BYLAW NO. 7109

A BYLAW TO REGULATE STREET ENTERTAINERS IN THE CITY OF NANAIMO

WHEREAS Council recognizes that the arts, which include talented Street Entertainers, contribute to a vibrant and healthy urban environment;

AND WHEREAS Council wishes to provide for a regulatory scheme that is designed to encourage performance by talented Street Entertainers under conditions that minimize the potential for conflict and nuisance to the public and other people living and working in areas where Street Entertainers perform;

AND WHEREAS Council is authorized, under the *Community Charter*, to regulate business and the use of highways and other public places within the City of Nanaimo;

AND WHEREAS Council is authorized, under the *Community Charter*, to regulate, prohibit and impose requirements in relation to the protection and enhancement of the well-being of its community.

THEREFORE BE IT RESOLVED that the Council of the City of Nanaimo in open meeting assembled, ENACTS AS FOLLOWS:

1. TITLE

This Bylaw may be cited for all purposes as "STREET ENTERTAINERS REGULATION BYLAW 2011 NO. 7109".

2. INTERPRETATION

In this bylaw, unless the context otherwise requires:

City	means the City of Nanaimo
Dangerous props	means items used by a Street Entertainer or Street Entertainer Group during a performance that would constitute a threat to public safety or cause injury to members of the public including, but not limited to, swords, knives, fire and chainsaws
Director	for the purpose of this bylaw, means the person appointed as Director of Development from time to time and includes any person appointed or designated by the Director to act on his behalf
Entertainer Location	means locations set out on the Street Entertainer Location maps attached to this bylaw as Schedule "A" indicating where Street Entertainers may perform in accordance with this bylaw
Nanaimo Port Authority	a corporation continued by Letters Patent under the <i>Canada Marine Act, S.C. 1998, CH 10</i>

Non-Acoustical Musical Instrument	means a musical instrument that cannot produce a musical sound without amplification
Peace Officer	includes a member of the Royal Canadian Mounted Police and a Bylaw Enforcement Officer appointed from time to time by Resolution of Council
Restricted Entertainer Location	means a location where music or noise from any performance, amplified or not, that creates sound audible beyond 75 metres from that location is prohibited. Restricted Entertainer Locations are set out on the Street Entertainers location maps attached to this bylaw as Schedule "A".
Special Event	means, where permitted verbally or in writing by the City or the Nanaimo Port Authority, an activity or event undertaken in a public place including, but not limited to, a festival, concert, carnival, sport or other competition, tournament, derby, wedding, group picnic, group celebration, procession, performance, exhibition, ceremony, organized gathering or social, recreational event, convention, workshop, meeting, sales event, kiosk or concession.
Street Entertainer	includes a musician or performer who entertains the public in or adjacent to a highway or other place open to the public and who receives or has an expectation of receiving a gratuity or other donation from one or more members of the public.
Street Entertainment Group	includes two or more Street Entertainers who entertain the public as a group in or adjacent to a highway or other place open to the public and who receives or has an expectation of receiving a gratuity or other donation from one or more members of the public.
Street Entertainment Permit	means a permit issued under Section 3 of this bylaw to a Street Entertainer or Street Entertainment Group
Unrestricted Entertainer Location	means a location where music or noise from any performance, amplified or not, that creates sound audible beyond 75 metres from that location is permitted.. Unrestricted Entertainer Locations are set out on the Street Entertainers location maps attached to this bylaw as Schedule "A".

3. PERMIT REQUIREMENTS

Permits

- (1) Street Entertainer Permits shall be issued to individuals or, in the case of a Street Entertainment Group, to one individual of that group.
- (2) Each permitted Street Entertainer and each individual in a Street Entertainment Group will be issued with an identification badge which must be clearly displayed to the public while the Street Entertainer or Street Entertainment Group is performing.

- (3) Each Street Entertainment Group will have all group members endorsed on the permit.
- (4) Each Street Entertainment Group may only entertain when two or more individuals endorsed on the permit are performing together.
- (5) A Street Entertainer Permit will be valid for twelve (12) months from the date of issue.
- (6) Each Street Entertainer or Street Entertainment Group shall pay Street Entertainer Permit fees as prescribed in Schedule "B" attached to and forming part of this bylaw.
- (7) Despite any Street Entertainer Permit issued or anything in this bylaw, the Director or a Peace Officer may, at any time, with or without written notice, require a Street Entertainer or Street Entertainment Group to vacate an entertainer location to accommodate:
 - (a) a Special Event; or
 - (b) operational or emergency activities or works related to services or lands of the City or the Nanaimo Port Authority such as, but not limited to, maintenance, closures, repairs, installations or construction or other safety or emergency planning activities carried out by the City of Nanaimo or Nanaimo Port Authority
- (8) The permission to use the Entertainer Locations located on the Nanaimo Port Authority property granted in each Street Entertainer Permit is subject to the rights of the Nanaimo Port Authority, in its sole discretion, to require a Street Entertainer or Street Entertainer Group to vacate those Entertainer Locations on its property.
- (9) As a condition of issuing a Street Entertainer Permit, each Street Entertainer or Street Entertainment Group must take part in an orientation, to be conducted by the City, of the Street Entertainer Locations and their use.
- (10) The Director may impose conditions on a Street Entertainment Permit for continuing to hold a Street Entertainment Permit where such conditions are related to the interference with or obstruction of vehicular or pedestrian traffic or any other public safety matter.

4. REGULATIONS

Permit

No person, Street Entertainer or Street Entertainment Group shall perform:

- (1) as a Street Entertainer without first obtaining a valid Street Entertainer Permit;
- (2) as part of a Street Entertainment Group without being endorsed on the permit;
- (3) as an individual if endorsed on a Street Entertainment Group, unless holding an individual Street Entertainer Permit.
- (4) without displaying the identification badge issued to the Street Entertainer or Street Entertainment Group;
- (5) while their Street Entertainer Permit or Street Entertainer Group Permit has been suspended;

Locations

No person, Street Entertainer or Street Entertainment Group shall perform:

- (6) in any location on public property within the City of Nanaimo except those Entertainment Locations identified in Schedule "A" of this bylaw.
- (7) in any restricted Entertainment Location where the human voice or musical instrument is audible beyond 75 meters;

Time

No person, Street Entertainer or Street Entertainer Group shall perform:

- (8) in any Entertainment Location before 10:00 am or after 10:00 pm seven days a week;
- (9) in any Entertainment Location for a single continuous time exceeding two (2) hours per day;
- (10) in any Entertainment Location on the same day where the same Street Entertainer or Street Entertainment Group has already performed or has vacated the location;
- (11) in "Diana Krall Plaza", as identified in Schedule "A1a", on more than one (1) Entertainment location on the same day.

Amplification

No person, Street Entertainer or Street Entertainer Group shall perform:

- (12) with any amplification except with non-acoustical instruments
- (13) with more than one amplifier
- (14) with any amplification other than with battery operated amplifiers that do not exceed 15 watts;
- (15) with any amplification that utilized more than one speaker at any restricted or unrestricted location;
- (16) with any amplification of the human voice at any restricted or unrestricted location;
- (17) with any amplification that is audible beyond 75 meters from any restricted entertainer location;

General

No person, Street Entertainer or Street Entertainer Group shall perform:

- (18) unless in compliance with all provisions of this bylaw;
- (19) without removing all litter and/or garbage generated by the performance;
- (20) if obstructing the free passage of pedestrian or permitted bicycle traffic in any way as determined by a Peace Officer;
- (21) if soliciting for money, verbally or otherwise, in any way other than having an open container for donations at the entertainer location;
- (22) and sell any recordings or other depictions of their own performances unless doing so during a performance at an entertainer location;
- (23) or continue to perform when directed by the Director or a Peace Officer to vacate an entertainer location;

- (24) at any entertainer location during or for the duration of any event that has been scheduled to take place by the City or any organization that has been permitted by the City to hold an event or rent a park, unless permitted to do so by the City or event organizer;
- (25) using profanity;
- (26) while consuming alcohol or illegal drugs or while under the influence of alcohol or illegal drugs during performances ;
- (27) using props in a manner that could injure or cause damage to a member of the public; or
- (28) using dangerous props

5. SUSPENSION OR CANCELLATION OF PERMIT

- (1) The Director is authorized to suspend or cancel the Street Entertainment Permit of any Street Entertainer or Street Entertainer Group where there is reasonable cause.
- (2) The Director is authorized to suspend or cancel the Street Entertainer Permit of any Street Entertainer or Street Entertainer Group who fails to comply with this bylaw or a condition of the Street Entertainer Permit on two occasions or more within any single twelve month period.
- (3) A Street Entertainer Permit issued to a Street Entertainment Group may be suspended or cancelled where one or more persons endorsed in that Street Entertainer Permit fails to comply with this bylaw or a condition of the Street Entertainer Permit on two occasions or more within any single twelve month period.
- (4) Street Entertainers and Street Entertainment Groups must pay all outstanding fines levied under this bylaw before a suspended Street Entertainer Permit will be reinstated.
- (5) If a Street Entertainer Permit is cancelled, a new application will not be accepted until after one year from the date of cancellation of the previous permit held by that Street Entertainer.
- (6) If a Street Entertainer Permit is cancelled, a new application will not be accepted until all outstanding fines levied under this bylaw are paid in full.

6. PENALTY

A person or persons who contravenes, violates or fails to comply with any provision of this bylaw, or who suffers or permits any act or thing to be done in contravention or violation of this bylaw, or who fails to do anything required by this bylaw, commits an offence and shall be liable, upon conviction, to a fine of not more than \$10,000.00 and not less than the fines prescribed in Schedule "C" of this bylaw, the cost of prosecution and any other penalty or order imposed pursuant to the *Community Charter* (British Columbia) or the *Offence Act* (British Columbia) as amended from time to time. Each day that an offence against this bylaw continues or exists shall be deemed to be a separate and distinct offence.

7. SCHEDULES

The schedules in this bylaw form part of the bylaw and are enforceable in the same manner as the bylaw.

8. SEVERABILITY

If any section or provision of this bylaw is held to be invalid by a court of competent jurisdiction, the invalid portion shall be severed and the validity of the remainder of the bylaw shall not be affected.

9. REPEAL

“STREET ENTERTAINERS REGULATION BYLAW 2004 NO. 5723” and amendments thereto are hereby repealed.

10. EFFECTIVE DATE

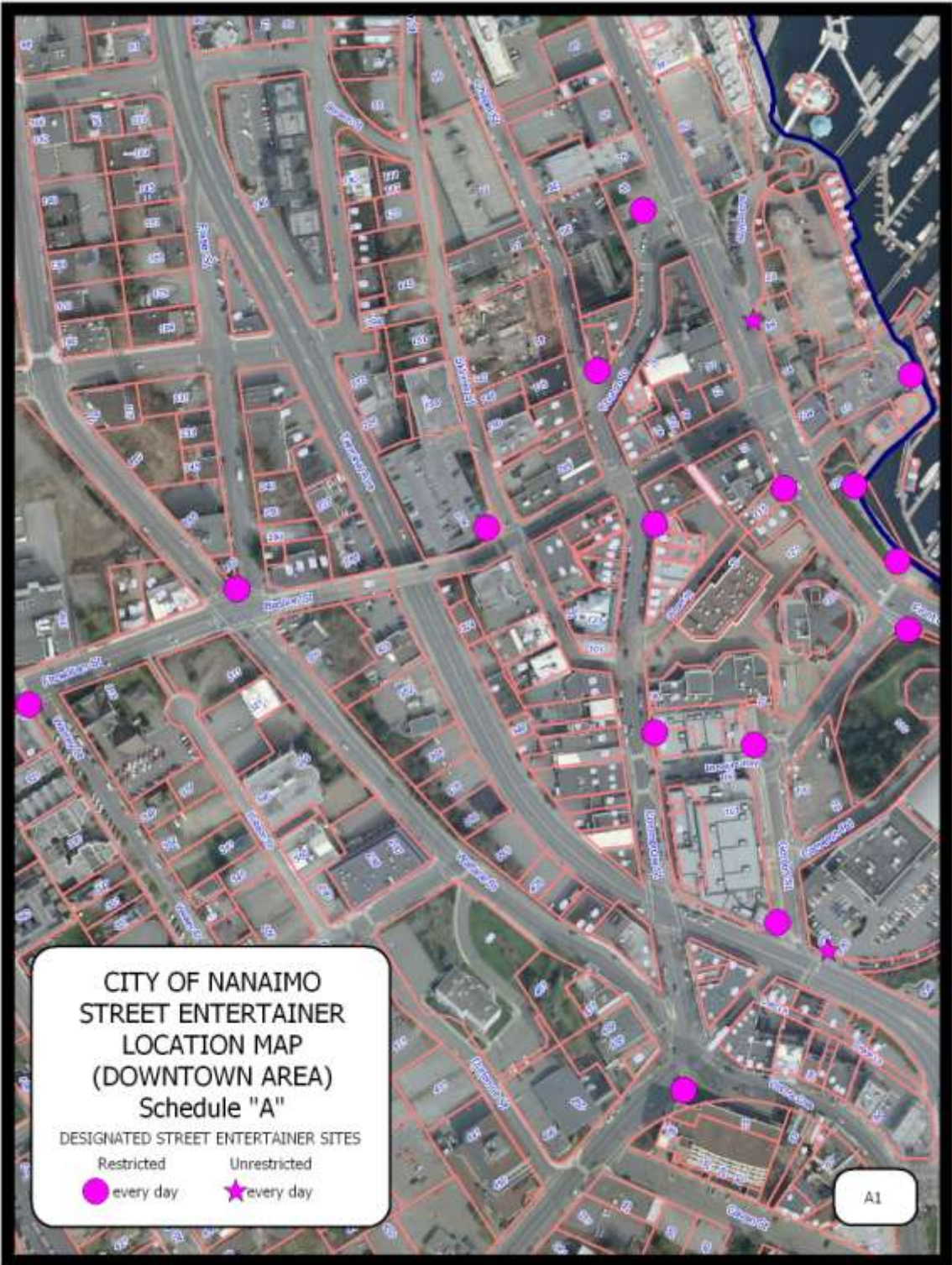
This bylaw comes into force and effect on

PASSED FIRST READING
PASSED SECOND READING
PASSED THIRD READING
ADOPTED

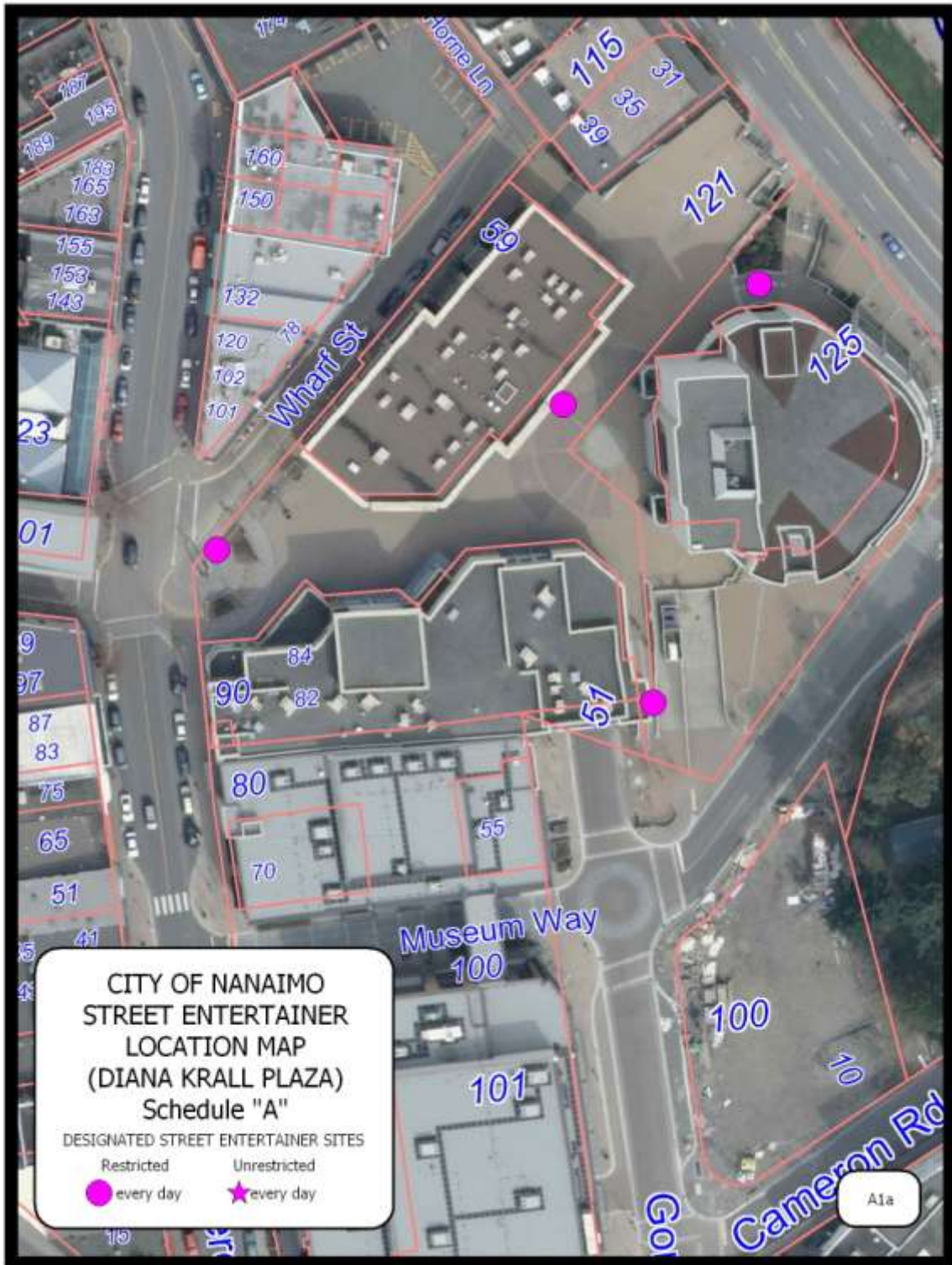
DRAFT

MAYOR

MANAGER
LEGISLATIVE SERVICES



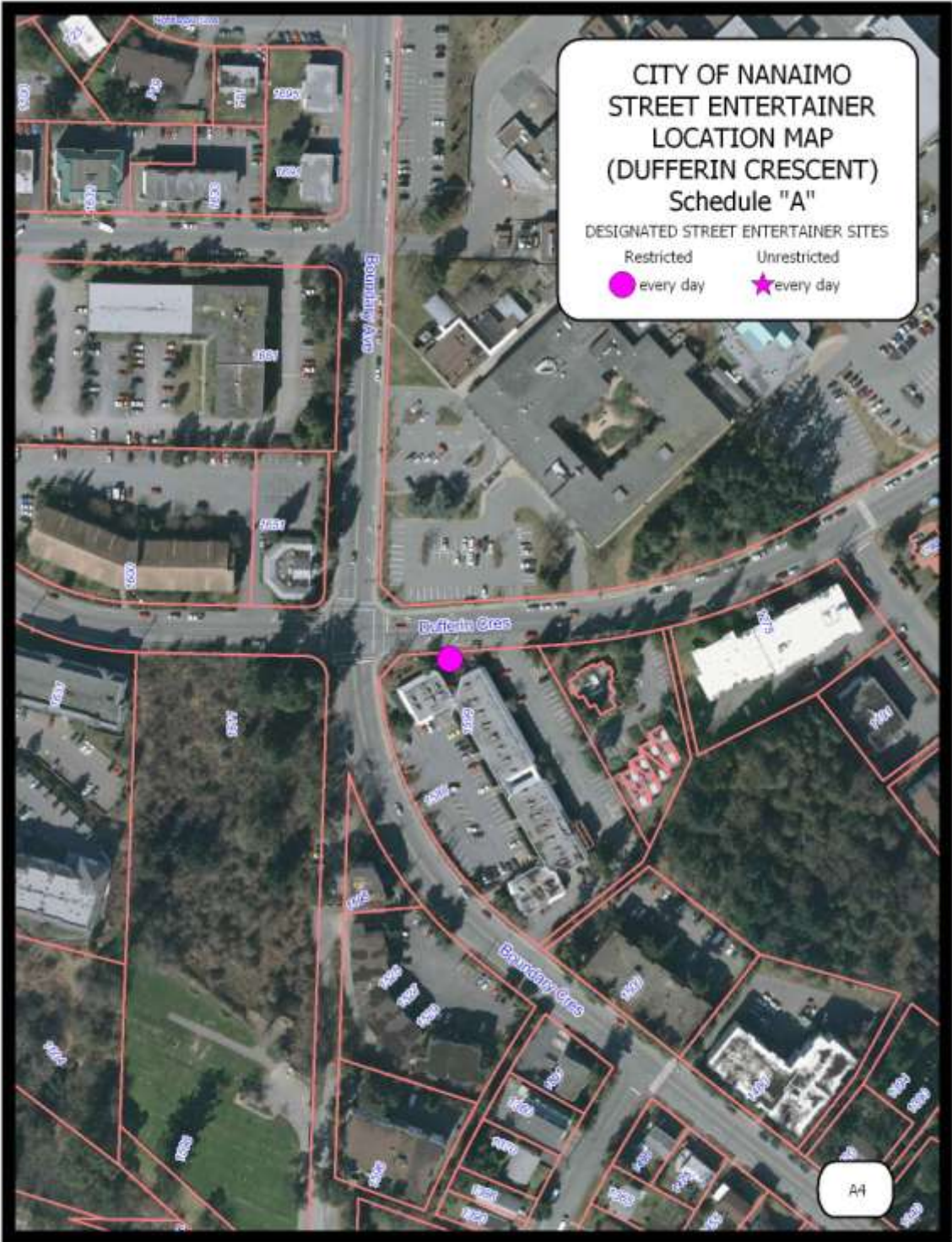
See A1a for Diana Krall Plaza



















SCHEDULE "B"
FEE SCHEDULE

Street Entertainer or Street Entertainment Group Permit	\$25.00
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SCHEDULE "C"
Fine Schedule

OFFENCE	SECTION	MINIMUM FINE
Perform without a Street Entertainer Permit	4.1	75.00
Perform without endorsement on permit	4.2	50.00
Perform as individual from Street Entertainer Group	4.3	50.00
Perform without displaying badge	4.4	50.00
Perform when permit is suspended	4.5	75.00
Perform in unauthorized location	4.6	50.00
Noise audible beyond 75 meters from a restricted location	4.7	50.00
Perform during prohibited time	4.8	50.00
Perform exceeding two hours	4.9	50.00
Perform in same location when prohibited	4.10	50.00
Perform in more than one location on same day	4.11	50.00
Amplify an acoustical instrument	4.12	50.00
Perform with more than one amplifier	4.13	50.00
Use amplifier that is not battery operated or is more than 15 watts	4.14	50.00
Amplify more than one speaker	4.15	50.00
Amplify voice during a performance	4.16	50.00
Amplification audible 75 meters from a restricted location	4.17	50.00
Fail to comply with bylaw	4.18	50.00
Fail to remove litter or garbage	4.19	50.00
Obstruct pedestrian or bicycle traffic	4.20	50.00
Solicit for money	4.21	50.00
Sell recordings other than at performance	4.22	50.00
Perform when directed to vacate	4.23	50.00
Perform during event where prohibited	4.24	50.00

Perform using profanity	4.25	50.00
Perform while using or under the influence	4.26	50.00
Perform in a dangerous manner	4.27	50.00
Perform with dangerous props	4.28	50.00

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