

## DISTRICT OF SALMON ARM

### BYLAW NO. 3102

#### **A bylaw governing licences and regulations for carrying on business**

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WHEREAS pursuant to Part 20 of the Local Government Act, Council may, by bylaw, regulate businesses, business activities and persons engaged in business;

AND WHEREAS it is deemed expedient to enact a bylaw to regulate businesses, business activities and persons engaged in business;

NOW THEREFORE the Council of the District of Salmon Arm, in open meeting assembled, enacts as follows:

#### **DIVISION 1 - DEFINITIONS**

In this bylaw all words and terms shall have their normal or usual meaning unless the context, the District of Salmon Arm Zoning Bylaw and the Sidewalk Vendors Bylaw, as amended from time to time, or the Local Government Act otherwise requires.

All definitions contained in the following bylaws shall apply to this bylaw in the same manner as if they were listed herein:

- "District of Salmon Arm Zoning Bylaw No. 2303" and amendments thereto
- "District of Salmon Arm Sidewalk Vendors Bylaw No. 2928" and amendments thereto

"BUSINESS" means the carrying on of a commercial or industrial undertaking of any kind or the providing of professional, personal, or other services for the purpose of receiving income or revenue, but does not include an activity carried on by a Municipal, Provincial or Federal Government, Crown Corporation, or a non-profit society.

"BUSINESS LICENCE INSPECTOR" means the official appointed for the purpose of enforcing and carrying out the provisions of this bylaw.

"CHIEF ADMINISTRATIVE OFFICER" means the person appointed by Council pursuant to Sections 197 and 198 of the Local Government Act.

"COUNCIL" means the Municipal Council of the District of Salmon Arm.

"DISTRICT" means the District of Salmon Arm or the area within the boundaries thereof as the context requires.

“EMPLOYEE” means a person in the service of another under any contract of hire, express or implied, oral or written, where the employer has the power or right to control and direct the employee in the material details of how the work is to be performed and shall include the principal owner/operator. For the purposes of calculation of business licence fees, at the time of application for a business licence, three part-time employees equate to one full-time employee.

## **DIVISION 2 - GENERAL REGULATIONS**

### **1. Appointment of Business Licence Inspector**

Pursuant to Section 154 of the Community Charter, Council shall appoint a Business Licence Inspector for the purpose of enforcing and carrying out the provisions of this bylaw.

### **2. Authority of Business Licence Inspector**

- a) The Business Licence Inspector shall classify and interpret each application for a business licence in accordance with the categories listed in the Business Licence Bylaw and the Fee for Service Bylaw.
- b) The Business Licence Inspector may grant a business licence if he or she is satisfied that the applicant has complied with the bylaws of the District of Salmon Arm regarding building, zoning, health, sanitation and business insofar as those bylaws impose requirements in respect of the business for which the licence application is made.
- c) An application for a business licence may be refused in any specific case, but
  1. The application must not be unreasonably refused, and
  2. The Council or designated officer must give reasons for the refusal.
- d) In the case of a refusal by a designate officer, the officer must notify the applicant of the right to a reconsideration by Council.
- e) The Council shall have the authority to suspend or cancel a licence pursuant to Section 660 of the Local Government Act for such period as he or she may determine appropriate and shall give notice of such suspension pursuant to Section 3.13. A person whose licence has been suspended may appeal the decision to Council pursuant to Section 3.14.

- f) The Business Licence Inspector shall have the authority to enter, at all reasonable times, upon any property subject to the regulations of this bylaw in order to ascertain whether such regulations are being observed.
- g) Before suspending or cancelling a business licence, Council must give the holder notice of the proposed action and an opportunity to be heard.

### **DIVISION 3 - REGULATIONS FOR ISSUING LICENCES**

#### **1. Licence Required**

No person shall carry on a business within the District without having obtained a valid business licence.

The soliciting of sales of any article, commodity or thing, or any agreement for the provision of any service shall require a business licence issued under the provisions of this bylaw.

#### **2. Licensing Period**

Except as otherwise provided, licences shall be granted for a one-year period, to commence on the first day of January and terminate on the 31st day of December in each and every year.

Where a new business commences operation after July 31<sup>st</sup> of any year, the annual rate will be reduced by fifty percent (50%).

#### **3. Licence Renewal**

Licence holders must renew their business licence by submitting the required business licence fee prior to the beginning of each licence period.

#### **4. Application Forms**

Every person applying for a licence or a transfer of licence shall complete the application form provided by the Development Services Department. Applications must be signed by the business owner or his duly authorized representative.

Information provided by this form may be subject to Freedom of Information and Protection of Privacy Act inquiries.

**5. False Declarations**

Any person making an application for a licence shall give true and correct details for the business that the licence is being applied for, on the application form supplied by the Business Licence Inspector. Any false declaration or concealment of material facts shall be deemed an infraction of this bylaw and shall be liable to the penalties set forth in Section 4.4.

**6. Licence Fee**

The business licence fees are those set forth in the Fee for Service Bylaw and amendments thereto. Paid licence fees are non-refundable. The applicant may, at his or her discretion, pay 50% of the annual fee on January 1 of each year and the remaining 50% on July 1 of each year.

**7. Form of Licence**

Every licence granted pursuant to this bylaw shall state that the holder is licensed to carry on the business stipulated in such licence in a lawful manner for the period specified in the licence at the place stated in the licence.

**8. Display of Licence**

Licences shall be permanently displayed at all times in the business area of the premise(s) for businesses which have public access. All other businesses shall produce the business licence certificate for public inspection when requested.

Businesses who have commercial vehicles shall have their name, address or telephone number affixed to a conspicuous place on both sides of the vehicle and shall be subject to the District of Salmon Arm Licensing of Commercial Vehicles Bylaw, as amended from time to time.

**9. Separate Licence**

- a) Where a business is carried on in or from more than one premise(s) in the District, the business carried on in or from each premise(s) shall be deemed to be a separate business and shall require a separate licence; notwithstanding if a premise is separated by a roadway, the premise shall be considered one premise and one business licence only shall be required.
- b) Where there is more than one separate and distinct business category located within the same premise(s), each separate and distinct business category shall have a separate licence, unless the ownership for the separate and distinct business are exactly the same.

- c) Where there is more than one distinct trade name operating within the same premise, each trade name shall have a separate licence.

#### **10. Change of Location, Name or Ownership**

Business licences are not transferable and no change of location, name or ownership shall be allowed without the licensee completing a new application for a business licence, submitting a fee in the amount specified in the Fee for Service Bylaw and being issued a new business licence.

#### **11. Notification of Suspension**

Where a licence has been suspended, pursuant to the Local Government Act, a "Notice of Suspension" shall be issued, in writing, to the licensee by the Business Licence Inspector, outlining the reasons for the suspension and shall be served on the licensee or delivered to the licensee by registered mail to the address of the business shown on the business licence application.

A "Notice of Suspension" of a licence may be posted by the Business Licence Inspector upon the premise(s) for which the licence was issued and such notice shall not be removed until the licence is reinstated, the former licensee ceases to occupy the premise(s), or a new business other than the one carried on by the licensee is started in the premise(s).

#### **12. Appeal Procedures**

Any person whose licence has been suspended or cancelled, or who has been refused a licence or who wishes to appeal the classification as given by the Business Licence Inspector, may appeal to Council by giving written notice to the Chief Administrative Officer of his or her intention to appeal. Such appeal shall state the grounds upon which the appeal is made. Council shall appoint a time and a place for the hearing of the appeal and may confirm or set aside such decisions made by the Business Licence Inspector, as it may deem appropriate.

#### **13. Revoking Licence**

- a) Council may revoke a licence, pursuant to the Local Government Act, for "reasonable cause" after giving notice to the licensee and after giving the licensee an opportunity to be heard.
- b) The notice and opportunity to be heard referred to in sub-section a) of this section is not required in respect to the licensee who by reasonable efforts cannot be found.

- c) A "Notice of Revocation" may be posted by the Business Licence Inspector upon the premise(s) for which the licence was issued and such notice shall not be removed until the licence is reinstated, the former licensee ceases to occupy the premises, or a new business other than the one carried on by the licensee is started in the premise(s).

**14. Notice of Hearing**

A notice of hearing to revoke a licence under Section 3.13 or after a refusal to issue a licence under Section 2.2 (b) or to consider the granting of a licence under Section 2.2 (c), shall be made in writing, outlining the time, date, and place of the hearing and the reasons for Council's consideration of a request to revoke or refuse the licence served on the licensees or delivered to the licensees by registered mail to the address shown on the application for the licence.

**15. Notification of Business Changes**

- a) Every holder of a licence shall notify the Business Licence Inspector of any change in the mailing, the business address and/or change in number of employees.
- b) Upon the termination of the business by the licence holder, the licensees shall notify the Business Licence Inspector that the licence is no longer required and shall surrender the licence to the Business Licence Inspector.
- c) Businesses that do not renew their business licence may be removed from the business licence file and be considered no longer in business where it has been determined by reasonable effort that the business is no longer active.

**16. Compliance with Other Enactments**

- a) Where any Federal/Provincial Act or Regulation or any other District Bylaw applies to any matter covered by this bylaw, the issuance of a business licence under the provisions of this bylaw shall not relieve the licensee from complying with the provisions of such other enactments.
- b) The issuance of a licence shall not be deemed to be a representation by the municipality to the licensee that the business or proposed business complies with any or all applicable bylaws or enactments. The business owner remains responsible to ensure compliance with all bylaws and enactments.

## **DIVISION 4 - REGULATIONS OF BUSINESS**

### **1. Street Vendors**

Sidewalk vendors shall comply with requirements of "District of Salmon Arm Sidewalk Vendors Bylaw No. 2928" as amended from time to time.

### **2. Arcades**

Arcades shall not be permitted to operate between the hours of 12:00 midnight and 9:00 a.m.

### **3. Carnival/Circus - Insurance**

A person applying for a licence to hold a carnival or circus on public property may be required by the Business Licence Inspector to obtain and maintain comprehensive general liability insurance in the amount of Two Million Dollars (\$2,000,000.00). The District shall be named as an additional insured.

### **4. Escort Service**

1. Every person carrying on the business of operating a social escort service must:

- a) supply the Licence Inspector with the name, age, address and general description of every person proposed to be employed or engaged in the said business, together with such additional information as the Licence Inspector may require;
- b) notify the Licence Inspector within twenty-four [24] hours of any change in the personnel employed in the business;
- c) maintain, to the satisfaction of the Licence Inspector, a written record of every request to provide or furnish an escort or partner, giving the name and address of the person requesting the service, together with the name of the escort or partner recommended and the function to be attended.

2. A person carrying on the business of operating an escort service must not:

- a) employ any persons under the age of nineteen [19] years of age;
- b) make any references to specific sexual activity in any advertisement.

