

CORPORATION OF THE CITY OF ENDERBY

BYLAW No. 1408

A bylaw to provide for the regulation and licencing of businesses operating within the boundaries of the City of Enderby

WHEREAS the *Community Charter* authorizes a council, by bylaw, to regulate in relation to business (*Sec. 8(6)*), and provide for a system of licences, permits or approvals for business carried on in the city (*Sec. 15*);

AND WHEREAS the Council wishes to regulate the carrying on of business within the City of Enderby, to the extent not inconsistent with the intent of this bylaw, for the purpose of protecting the public or preventing or minimizing nuisances and misleading business practices, and establishing different regulations for different classes of business;

AND WHEREAS it is the purpose of this bylaw to:

- (a) require an owner or operator of a business within the City of Enderby to hold a valid and subsisting business licence for carrying on the business; and
- (b) to fix and impose fees for business licences; and
- (c) to provide for the collection of license fees and provide for the granting and issuing of business licences;

NOW THEREFORE, the Council of the City of Enderby, in open meeting assembled, hereby ENACTS AS FOLLOWS:

CITATION

1. This Bylaw shall be cited for all purposes as the “***Business Licence and Regulation Bylaw No. 1408, 2009***”.

DEFINITIONS

2. In this bylaw:

“**applicant**” means any person who makes an application for a Business Licence under the provisions of this bylaw;

“**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 gain or profit;

“**city**” means the Corporation of the City of Enderby;

“**council**” means the municipal council of the City of Enderby;

“**fire inspector**” means the official so appointed by the Council and shall include the City’s Fire Chief, Deputy Fire Chief or any Acting, Assistant or Deputy Fire Commissioner as appointed under the *Fire Services Act*;

“**flea market**” means an occasional or periodic sales activity held within a building, structure or open area where groups of individual sellers offer goods, new and used, for sale to the public;

“**licence**” means a business licence issued by the City of Enderby permitting the licence holder to carry on business in the City of Enderby under the terms and conditions of this bylaw;

“**licence inspector**” means the person or persons from time to time duly appointed by the Council for the purpose of enforcing and carrying out the provisions of this bylaw, and shall include the Corporate Officer, Director of Works and Services, and the Financial Officer, or their designate;

“**mobile vendor**” means any person who, from a motor vehicle, trailer or cycle, as defined and licensed under the *Motor Vehicle Act*, sells, or offers for sale food, merchandise or a service, or who advertises or takes orders for goods or services;

“**non-profit organization**” means an organization/operation formed under the “*Societies Act*”, “*School Act*”, “*Health Act*” or any other Provincial or Federal Acts that do not define profit as their objective for operations;

“**pawnbroker**” means a person who keeps a shop for the purchase or sale of goods or chattels or for taking in goods or chattels by way of security for money advanced on them, and purchases, receives or takes in goods or chattels and

pays, advances or lends on them a sum of money not more than \$50 under an agreement expressed, implied or to be from the nature and character of the dealing reasonably inferred, that those goods or chattels may be afterwards redeemed or repurchased on any terms;

“**person**” includes a corporation, partnership, proprietorship, firm and the personal or other legal representative of a person to whom the context may apply under this bylaw;

“**premises**” means a building, portion of a building or an area of land where business is carried on;

“**trade show**” means the business of organizing a group of merchants, suppliers, trades people or professionals together as a group in one location or building for a period of up to 7 days to display and offer their products or services for sale.

LICENCING REGULATIONS

Licence Requirement

3. Except as otherwise provided in this bylaw, no person shall carry on business in the City of Enderby without first having paid for and obtained a licence.
4. Except as otherwise provided in this bylaw, every person who:
 - (a) owns or operates any business within the City shall apply for, obtain and hold a licence for their business;
 - (b) carries on business from more than one premises in the City shall obtain a separate licence for each premises, whether or not the premises are located in the same building.

Licence Period

5. Except as otherwise provided in this bylaw, licences shall be issued in perpetuity for a business carried on in accordance with the original licence issued:
 - (a) from the date of issue; or
 - (b) from the date of renewal in the case of an existing licence with an expiry date of April 30, 2009.
6. The licence period described in Section 5 may be amended or cancelled, by bylaw, at any time by the Council.
7. The licence period for a trade show, a performance, concert, exhibition or entertainment function shall be for the duration of the event, not to exceed seven (7) days.

Licence Application and Fee

8. Every person who wishes to acquire a license, to carry on business in the City of Enderby, shall make application to the City in accordance with section 9, complete a license application form, and pay a license fee of \$75.00.
9. Applications shall be made at Enderby City Hall, during regular office hours, Monday to Friday, except Holidays, and shall include such information as:
 - (a) the name and address of the owner(s)/applicant(s);
 - (b) the name and address of the business;
 - (c) the type or nature of the business; and
 - (d) any other information that the License Inspector reasonably requests;and shall be signed by an owner or operator of the business, or the owner or operator's agent duly authorized in writing
10. All license applications shall be subject to the provisions of the City of Enderby ***Zoning Bylaw No. 966*** as amended or replaced from time to time; as well as any other municipal bylaws or provincial statutes relating to public health and safety.
11. Where an applicant applies for more than one license, the particulars of each license applied for shall be included on a separate application form for each license.

12. The licence fee paid at the time of application shall not be refunded on account of a person ceasing to do business. A licence fee shall be refunded only if the licence application is withdrawn prior to issuance of the licence or if issuance of the licence is refused.
13. In processing an application the License Inspector may require inspections and approvals from qualified building, fire safety and public health officials.

Licence Approval or Refusal

14. The Licence Inspector is hereby authorized to, and may grant a licence to any applicant upon being satisfied that the applicant has complied with the requirements of the bylaws of the City regulating building, zoning, health, sanitation and business.
15. The Licence Inspector is hereby authorized to refuse the issuance of a licence, upon being satisfied that the public health, fire, and safety requirements of the bylaws of the City regulating building, zoning, health, sanitation and business are not being met.
16. Where a License Inspector has refused to issue a License, the applicant has the right to appeal the decision to Council pursuant to Section 27, who may conduct a hearing pursuant to that section.
17. The License Inspector may refer the decision of granting or refusing to grant a License to Council, who may conduct a hearing pursuant to Section 27.
18. The Licence Inspector is hereby authorized to enter at all reasonable times, on any property that is subject to a licence application, to ascertain whether the requirements of this bylaw are being met or the regulations observed.
19. No person shall unreasonably obstruct or prevent a Licence Inspector from carrying out his or her duties as prescribed in this bylaw.

Licence to be Displayed

20. The license holder, or person in charge or control of premises where the business for which the license is issued is carried on, shall at all times keep the license or licenses prominently displayed in the business area of the premises to which the public have access. Where the License holder has no business premises in the City, the License shall be carried upon the License holder's person at all times when the License holder is engaged within the City in the business for which the License was issued.

Licence Compliance

21. A license authorizes only the person named in the license to carry on only the business described in the license, and only at the premises or locations described in the license.
22. The issuance of a License shall not be deemed to be a representation by the City to the license holder that the business or proposed business complies with any or all applicable bylaws or enactments, be they Municipal, Provincial or Federal. The business owner remains responsible to ensure compliance with all bylaws and enactments.

Licence Transfer

23. No person shall:
 - (a) carry on a business upon any premises other than those described in the initial Business Licence application; or
 - (b) carry on a business upon purchasing the business or a controlling interest in any business from any person licensed under this bylaw; or
 - (c) change the type of business upon which the Licence is based;without first advising the City that a transfer of the original Business Licence is required.
24. Any person proposing to obtain a transfer of a license with respect to a change of premises or location shall make an application as if applying for a new license, and

the powers conditions, requirements, and procedures relating to the initial license application apply, including the license fee.

Licence Suspension or Revocation

25. The Licence Inspector is hereby authorize to, and may suspend any Licence for such period as may be determined by the Licence Inspector if the Licence holder:
- (a) is convicted of an offence indictable in Canada;
 - (b) is convicted of an offence under any Municipal Bylaw or Statute of the Province in respect of the business for which the person is licensed or with respect to the premises named in the Licence;
 - (c) has, in the opinion of the Licence Inspector, been guilty of such gross misconduct in respect of the business or with respect to the premises named in the Licence that it warrants the suspension of the Licence;
 - (d) has ceased to meet the lawful requirements to carry on the business for which the person is licensed or with respect to the premises named in the Licence;
 - (e) has, in the opinion of the Licence Inspector, conducted the business in a manner, performed a service in a manner, or sold, offered for sale, displayed for sale or distributed to a person actually or apparently under the age of sixteen (16) years, anything that may be harmful or dangerous to the health or safety of a person actually or apparently under the age of sixteen (16) years.
 - (f) the suspension of a Licence by the Licence Inspector shall be made, in writing, signed by the Inspector and served on the person holding such Licence or delivered to the holder of such Licence by registered mail to the address given by the Licence holder on the application for the Licence. A notice of suspension of Business Licence may be posted by the Licence Inspector upon the premises for which the Licence was issued and such notice shall not be removed until the Licence is reinstated, the former Licence holder ceases to occupy the premises, or a new business other than the one carried on by the former Licence holder is started in the premises. The Licence Inspector may also pick up any Licence held by the Licence holder during such period of suspension.
26. The Council may suspend or revoke a Business Licence for reasonable cause after giving notice to the licence holder, and after giving the licence holder an opportunity to be heard, but such notice and opportunity to be heard is not required in respect of the licence holder who by reasonable efforts cannot be found.

Licence Refusal or Suspension Appeal

27. Any person whose Licence has been suspended, or who has been refused a Licence, may appeal to Council by giving written notice to the Corporate Officer of the City of his 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 Licence Inspector, as it may deem appropriate.
28. Notwithstanding anything contained in the *Community Charter* or in the Bylaws of the City, the Council may, upon the affirmative vote of at least two-thirds of all the members, refuse in any particular case to grant the request of an applicant for a Licence pursuant to this Bylaw, but the granting or renewal of a Licence shall not be unreasonably refused.

Licence Exemptions

29. The following people or organizations are not required to obtain a business licence:
- (a) agricultural producers not involved in retail sales; and
 - (b) non profit organizations,

BUSINESS REGULATIONS

Automobile Dealerships or Sales Lots

30. Every person who makes application for a Business Licence to carry on an automobile dealership or sales lot must provide verification of acceptance that they will be granted approval or have been granted approval of a valid and current B.C. Provincial Dealers Licence or any such equivalent Provincial Licence or amendment to same which pertains to the same automobile dealership or sales lot for which the Business Licence has been applied for.

Bulk Water Sales

31. Every person carrying on the business of bottling and selling water supplied by the City shall supply the Licence Inspector with all information pursuant to the City's Water Regulation Bylaw, as amended from time to time.

Flea Market

32. A Business Licence for flea markets shall be considered to cover all vendors within the flea market. Such licences shall be limited to operating one day per week at the specific premises.

General Contractors

33. Every person licensed as a general contractor shall provide the Licence Inspector with a list of all sub trades engaged on a specific job. Failure, neglect or refusal to submit such list within two weeks of commencing a specific job shall be an infraction of this Bylaw.

Liquor Licensed Establishments

34. Every person that requires City involvement as either part of their initial Liquor Control Licensing process or to an extension or amendment of an existing Liquor Licence, shall:
- (a) adhere to the most recent City Council policy that deals with Liquor Licensing prior to submitting their initial application for a Business Licence; and
 - (b) pay a fee established by the City if the City involvement requires a public consultation process.

Mobile Vendor

35. No mobile vendor shall operate within the City without first having obtained a City of Enderby Business Licence.
36. Where food is being sold, the mobile vending unit (vehicle/trailer/cycle) must have a valid permit as issued by the Medical Health Officer of the Province of British Columbia.
37. No mobile vendor shall operate on or from any municipally owned property, boulevards or highways unless and until the applicant has provided evidence of:
- (a) Motor Vehicle Liability Insurance with a minimum coverage of \$2,000,000;
 - (b) Comprehensive Public Liability and Property Damage Insurance for \$2,000,000 inclusive, with the City as an additionally named insured.
38. Every person who operates a mobile vending unit shall be responsible to provide suitable garbage collection containers, and to keep the area around the vending location free of any waste material originating from the vendor's business.
39. Mobile vending units must be attended (staffed) at all times when on a site, and must be removed from the location when not staffed.
40. No mobile vendor shall operate within the City, except for the following conditions:
- (a) when the zoning on privately owned property allows a mobile vendor;
 - (b) by first obtaining written consent of the Council for City owned property, boulevards, and highways;
 - (c) by first obtaining written consent of the Fortune Parks and Recreation Commission for municipally owned parks, playgrounds and the like;

- (d) by first obtaining written consent from the School District for government owned school grounds.

- 41. Where a mobile vendor is catering to or delivering to a residential site, business or construction site, such units shall not park or stop on the traveled portion of a highway, and shall not be stopped at one location longer than is necessary to serve customers, and at no time shall remain stopped for longer than twenty (20) minutes at any one location.

Provincial Direct Sellers

- 42. Every person that has a Provincial Direct Sellers Licence, must also obtain and pay for a Business Licence prior to carrying on a business within the City.

Sub Contractors

- 43. Every person carrying on the business of, or operating as either a contractor or subcontractor, must also obtain and pay for a Business Licence prior to carrying on business within the City, even when the General Contractor has obtained a Business Licence.

Trade Shows/Horse Shows/Fairs

- 44. The Business Licence for a trade show, horse show, fair or other similar event shall be considered to cover all vendors within the show.

OFFENCES and PENALTIES

Offences

- 45. Any person who violates any of the provisions of this bylaw or who suffers or permits any act or thing to be done in contravention of this bylaw or who neglects to do or refrains from doing any act or thing which violates any of the provisions of this bylaw shall be liable to the penalties hereby imposed. Each day that such violation is permitted to continue shall constitute a separate offence.
- 46. Any person who violates any of the provisions of this bylaw shall, upon summary conviction, be liable to a penalty of not more than \$2000 or a term of imprisonment not exceeding sixty days or both.

Penalties

- 47. A person who violates any provision of this bylaw commits an offence and is liable on conviction, to a fine of not less than one-hundred (\$100.00) or more than two thousand dollars (\$2,000.00), inclusive of the cost of the prosecution, and the applicable License fee.
- 48. Each day during which any violation of a provision of this bylaw is continued shall constitute a new and separate offence.

SEVERABILITY

- 49. If any portion of this bylaw is for any reason held to be invalid, unlawful or unenforceable by the decision of any Court of competent jurisdiction, that portion shall be deemed to be severed from the bylaw and its severance shall not affect the validity of the remaining portions of this bylaw.

Bylaws Repealed

- 50. This bylaw hereby repeals the following bylaw, and any and all amendments thereto:
 - (a) ***City of Enderby Business Licence Bylaw No. 1159, 1995.***

READ A FIRST TIME this 2nd day of March, 2009.

READ A SECOND TIME this 2nd day of March, 2009.

READ A THIRD TIME this 2nd day of March, 2009.

RECONSIDERED AND ADOPTED this 16th day of March, 2009.

MAYOR

ADMINISTRATOR