

THE CORPORATION OF THE CITY OF ENDERBY

BYLAW No. 1558

A bylaw to regulate and license business

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WHEREAS pursuant to Section 8(6) and Division 9 of the *Community Charter* a Council may regulate in relation to business;

AND WHEREAS pursuant to Section 15 of the *Community Charter* a Council may provide for a system of licenses, permits, or approvals;

NOW THEREFORE, the Council of the City of Enderby, in open meeting assembled, enacts as follows:

**1. CITATION**

- a. This Bylaw shall be cited as “City of Enderby Business License and Regulation Bylaw No. 1558, 2014”.

**2. DEFINITIONS**

- a. In 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 receiving income, profit or other form of consideration, but does not include an activity carried on by a Municipal, Provincial, or Federal Government, Crown Corporation, or a not-for-profit or charitable society, or agricultural producers not involved in retail or the production of medicinal marihuana;

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

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

“Fire Inspector” means the official appointed by Council and shall include the City’s Fire Chief, Deputy Fire Chief or any Fire Commissioner, including a Fire Commissioner’s Assistant or Deputy, 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;

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

“farmers market” means an organization that provides and coordinates a premises for the occasional sale of products made, baked, grown, or made by the participating vendors;

“mobile vendor” means any person who sells or offers for sale food, merchandise or a service, or who advertises or takes orders for goods or services from a vehicle, bicycle, or temporary structure;

“non-profit organization” means an organization or operation registered and in good standing under the *Societies Act*, *School Act*, *Health Act* or any other Provincial or Federal Act that regulates the creation and conduct of organizations which do not define profit as an objective;

“person” includes, in addition to the regular meaning, a corporation, partnership, proprietorship, firm and the agent or representative of a person;

“premises” means a building, portion of a building, property parcel, 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 seven (7) days to display and offer their products or services for sale.

### **3. LICENSE INSPECTOR**

- a. The Chief Administrative Officer shall appoint a person as the License Inspector for the purpose of enforcing and carrying out the provisions of this bylaw.
- b. Authority of License Inspector
  - i. The License Inspector shall classify and interpret each application for a license in accordance with the relevant bylaws.
  - ii. The License Inspector may grant a license if he or she is satisfied that the applicant has complied with the bylaws of the City regarding building, planning, health, and safety and other matters relevant to the practice of the business for which the license application is made.
  - iii. The License Inspector may require inspections and approvals from qualified building, planning, health, and safety officials.
  - iv. The License Inspector may refuse a license application pursuant to the requirements of Section 60(1) of the *Community Charter*.
  - v. The License Inspector may suspend or cancel a license pursuant to Section 60(2) of the *Community Charter*.
  - vi. The License Inspector must advise the applicant or license holder who is subject to the decision to refuse an application or suspend or cancel a license that he or she is entitled to have Council reconsider the matter. Council may restore, suspend, or cancel the license.
  - vii. The License Inspector, or duly appointed Bylaw Enforcement Officer at the direction of the License 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.
  - viii. No person shall unreasonably obstruct or prevent a License Inspector from carrying out his or her duties as prescribed in this bylaw.
  - ix. Notwithstanding the License Inspector’s authority, the License Inspector may refer any decision to Council.

### **4. LICENSING REGULATIONS**

- a. License Requirement
  - i. No person shall carry on a business, including the soliciting of sales, within the City without having obtained a valid license.

- ii. A license authorizes only the person named on the license to carry on only the business described in the license and only at the premises or location described on the license.
- iii. Every person who carries on business from more than one premises within the City shall obtain a separate license for each premises.
- iv. All license holders shall be subject to the provisions of the City's bylaws and applicable Provincial and Federal statutes and regulations. The issuance of a license shall not be deemed to be a representation by the City that the business complies with applicable bylaws, statutes, or regulations. The business owner is solely responsible for ensuring compliance with all statutes, regulations, bylaws and other enactments.
- v. The license shall at all times be displayed prominently in the business area of the premises to which the public has 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 he or she is engaged within the City in the business for which the License was issued.

b. License Period

- i. Licenses shall be issued in perpetuity for a business carried on in accordance with the original license issued from the date of issue or from the date of renewal in the case of an existing license with an expiry date prior to April 30, 2009.
- ii. The License Inspector may request confirmation of the ongoing nature of the business and, in the event that no confirmation is provided within a period of 60 days, may cancel the license.
- iii. The license period may be amended or cancelled by bylaw at any time by Council.
- iv. The license period for a trade show, performance, concert, exhibition, entertainment function or other event that is not ongoing in nature shall be for the duration of the event, not to exceed seven (7) days. Events exceeding seven (7) days must receive a written exemption from the License Inspector.

c. License Application and Fee

- i. Every person who wishes to acquire a license shall make application to the City on the prescribed form and pay a license fee.
- ii. Where an applicant applies for more than one license, a separate application and fee shall be submitted for each license.
- iii. The license fee paid at the time of application shall not be refunded on account of a person ceasing to do business.
- iv. A license fee shall be refunded in full only if the license application is withdrawn or refused by the License Inspector prior to the commencement of referrals or inspections. After the commencement of referrals or inspections, no refund will be provided even if the application is refused.

d. Application Refusal

- i. Where a License Inspector has refused to issue a license, the applicant is entitled to reconsideration by Council.

- ii. The License Inspector must provide to the applicant reasons for refusing to issue a license.
- e. License Transfer
- i. Licenses are not transferable and no change of location, name, ownership, controlling interest, or type of business shall be allowed without the license holder completing a new application, submitting the prescribed application fee and being issued a new license, subject to the conditions, requirements, and procedures of the Bylaw.
- f. License Suspension or Revocation
- i. The License Inspector may suspend a license for such period as may be determined by the License Inspector to be reasonable.
  - ii. Where a license has been suspended, the License Inspector shall notify the license holder and give reasons for the suspension. Such notification shall occur either by serving the notice upon the license holder, sending the notice by registered mail to the address of the business as shown on the application, or by posting the notice upon the premises for which the license was issued.
  - iii. The notice and opportunity to be heard referred to above is not required if the license holder, by reasonable efforts, cannot be found.
  - iv. The notice of suspension shall be posted upon the premises for which the license was issued and shall not be removed until the earlier of:
    - a) the license being reinstated; or
    - b) the former license holder ceasing to occupy the premises; or
    - c) a new business, other than one carried on by the license holder, is started at the premises.
  - v. Notwithstanding the preceding section, the License Inspector may choose not to post the notice of suspension until after Council has reconsidered the matter.
  - vi. The License Inspector may remove any license, or copy of license, on display at the premises of a business with a suspended or cancelled license.
  - vii. Any person whose license has been suspended or cancelled is entitled to reconsideration by Council.
- g. Withholding a License
- i. Notwithstanding the authority of the License Inspector or Council's powers, Council may by resolution withhold a license pursuant to Section 929(5) of the *Local Government Act*.
- h. Council Reconsideration
- i. Should the License Inspector refuse, suspend, or cancel a license, the affected applicant or license holder may request Council reconsideration by giving written notice to the Corporate Officer of the City. Such written notice shall state the grounds upon which the reconsideration is requested.
  - ii. Council shall provide the affected applicant or license holder with an opportunity to make representations before it.
  - iii. After reconsidering the refusal, suspension, or cancellation, Council may confirm, adjust, or set aside the decision of the License Inspector as it deems reasonable.

- iv. Council must provide written reasons to the applicant or license holder for confirming, adjusting, or setting aside the decision of the License Inspector after reconsideration.

## 5. BUSINESS REGULATIONS

- a. Bulk Water Sales: Every person carrying on the business of bottling and selling water supplied by the City shall supply the License Inspector with all applicable information pursuant to the City's Watering and Sprinkling Regulation, as amended from time to time.
- b. Motor Vehicle Sales: Every person who makes application for a license to sell or lease motor vehicles to retail consumers must provide verification of acceptance as a licensed motor vehicle dealer by the Motor Vehicle Sales Authority of BC.
- c. Consumer Protection BC Regulated Activities: All activities regulated by Consumer Protection BC, including debt collection, cemetery and funeral services, credit reporting, direct sales, home inspection services, payday lending, motion picture, telemarketing, and travel service industries must be licensed by Consumer Protection BC when applicable and must also obtain a license prior to carrying on a business within the City.
- d. Fairs, Flea Markets, Farmers Markets, and Trade Shows: The license for a fair, flea market, farmers market, or trade show shall be considered to cover all vendors. Such licenses shall be limited to operating one day per week at the specified premises unless authorized in writing by the License Inspector and subject to reconsideration by Council upon request of the license holder.
- e. General and Subcontractors: Every person licensed as a general contractor shall provide the License Inspector with a list of all subcontracting trades engaged on a specific job. Failure, neglect, or refusal to submit such list within two (2) weeks of commencing a specific job shall be deemed sufficient reason for the License Inspector to suspend or cancel a license. Every person carrying on the business of a general contractor, contractor, or subcontractor must obtain a license prior to carrying on business within the City, even when the general contractor has obtained a license.
- f. Liquor Licensed Establishments: Every person carrying on a business subject to the British Columbia Liquor Control Board shall comply with all Council policy and fees regarding liquor control and licensing at all times.
- g. Medical Marihuana Producers: Every producer of medical marihuana licensed under the Marihuana for Medical Purposes Regulations is a business and must obtain a valid and subsisting license.
- h. Mobile Vendor: No mobile vendor shall operate within the City without first having obtained a license.

All mobile vending units which sell food which is prepared for immediate consumption by the public, including those which may be covered by a flea market, farmers market, or special event license, must have a valid permit as issued by the Provincial Government authority having jurisdiction.

No mobile vendor shall operate on or from any municipally owned property, boulevards or highways unless and until the applicant has provided evidence of:

- i. Motor Vehicle Liability Insurance with a minimum coverage of \$2,000,000;
- ii. Comprehensive Public Liability and Property Damage Insurance for \$2,000,000 inclusive, with the City as named insured.

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.

Mobile vending units must be attended by qualified staff at all times when on a site, and must be removed from the location when not staffed.

No mobile vendor shall operate within the City, except for the following conditions:

- i. when the Zoning Bylaw allows a mobile vendor as a permitted use;
- ii. by first obtaining written consent of Council for property, public spaces, boulevards, and highways owned or otherwise controlled by the City;
- iii. by first obtaining written consent of the Enderby and District Services Commission for property, public spaces, boulevards, and highways owned or otherwise controlled by the Commission;
- iv. by first obtaining written consent from School District #83 for school grounds.

Subject to the Zoning Bylaw and/or obtaining the written permission of the above authorities as applicable, 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.

## **6. PENALTIES**

- a. 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.
- b. Any person who violates any of the provisions of this bylaw shall, upon summary conviction, be liable to a penalty not exceeding \$10,000.
- c. This Bylaw is also enforceable by the City of Enderby Municipal Ticket Information Bylaw, as amended from time to time.

## **7. SEVERABILITY**

- a. 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.

## **8. BYLAWS REPEALED**

- a. This bylaw hereby repeals the following bylaw, and any and all amendments thereto:
  - i. City of Enderby Business License Bylaw No. 1408, 2009.

READ A FIRST TIME this 3<sup>rd</sup> day of November, 2014.

READ A SECOND TIME this 3<sup>rd</sup> day of November, 2014.

READ A THIRD TIME this 3<sup>rd</sup> day of November, 2014.

ADOPTED this 17<sup>th</sup> day of November, 2014.

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MAYOR

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CHIEF ADMINISTRATIVE OFFICER