



CITY OF DAUPHIN

BYLAW 17/2015

BEING A BYLAW OF THE CITY OF DAUPHIN FOR THE LICENSING OF BUSINESSES CARRIED ON WITHIN THE MUNICIPALITY

WHEREAS clause 232(1)(n) of *The Municipal Act (Act)* provides that a Council may pass bylaws for municipal purposes respecting businesses, business activities and persons engaged in business;

AND WHEREAS clause 232(1)(o) of the *Act* provides that a Council may pass bylaws for municipal purposes respecting the enforcement of bylaws;

AND WHEREAS clause 232(2) of the *Act* in part provides that a Council may in a by-law passed under subsection 232(1)

- (a) regulate or prohibit,
 - (c) deal with any development, activity, industry, business, or thing in different ways, or divide any of them into classes and deal with each class in different ways,
 - (e) Subject to the regulations, provide for a system of licenses, permits and approvals, including any or all of the following:
 - i) establishing fees and terms for payment of fees, for inspections, licenses, permits and approvals, including fees related to recovering the cost of regulation,
 - ii) establishing fees for licenses, permits and approvals that are higher for persons or businesses who do not reside or maintain a place of business in the municipality,
 - iii) prohibiting a development, activity, industry, business or thing until a license, permit or approval is granted,
 - iv) providing that terms and conditions may be imposed on any license, permit or approval, and providing for the nature of the terms and conditions and who may impose them,
 - v) providing for the duration of licenses, permits and approvals and their suspension or cancellation or any other remedy, including undertaking remedial action, and charging and collecting the costs of such action, for failure to pay a fee or to comply with a term or condition or with the by-law or for any other reason specified in the by-law, and
 - vi) providing for the posting of a bond or other security to ensure compliance with a term or condition;
 - (g) require persons who do not reside or have a place of business in the municipality to report to the municipal office before conducting business in the municipality.
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AND WHEREAS clause 236(1)(b)(ii) of the *Act* states that a municipality may pass a bylaw remedying contraventions of bylaws, including the provision for fines and penalties, including the imposition of a penalty for an offence that is in addition to a fine or imprisonment, so long as the penalty relates to a fee, rate, toll, charge, or cost that is associated with the conduct that gives rise to the offence, or related to enforcing the bylaw;

AND WHEREAS clause 237 of the *Act* provides that no municipality may require that a license be obtained to sell produce grown in Manitoba if the sale is by the individual who produced it or an immediate family member or employee of the individual;

AND WHEREAS the *Fees, Discounts and Penalties Regulation 50/97* associated with the *Act* provides that the maximum fee that the Council of a municipality may establish for a business license for a calendar year under clauses 232(2)(e)(i) and (ii) of the *Act* for an urban municipality with 5000 residents or more is \$500.00;

AND WHEREAS clause 249(1) of the *Act* provides, in part, that a person who contravenes a bylaw of a municipality is guilty of an offense;

AND WHEREAS clause 249(2) of the *Act* provides that where a contravention continues for more than one day, the person is guilty of a separate offense for each day it continues;

AND WHEREAS the issuance of a license by the City of Dauphin under this bylaw does not in any way guarantee warranty, effectiveness or efficiency of any product sold or service provided by any party having obtained such license;

NOW THEREFORE the Council of the City of Dauphin in meeting duly assembled enacts as follows:

1. Definitions:

- a) **Business** is
 - i. a commercial, merchandising or industrial activity or undertaking,
 - ii. a profession, trade, occupation, calling or employment, or
 - iii. an activity providing goods and services,
whether or not it is carried on continuously or on an intermittent or one-time basis, however organized or formed, and whether or not the person carrying on the business has an established place of business within the municipality, and includes a cooperative and an association of persons.
- b) **Charities** are organizations established for charitable purposes, devote its resources to charitable activities, are a resident of Canada, and hold a current Revenue Canada Charitable Donation Number.
- c) **Contractor** is any person who is involved in any building trade, particularly but not limited to, electricians, plumbers, carpenters, masons, painters, floor covering installers, drywallers, etc.
- d) **Fixed Seasonal Unit** is a canteen, or other similar business, from which food items are dispensed, being operated seasonally from a building or structure at a fixed location.

- e) **Home-Based Business** is any occupation carried on, in, or from a dwelling unit or its accessory building, for remuneration, and which is incidental or accessory to the residential use of the dwelling unit.
- f) **Local Resident** is a resident of the municipality for a period of at least three months.
- g) **Mobile Food Cart** is a push cart which is designed to be readily moveable but is not self-propelled by motor or pedal power and from which food items are dispensed.
- h) **Motorized Food Unit** is a self-contained unit which is propelled by motor power and from which food items are dispensed.
- i) **Pedal Food Cart** is a cart, designed for roving which is self-propelled by pedal power and from which food items are dispensed.
- j) **Person** includes an individual, proprietorship, partnership, or corporation.
- k) **Seasonal Food Unit** encompasses fixed seasonal food unit, mobile food cart, motorized food unit, pedal food cart, and trailer food unit.
- l) **Tradesperson** shall be defined as a worker who in the course of employment works from drawing or prints or makes precision measurements or applies general trade experience but does not include an apprentice.
- m) **Trailer Food Unit** is a trailer unit which is not self-propelled and from which food items are displayed or dispensed.

2. Business License Requirements

- a) Subject to subsection (b) of this item, no person may carry on a business of any kind within the City of Dauphin without first having obtained from the City of Dauphin a license to do so.
- b) No license is required under subsection (a) of this item:
 - i. to sell produce grown in Manitoba if the sale is by the individual who produced it or an immediate family member or an employee of the individual;
 - ii. for businesses engaged exclusively in the wholesale of goods to other businesses within the City of Dauphin;
 - iii. for “bricks and mortar” businesses operating from a commercially or industrially zoned property in the City of Dauphin;
 - iv. for businesses operating within another retailer’s space and with that retailer’s permission;
 - v. for businesses located in the Joint Industrial Park; or
 - vi. for businesses located in the Rural Municipality of Dauphin and participate in a tax-sharing agreement with the City of Dauphin.

3. Types of Businesses Requiring Licenses

- a) The following types of businesses require a Business License as set out in the City of Dauphin’s Fees and Charges Bylaw:
 - i. Circus, rodeo, and other shows

- ii. Fairs
 - iii. Sale of Goods and/or Services, including contractors and tradespersons (fee dependent on location where business is based)
 - iv. Home Occupations
 - v. Seasonal Food Units
- b) Residents of Dauphin operating a business with their home as the base location must obtain a Home-Based Business License.
4. Every applicant applying for a license to carry on a business in the City shall designate on his application the address the business is based in or operates from.
5. For the purposes of this bylaw, a business is deemed to be based in a municipality if it has an established place of business, stock-in-trade, or personal property used in connection therewith assessed and set out in the latest revised assessment roll of that municipality.
6. All traders, hawkers, peddlers and other persons who go from place to place or from door to door by any means, bearing, or drawing any goods, wares or merchandise for sale, contractors, tradespeople, or providers of services shall, before transacting business in the municipality, report to City Hall to obtain a license as required under this bylaw.
7. Every license issued under this bylaw shall be effective from the date of issue up to and including the 31st day of December of the year of issuance.
8. Wherever two or more persons carry on or engage in partnership in any trade, calling, business or occupation, the license may be issued in the name of one partner but on the application the names and addresses of each member of the partnership or trade must be listed.
9. Any applicant for a seasonal food unit license shall, at the time of making application for a license:
- a) Submit a valid permit from the Public Health Inspector certifying compliance by the applicant with all Provincial health standards with respect to the seasonal food unit.
 - b) Submit a diagram showing the proposed location for the seasonal food unit along with the approval for the proposed location received from:
 - i. The City's Public Works and Operations Department where the proposed location is on property owned by the City, including off-street parking areas or sidewalks; or
 - ii. The Property Owner where the proposed location is on private property.
 - c) Submit proof of liability insurance insuring the applicant with respect to their seasonal food unit business in the minimum amount of \$1,000,000.00 to City Hall.
10. The City of Dauphin reserves the right to revoke any license issued for actual or suspected non-compliance with provision of the bylaw.

11. Appeal Process

- a) Where a license is refused or revoked, the Chief Administrative Officer (CAO) shall notify the applicant in writing and serve in person or by registered letter. The letter shall state that any

applicant wishing to appeal must submit an application for license and request for appeal to the CAO within 14 days of receipt of the registered letter of refusal or revocation.

- b) If an applicant submits an application for appeal to the CAO, the CAO shall then submit the appeal to Council and set a date, time and place for an appeal hearing.
 - c) Upon hearing all representation on the issue, Council may by resolution direct that the license remain refused or revoked, or not be refused or revoked, or that it be granted or renewed upon such conditions as Council deems proper. The decision of Council is final.
17. Any person found operating a business in the City of Dauphin without first obtaining a Business license may be subject to a fine or penalty as outlined in the City of Dauphin Fees and Charges Bylaw.
18. Any person who violates any provision of this bylaw other than failure to obtain the necessary license shall upon summary conviction be subject to a fine not exceeding five hundred dollars (\$500) or to imprisonment for a term not exceeding three (3) months, or both. Where the contravention, refusal, neglect, omission, or failure continues for more than one day, the person is guilty of a separate offence for each day that it continues.
19. Bylaw 02/2001 is hereby repealed.
20. This Business License Bylaw 17/2015 comes into effect on January 1, 2016.

DONE AND PASSED by Council of the City of Dauphin in Regular Session assembled, this 16th day of November, 2015.

Eric Irwin, Mayor

Brad Collett, CAO

READ A FIRST TIME this 2nd day of November, 2015.
READ A SECOND TIME this 16th day of November, 2015.
READ A THIRD TIME this 16th day of November, 2015.