

THE CORPORATION OF THE DISTRICT OF SUMMERLAND BYLAW

NUMBER 95-004

A Bylaw of the Corporation of the District of Summerland to provide for the licencing and regulating of business within the District of Summerland pursuant to the provisions of Part 11 of the Municipal Act R.S.B.C. 1979 Chapter 290

WHEREAS it is the purpose of this bylaw to,

- i. require an owner or operator of a business within the district of Summerland to hold a valid and subsisting licence for the carrying on of such business; and,
- ii. to fix and impose licence fees for licences; and,
- iii. to provide for the collection of licence fees and the granting, issuing and transferring of licences, subject to the limitations contained within the bylaw;

AND WHEREAS it is also the purpose of this bylaw to regulate the carrying on of business within the District of Summerland, to the extent not inconsistent with the intent of this bylaw, for the purpose of protecting the public or preventing misleading business practices, and establishing different regulations for different classes of business.

NOW THEREFORE the Municipal Council of the Corporation of the District of Summerland, in open meeting assembled, enacts as follows:

PART ONE - DEFINITIONS

In this bylaw unless the context otherwise requires: •

"Act" means the Municipal Act, being Chapter 290 of the Revised Statutes of the Province of British Columbia 1979 as revised.

"Applicant" means any person who makes application for any licence under the provisions of this bylaw.

"Area Floor" means gross floor area which is the total floor area of all buildings on a parcel measured to the outer limits of a building including all areas giving access thereto such as corridors, hallways, landings, foyers, elevators, staircases, stairwells, enclosed balconies or sundecks.

"Building Inspector" shall mean the official so appointed by Council and shall include any Acting, Assistant, or Deputy Building Inspector.

"Business" means carrying on a commercial or industrial undertaking of any kind of gain or profit, but does not include an activity carried on by the government, its agencies or government owned corporations.

"Business Non-resident" means a business, other than a resident business, carried on in the municipality or with respect to which any work or service is performed in the municipality.

"Business Resident" means a business carried on in or from premises within the municipality.

"Bylaw Enforcement Officer" means the official appointed for the purpose of enforcing the provisions of this bylaw.

"Collector" shall mean the official so appointed by Council and shall include any Acting or Deputy Collector.

"Council" means the Municipal Council of the Corporation of the District of Summerland.

"District" means the Corporation of the District of Summerland or the area within the Municipal boundaries thereof as the context may require.

"Fire Chief" shall mean the official so appointed by Council and shall include any Acting, Assistant, or Deputy Fire Chief.

"Health Inspector" shall mean the official so appointed by Ministry of Health of the Province of British Columbia and shall include any Acting, Assistant, or Deputy Health Inspector.

"Licence Inspector" means the official appointed for the purpose of carrying out the provisions of this bylaw.

"Person" includes a corporation, partnership or party, and the personal or legal representatives of a person whom the context can apply according to law.

"Trade Show" means the carrying on of a business to organize a group of more than five (5) merchants to gather in one location or building to offer goods, wares or merchandise for retail sale or wholesale for a period less than fourteen (14) days.

PART TWO - GENERAL REGULATIONS

1. Licencing Period

Except as hereinafter otherwise provided, licences shall be granted for a one year period, to commence on the first day of January to terminate on the 31st day of December in each and every year. The maximum fee for an operation or premises shall not exceed \$2,000. No licence fee paid hereunder shall be refundable.

2. Licence Required

No person shall carry on a business for which a licence is required by this bylaw within the District without holding a valid and subsisting licence for the carrying on of such business.

3. Licence Fee

- (a) Applications for a licence shall be made in writing to the Licence Inspector for the District of Summerland on the form attached hereto as Schedule "A", forming part of this bylaw.
- (b) At the time of approval of application for a licence, the applicant shall pay to the District of Summerland a licence fee in the amount as set out in Schedule "F" of the Fees and Charges Bylaw.

4. Pro-rating

The licence fees described in Schedule "F" of the Fees and Charges Bylaw may be reduced by one-half in respect of any person who becomes liable to be licenced after the 31st day of July of each year

5. Form of Licence

Every licence granted pursuant to this bylaw shall state that the holder is licenced 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.

6. Separate Licence

Where a business is carried on in or from more than one separate premise in the District, the business carried on in such premises shall be deemed to be separate businesses.

7. Transfer

- (a) No licence shall be transferred from one person in respect of certain premises to that same person in respect of other premises without the prior approval of the Licence Inspector and payment of a transfer fee of \$25. The Licence Inspector shall refuse to issue a transfer of licence where the premises to which the applicant wishes to transfer the licence does not comply with the requirements of the bylaws of the District regulating building, zoning, health, sanitation and business.

- (b) Every licence granted under this bylaw shall be deemed a personal licence to the licensee and shall not be transferable to any other person.

8. Granting and Suspension of Licences

The Licence Inspector may grant a licence where he is satisfied that the applicant has complied with the requirements of the bylaws of the District regulating building, zoning, health, sanitation and business and shall also have the power to suspend any licence, for such period as he may determine, if the holder of the licence:

- (i) is convicted of an offence indictable in Canada;
- (ii) is convicted of any offence under any Municipal bylaw or statute of the Province in respect of the business for which he is licenced or with respect to the premises named in his licence;
- (iii) has, in the opinion of the Official, been guilty of such gross misconduct in respect of the business or in or with respect to the premises named in his licence that it warrants the suspension of his licence;
- (iv) has ceased to meet the lawful requirements to carry on the business for which he is licenced or with respect to the premises named in the licence;
- (v) 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 Licensee on the application for the licence. A notice of suspension of 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 Licensee ceases to occupy the premises, or a new business other than the one carried on by the former Licensee is started in the premises. The Licence Inspector may also pick up any licence held by the Licensee during such period of suspension.
- (vi) No person shall carry on a business for which a licence is required by this Bylaw during the period of suspension of such licence pursuant to the provisions of the Act.
- (vii) Any person whose licence has been suspended by the Licence Inspector and who proposes to appeal such suspension to Council shall submit a written request to appear before Council at the next regular Council meeting. The notice of intention to appeal shall state in concise fashion the grounds upon which the appeal is based. Upon notification of the meeting time and place, the person shall appear before Council and upon such appeal, the Council may confirm or set aside such suspension on such terms as it may deem fit.
- (viii) The Council may revoke a licence for reasonable cause after giving notice to the Licensee and after giving him an opportunity to be heard.

9. Licence to be Displayed

The Licencee or person in charge or control of premises where the business for which the licence is issued is carried on, shall at all times keep the licence or licences prominently displayed in the business area of the premises to which the public have access.

10. Licence Inspector

The Council may, by resolution, appoint a person to be the Licence Inspector and may, in addition, appoint such persons as Council; deems necessary to assist the Licence Inspector in the administration and enforcement of this bylaw.

11. Inspection

The Licence Inspector, Building Inspector, Bylaw Enforcement Officer, Fire Chief and Health Inspector are hereby authorized to enter, at all reasonable times, upon any property subject to the regulations of this bylaw; in order to ascertain whether such regulations or directions are being observed.

12. Violations

- (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 is required by any of the provisions of this bylaw, shall be deemed to have violated the provisions of this bylaw.
- (b) Any person who violates any of the provisions of this bylaw shall, upon summary conviction thereof, be liable to a penalty of not more than \$500 plus the cost of the prosecution.

13. Additional Fees

A person required to be licenced under the provisions of this bylaw and who has failed to renew the prescribed licence on or before the date fixed for the payment of the fee shall pay to the District the following amounts, which amounts shall be in addition to the licence fee:

- (i) In respect of any licence not paid for within thirty days from the date fixed for payment of the licence fee, 10% of the licence fee.
- (ii) In respect of any licence not paid for after 60 days from the date fixed for the payment of the licence fee, 20% of the licence fee.

14. Social Escort Services

Every person or individual carrying on the business of or operating a Social Escort Service shall:

- (i) Supply the Licence Inspector and the Officer in Charge of the Royal Canadian Mounted Police with the name, age, address and description of every individual proposed to be employed or engaged in the said business together with such additional information as the Licence Inspector may require.
- (ii) Notify the Licence Inspector within seventy-two hours of any change in personnel employed or engaged in the said business.
- (iii) Maintain to the satisfaction of the Licence Inspector and the Officer in Charge of the Royal Canadian Mounted Police a written record of every request to provide or furnish an escort, or partner giving the name and address of the individual requesting the service together with the name of the escort, or partner recommended and the function attended.
- (iv) Obtain the approval of the Licence Inspector and the Officer in Charge of the Royal Canadian Mounted Police prior to the employment of any individual in the said business.

15. Dating Services

Every person or individual carrying on the business of or operating a Dating Service shall:

- (i) Supply the Licence Inspector and the Officer in Charge of the Royal Canadian Mounted Police with the name, age, address and description of every individual proposed to be employed or engaged in the said business together with such additional information as the Licence Inspector may require.
- (ii) Notify the Licence Inspector within seventy-two hours of any change in personnel employed or engaged in the said business.
- (iii) Maintain to the satisfaction of the Licence Inspector and the Officer in Charge of the Royal Canadian Mounted Police a written record of all individuals registered with the dating service showing their name, address and the individual to whom they have been referred for a social engagement and shall upon request make such list available for inspection by the Licence Inspector or member of the Royal Canadian Mounted Police.

16. Body Rub Parlours and Body Painting Studios

Every person or individual carrying on the business of or operating a Body Rub Parlour or Body Painting Studio shall:

- (i) Supply the Licence Inspector and the Officer in Charge of the Royal Canadian Mounted Police with the name, age, address and description of every individual proposed to be employed or engaged in the said business together with such additional information as the Licence Inspector may require.
- (ii) Notify the Licence Inspector within seventy-two hours of any change in personnel employed or engaged in the said business.
- (iii) Not employ any person on the Licenced Premises unless such person is 19 years of age or older.
- (iv) Not permit any person to be on the Licenced Premises at any time unless such person is 19 years of age or older.
- (v) Submit to the Licence Inspector at the time of Business Licence application, a written recommendation from the Officer in Charge of the Royal Canadian Mounted Police.

17. Sidewalk Business

Every person or individual carrying on a sidewalk business shall:

- (i) provide the Licence Inspector with a site plan of the proposal together with his application. If approved, the sidewalk business will be added as an addendum to the original business licence.
- (ii) provide the Licence Inspector with evidence of a comprehensive general liability insurance policy containing a minimum of \$2,000,000 (two million dollars) of public liability and property damage. The policy must name the Corporation of the District of Summerland as an additional insured and notice of cancellation must be sent to the District.
- (iii) provide a clear unobstructed pedestrian passageway of no less than 1.2 metres (4 feet) of sidewalk area. Cafe tables or merchandise must be placed in such a manner as to not create a hazard to pedestrian traffic.

18. Home Occupation Business

A Home Occupation Business means the use of a dwelling or accessory building to a dwelling such as a garage for an occupation, office, trade or craft for gain or support, conducted entirely within the dwelling or the accessory building, as a use secondary to the residential use. Home Occupation Businesses are classified into the following two types:

Home Occupation Business Type 1 means an office in a dwelling or accessory building for a person who occupies the dwelling as a principal residence. Typical uses include self-employed persons providing professional, financial and office support services, or sales services not involving any production, or repairs, nor the parking

of a commercial vehicle on site.

Home Occupation Business Type 2 means an occupation, trade, art or craft for gain or support, conducted entirely within the dwelling or related accessory building, by a person who occupies the dwelling as a principal residence. Typical uses include dressmaking, millinery, homecrafts, novelties and souvenirs, handicrafts and individual instruction to students, mobile repairs and installation and minor household repair services.

19. Severability

If any section, subsection, sentence, clause or phrase of this bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder.

20. Repeal

Bylaw Number 2100 and all amendments thereto is hereby repealed.

21. Effective Date

This bylaw shall come into full force and effect and is binding on all persons as from the first day of January 1995.

READ A FIRST, SECOND AND THIRD times by the Municipal Council this 13th day of February, 1995.

RECONSIDERED, finally passed and adopted by said Council of the Corporation of the District of Summerland, signed by the Mayor and Clerk and sealed with the Corporate Seal of the said Corporation this 27th day of February, 1995.

MAYOR

CLERK