



## CITY OF FORT SASKATCHEWAN

### BUSINESS LICENSE BYLAW

#### C20-05

**NOW THEREFORE**, the Council of the City of Fort Saskatchewan in the Province of Alberta, in an open meeting of Council, enacts as follows:

#### CITATION

1. This Bylaw is cited as the Business License Bylaw.

#### DEFINITIONS

2. In this Bylaw,
  - (a) “advertise” means any public notice, such as, but not limited to:
    - (i) a poster,
    - (ii) a placard,
    - (iii) a flyer,
    - (iv) a sign, including an inscribed board, structure or device serving for advertising without being limited to free-standing signs, portable signs or banners,
    - (v) a newspaper display, or
    - (vi) a television or radio announcement designed to sell a product or publicize a service, or vacancy;
  - (b) “application” means a written application for a business license as provided for by this Bylaw;
  - (c) “business” means:
    - (i) a commercial, merchandising or industrial activity or undertaking,
    - (ii) a profession, trade, occupation, calling or employment, or
    - (iii) an activity providing goods or services  
whether or not for profit and however organized or formed, including a co-operative or association of persons;
  - (d) “business license” means a license issued pursuant to this Bylaw;
  - (e) “business license inspector” means a person authorized by the City Manager to carry out the provisions of this Bylaw or anyone acting on his behalf;
  - (f) “business premises” means a store, office, warehouse, building, enclosure, yard or other place occupied, or capable of being occupied for the purpose of carrying on a business;
  - (g) “charitable or non-profit organization or society” means a person acting for charity or in the promotion of general social welfare and includes:
    - (i) a religious society or organization,
    - (ii) a service club,
    - (iii) a community, veteran’s or youth organization,

- (iv) a social, sport or fraternal organization or club, or
- (v) a society established under the *Societies Act*, R.S.A., 2000, c.S-14;
- (h) “City” means the City of Fort Saskatchewan;
- (i) “City Council” means the municipal Council of the City of Fort Saskatchewan;
- (j) “City Manager” means the City Manager of the City of Fort Saskatchewan or anyone designated by the City Manager to act on his behalf;
- (k) “Development Authority” means a person appointed as the development authority pursuant to the provisions of the Land Use Bylaw;
- (l) “Fees and Charges Bylaw” means the fees, rates and charges established by City Council and that are applicable to the municipal services provided by the City;
- (m) “hawk or pedal” means selling goods or services:
  - (i) house to house, or business to business by a merchant who does not have a permanent place of business in the municipality, or
  - (ii) on the streets or elsewhere, other than at a building that is his permanent place of business, but does not include selling:
    - (a) meat, fruit, or other farm produce that has been produced, raised, or grown by the merchant, or
    - (b) fish of the merchant’s own catching;
- (n) “home based business” means a business operated in a dwelling by a person who occupies the dwelling as a private residence;
- (o) “Land Use Bylaw” means the Land Use Bylaw of the City of Fort Saskatchewan;
- (p) “licensee” means a person holding a valid and existing business license issued pursuant to the provisions of this Bylaw;
- (q) “Manager” means the Manager of the Planning and Public Works Department of the City or anyone designated by the Manager of Planning and Public Works to act on his behalf;
- (r) “merchant” means a person, or his designate, whose occupation is the purchase and sale of goods or services;
- (s) “non-resident business” means any business which does not have a permanent office or place of business in the City of Fort Saskatchewan;
- (t) “pawned goods” means receiving or taking by way of pawn, pledge, or exchange any goods for the repayment of money lent thereon;
- (u) “peace officer” means:
  - (i) a member of the Royal Canadian Mounted Police,
  - (ii) a special constable appointed under the *Police Act* RSA 2000, c.P-17,
  - (iii) a person who is employed or retained by the City whose duties include written authorization to issue violation tickets under the *Provincial Offences Procedure Act*, RSA 2000 c.P-34, or
  - (iv) a Bylaw Enforcement Officer appointed by the City of Fort Saskatchewan;
- (v) “person” means an individual, sole proprietorship, corporation, partnership, joint venture, co-operative or society;
- (w) “professional” means a member of a registered association;

- (x) “registered association” means a professional or occupational association registered under the *Professional and Occupational Associations Registration Act* RSA 2000 c.P-26;
- (y) “resident business” means a business with a permanent office or place of business situated in either a commercially or industrial zoned district of the City and does not include a transient trader;
- (z) “secondhand goods” means selling or exchanging of previously owned goods;
- (aa) “transient trader” means any person who does not maintain a regular or permanent place of business within the City.

#### **APPOINTMENT, POWERS AND DUTIES OF THE BUSINESS LICENSE INSPECTOR**

- 3. (1) The City Manager may appoint a business license inspector to carry out the provisions of this Bylaw.
- (2) If the City Manager does not appoint a business license inspector, the Manager is the business license inspector.
- (3) The business license inspector may delegate any duty, or responsibility, of the business license inspector to an employee or agent of the City.
- (4) The business license inspector shall receive and consider applications to operate a business within the City including the power to consult with, obtain information from, and verify information with other employees or agents of the City, other governments, government agencies, or persons.
- (5) The business license inspector shall consider each complete application.
- (6) Notwithstanding Subsection 3(5), the business license inspector shall grant a business license to an applicant if the applicant meets the requirements of this Bylaw.
- (7) The business license inspector may impose conditions on business licenses and has the right to refuse an application.
- (8) The business license inspector has the right to revoke or suspend a business license immediately if:
  - (a) the information contained within an application is deemed to be false,
  - (b) a business license fee remains outstanding as of midnight on the 31st day of January in the year in which the license is valid, or
  - (c) fines or penalty fees are not paid within thirty (30) days of the date in which the fine or penalty is levied.
- (9) Subject to Subsection 3(8), the business license inspector shall refuse to re-instate a revoked or suspended business license if the reasons for revoking or suspending the business license have not been satisfied.
- (10) The business license inspector may carry out inspections of a business premise to ensure the operation complies with this Bylaw.

#### **APPOINTMENT, POWERS AND DUTIES OF A PEACE OFFICER**

- 4. (1) The City Manager shall appoint a peace officer to enforce the provisions of this Bylaw.
- (2) The peace officer may carry out inspections of a business premise to ensure the operation complies with this Bylaw.

#### **BUSINESS LICENSE REQUIREMENTS**

- 5. (1) No person shall engage in or operate a business in the City unless the person holds a business license authorizing the person to engage in or operate that business.
- (2) Any advertising of a business shall be deemed to be prima facia proof of the fact that the person advertising is carrying on or operating any such business.

- (3) A person who engages in or operates one or more businesses in the same building, either separately or together shall purchase a business license for each business.
- (4) A person who engages in or operates a business at more than one location shall purchase a separate business license for each location.

#### **BUSINESS LICENSE APPLICATION**

6.
  - (1) Applications for a business license, for renewal of a business license, or for a transfer of a business license shall be made in writing on a form to be provided by the business license inspector.
  - (2) An application for a business license for any business shall be made by the owner of the business or the representative of the owner.
  - (3) A business license, if issued, shall be null and void if payment for the business license was made by means of a non-negotiable document.
  - (4) Every applicant for a business license must be at least eighteen (18) years of age.
7.
  - (1) A business license applicant, subject to the provisions of the Land Use Bylaw, shall obtain and produce for the business license inspector, written approval from the Development Authority before a business license will be issued. This provision shall not apply for the annual renewal of a business license.
  - (2) A business license does not relieve the business license holder from the obligation to obtain any other permit, license or other approval that may be required under another Bylaw of the City or any other government authority.

#### **TERM OF BUSINESS LICENSE**

8.
  - (1) Every business license issued under the provisions of this Bylaw shall terminate at midnight on the 31st of December of the year in which said business license was issued unless the business license has been sooner cancelled or forfeited.
  - (2) Any business license may be cancelled providing a written notice is provided to the business license inspector.
  - (3) Business license renewals shall be paid in full prior to midnight on the 31st day of January, of the year in which the existing business license expires.
  - (4) Failure to make payment for the renewal of a business license by midnight on the 31st day of January of the year in which the business license expires shall construe the business license as being cancelled.

#### **TRANSFER OF BUSINESS LICENSE**

9.
  - (1) Unless otherwise provided herein, any subsisting business license issued under this Bylaw may be transferred, upon application to the business license inspector and payment of the prescribed fee, provided that the applicant has required qualifications and furnishes legal documentation releasing the rights and interests of the previous owner.
  - (2) A business license issued for a home based business shall become null and void if the said applicant relocates the business to a subsequent residential premise.

#### **BUSINESS LICENSE FEES**

10.
  - (1) No person shall carry on or operate any business within or partly within the City without first paying the business license fee as outlined in the Fees and Charges Bylaw.
  - (2) The licensee is not entitled to a refund for a cancelled, suspended, revoked or surrendered business license.
  - (3) Where a business license has not been renewed pursuant to Subsection 8(3) of this Bylaw, and the business is still in operation, the licensee is guilty of an offence under this Bylaw.

- (4) Where a business license has been paid by means of a non-negotiable document, an additional fee as outlined in the Fees and Charges Bylaw shall be levied in addition to the regular fee.

#### **EXEMPTION FROM BUSINESS LICENSE FEES**

11. (1) The following are excluded from paying the fee for a business license:
  - (a) the Crown in right of Canada,
  - (b) the Crown in right of Alberta,
  - (c) a Crown corporation,
  - (d) the City of Fort Saskatchewan, or
  - (e) a professional
- (2) A charitable or non-profit organization may apply to the business license inspector for an exemption from the business license fee set out in the Fees and Charges Bylaw.
- (3) An application under Subsection 11(2) shall be submitted in writing to the business license inspector and shall include the following information regarding the charitable organization or the non-profit organization:
  - (a) the name,
  - (b) the corporate structure,
  - (c) the registered charity number or other government authorization,
  - (d) the nature of the business,
  - (e) a description of the activities that will be undertaken within the City, and
  - (f) a description of how the proceeds will be used to advance its goals.
- (4) Following receipt of an application under Subsection 11(2), the business license inspector may waive the business license fee in whole, or part, if the business license inspector considers that such a waiver is in the best interests of the City and its residents.
- (5) The business license inspector may establish policies that guide the circumstances under which the business license inspector will waive a business license fee.
- (6) A waiver under Subsection 11(4) does not relieve the charitable or non-profit organization from otherwise complying with the terms of this Bylaw or other approval that may be required under another Bylaw of the City or any other government authority.

#### **POSTING OF BUSINESS LICENSE**

12. Every business license issued under this Bylaw shall be made out and delivered to the licensee who shall post the business license in a conspicuous place in his business premises and whenever required by the business license inspector or peace officer, the licensee shall produce said business license for inspection purposes. Persons failing to post the said business license shall be guilty of an offence under this Bylaw.

#### **INSPECTION**

13. (1) Any premises or place in respect of which a business license has been issued under the provisions of this Bylaw shall be subject to inspection by the business license inspector, peace officer, or authorized person.
- (2) Any person who, after demand for inspection has been made by the business license inspector, peace officer or authorized person, refuses admittance to the premises or place of which said person has charge or control, or obstructs the business license inspector, peace officer or authorized person shall be guilty of an offence under this Bylaw.

## TRANSACTIONS RESPECTING PAWNED GOODS

14. (1) Whenever a transaction in respect of pawned goods occurs the following information shall be accurately recorded:
  - (a) the date and hour of the transaction,
  - (b) the full name, date of birth, residential address, residential telephone number, physical description (including sex, age, eye colour, hair colour, height, weight, build and complexion) of the person from whom the pawned goods were acquired or received,
  - (c) the numbers from two of the following forms of identification which confirms the name and address given:
    - (i) operator's license,
    - (ii) birth certificate,
    - (iii) credit card, or
    - (iv) another form of identification, which would be acceptable by a chartered bank for the purpose of identifying a person for cashing a cheque,
  - (d) a complete and accurate description of the goods, including the make, model, manufacturer's name, serial number and other distinguishing marks,
  - (e) the amount of money advanced in respect of the pawned goods, and
  - (f) the name of the person who conducted the transaction.
- (2) Where pawned goods have been redeemed, the merchant who returns the goods in question shall accurately record:
  - (a) their own name and the date the goods were redeemed, and
  - (b) the same information that is required in Section 14(1)(b) relative to the person who has redeemed the pawned goods.
- (3) No merchant shall receive or conduct any transaction concerning pawned goods where it is evident that any serial number or other distinguishing marks relating thereto have been altered or obliterated in any way.
- (4) Any merchant who records false, misleading or inaccurate information with respect to a transaction referred to in Subsection 14(1) or 14(2), or who fraudulently alters, obliterates or defaces any record of such a transaction is guilty of an offence under this Bylaw.
- (5) A true copy of the record required to be made pursuant to Subsections 14(1) and 14(2) of this Section shall be made available by the merchant for the inspection of and pickup by any peace officer on each business day before the hour of ten o'clock (10:00 a.m.) in the forenoon on the first business day following the day on which the relevant transaction occurred.
- (6) The record which is required to be made pursuant to Subsections 14(1) and 14(2) shall be maintained by the merchant in whose business the relevant transaction has taken place for a period of one (1) year from the date of the transaction.
- (7) Every merchant shall at all times keep posted in a conspicuous location of his premises so as to be easily seen and read by persons pledging goods the following information:
  - (a) the maximum interest rate allowed by the statutes of Canada to be taken by merchants, and
  - (b) a detailed statement as to the manner in which the interest rate charged by the merchant is calculated.
- (8) At any time taking any pawn or pledge, the merchant conducting the transaction shall deliver to the person pledging articles or goods a written or printed receipt containing:
  - (a) the day, month and year on which the pledge is due,

- (b) the amount of money advanced thereon,
  - (c) the interest rate charged by the merchant with respect to the transaction, and
  - (d) the merchant's business name and address.
- (9) No merchant shall:
- (a) take any goods by way of pledge from any person under the age of eighteen (18) years,
  - (b) receive or retain any goods or articles as pledges or pawns unless the person pledging the same accepts the receipt required by Subsection 14(8),
  - (c) take any goods by way of pledge from any person without having first obtained from them a declaration in legible writing which they have signed stating that they are entitled to pledge the goods in question and that any other person who may have a lawful interest in those goods has given their permission for the goods to be so pledged,
  - (d) purchase or take in pawn, pledge or exchange the receipt required pursuant to Subsection 14(8) which has been issued by any other merchant,
  - (e) allow a person to redeem a pawned item unless the merchant has first taken reasonable steps to ensure that the person redeeming the item was the same person who pawned it, or
  - (f) take any goods by way of pledge or conduct any transaction with respect to pawned goods at any time between the hours of nine (9) p.m. and nine (9) a.m. of the following business day.
- (10) With the exception of pawned goods which are lawfully redeemed by the person who pledged them or his agent, no merchant shall alter, repair, forfeit, sell or dispose of, or in any way part with possession of goods which have been pledged until the expiration of forty-five (45) days from the date such goods were pledged, exclusive of the day of pledging.
- (11) Notwithstanding Subsection 14(10), if any longer period of retention has been agreed upon by the parties to the transaction in which the goods were pledged, then that period must expire before the goods can be forfeited or sold.
- (12) Notwithstanding Subsections 14(10) and 14(11), this Bylaw does not authorize the sale, disposal or forfeiture of goods, which is contrary to the operation of any other law, including the common law.
- (13) No merchant shall, during the periods stated in Subsections 14(10) and 14(11) as the case may be, remove or permit the removal of any pawned goods from the business premises where they were originally acquired.
- (14) All pawned goods on the business premises of a merchant shall be kept separate and apart from any other merchandise and no merchant shall intermix or allow the intermixture of pawned goods with other merchandise until such time that the periods stated in Subsections 14(10) and 14(11) as the case may be, have expired.
- (15) Every merchant shall, during the normal business hours, permit the business license inspector, peace officer or authorized person to examine any goods, which have been pawned, or any of the records or books, which are pursuant to this Bylaw, required to be kept in relation to the business of the merchant.

#### **TRANSACTIONS RESPECTING SECONDHAND GOODS**

15. (1) A merchant who acquires or receives secondhand goods for re-sale shall accurately record the following information:
- (a) the date and hour of the acquisition, purchase, or exchange,
  - (b) the full name, date of birth, residential address, residential telephone number, physical description (including sex, age, eye colour, hair colour, height, weight, build and complexion) of the person from whom the secondhand goods were acquired,

- (c) the numbers from two of the following forms of identification which confirms the name and address given:
    - (i) operator's license,
    - (ii) birth certificate,
    - (ii) credit card, or
    - (iv) another form of identification, which would be acceptable by a chartered bank for the purpose of identifying a person for cashing a cheque,
  - (d) a complete and accurate description of the secondhand goods, including the make and model of the item, the manufacturer's name, any serial number, and other distinguishing marks which may appear thereon,
  - (e) the amount paid or exchanged in respect of the secondhand goods, and
  - (f) the name of the merchant who conducted the transaction.
- (2) No merchant shall alter, repair, forfeit, sell or dispose of or in any way part with possession of secondhand goods for a period of at least forty-five (45) days from the date of acquisition, exclusive of the date the secondhand goods were acquired.
  - (3) All secondhand goods located upon the business premises of a merchant shall be kept separate and apart from any other merchandise and no merchant shall intermix or allow the intermixture of secondhand goods with any other merchandise until such time that the period stated in Subsection 15(2) has expired.
  - (4) No merchant shall receive or conduct any transaction concerning secondhand goods where it is evident that any serial number or other distinguishing marks relating thereto have been altered or obliterated in any way.
  - (5) Any merchant who records false, misleading or inaccurate information with respect to a transaction referred to in Subsection 15(1) or who fraudulently alters, obliterates or defaces any record of such a transaction is guilty of an offence under this Bylaw.
  - (6) A true copy of the record required to be made pursuant to Subsection 15(1) shall be made available by the merchant for the inspection of and pickup by any peace officer on each business day before the hour of ten o'clock (10:00 a.m.) in the forenoon on the first business day following the day on which the relevant transaction occurred.
  - (7) The record which is required to be made pursuant to Subsection 15(1) shall be maintained by the merchant in whose business the relevant transaction has taken place for a period of one (1) year from the date of the transaction.
  - (8) No merchant shall take any secondhand goods from any person under the age of eighteen (18) years.
  - (9) Every merchant shall, during normal business hours, permit the business license inspector, peace officer or authorized person to examine any goods, which have been purchased, or any of the records or books, which are pursuant to this Bylaw, required to be kept in relation to the business of the merchant.
  - (10) The provisions of this Clause 15 do not apply to secondhand goods donated for the purpose of re-sale to raise funds for a charitable cause.

## **REVOCATIONS OR SUSPENSIONS**

- 16. (1) When any required certificate, authority, license or other document of qualification issued by the Government of Canada, or the Government of the Province of Alberta is terminated or surrendered, any business license issued pursuant to this Bylaw is immediately null and void and shall be considered as being revoked.
- (2) Where a business license is revoked, the licensee shall immediately return the business license to the City and the business shall not operate until such time as a new business license is issued.

- (3) Where a business license is suspended, the licensee may resume operation when the business license is reinstated.

## APPEALS

17. (1) A person may appeal to City Council in every case where:
  - (a) an application for a business license has been refused, or
  - (b) a business license has been revoked or suspended.
- (2) An appeal shall be made by the applicant within thirty (30) days after such refusal, revocation or suspension.
- (3) All appeals shall be made in writing addressed to the Manager.
- (4) The Manager shall present the appeal to City Council at the next available Council Meeting for Council's decision.
- (5) City Council, after hearing the appeal, may:
  - (a) direct a business license be issued or reinstated;
  - (b) direct a business license be issued or reinstated with conditions;
  - (c) uphold the refusal, revocation or suspension of a business license on the grounds, which appear just and reasonable.
- (6) A decision of City Council in respect of an appeal under this section shall be final and binding.

## ENFORCEMENT

18. (1) Any person who is in contravention of this Bylaw is guilty of an offence and subject to receive a violation ticket as follows:

<b>Offence</b>	<b>Penalty</b>
First Offence	\$ 300
Second Offence (provided offence is committed within twelve (12) months of committing first offence)	\$ 500
Third and subsequent offences (provided offence is committed within twelve (12) months of committing first offence)	\$ 1,000

- (2) Any person who commits an offence may pay the specified penalty indicated on the violation ticket, in which case the person will not be prosecuted in court for the offence.
- (3) Any person who violates any provision of this Bylaw shall be liable, upon summary conviction before a magistrate in the City of Fort Saskatchewan, to a penalty not exceeding Ten Thousand dollars (\$10,000), exclusive of costs, for breach thereof or in case of non-payment of the fine and costs to imprisonment for any period not exceeding six (6) months.
- (4) Any person found guilty of an offence and the conduct that gives rise to the offence involves the non-payment of a fee that remains unpaid, the court shall, in addition to any fine, impose a penalty equivalent to the amount of the unpaid fee.
- (5) In the case of an offence that is of a continuing nature, a contravention constitutes a separate offence in respect of each day, or part of a day, on which it continues and a person guilty of such an offence is liable to a fine in an amount that is established by this Bylaw for each such day, or part of a day.
- (6) If in the event, during prosecution for an offence, proof of a valid and subsisting business license is required, the person charged with the offence shall bear the burden of responsibility

to provide proof that he was in possession of a valid and subsisting business license at the time of the offence.

- (7) In a prosecution for a contravention of this Bylaw against engaging in or operating a business without a business license, proof of one transaction in the business or that the business has been advertised is sufficient to establish that a person is engaged in or operates the business.

### **GENERAL**

19. (1) Each section of this Bylaw shall be read and construed as being separate and severable from each other section. Furthermore, should any section or part of this Bylaw be found to have been improperly enacted for any reason, then such section or part shall be regarded as severable from the rest of this Bylaw and the Bylaw remaining after such severance shall be effective and enforceable.
- (2) Wherever the singular, plural, masculine, feminine or neuter is used throughout this Bylaw the same shall be construed as meaning the singular, plural, masculine, feminine, neuter, body politic or body corporate where the fact or context so requires the provisions hereof.
- (3) The insertion of headings is for convenience of reference only and shall not be construed so as to affect the interpretation or construction of this Bylaw.

### **ENACTMENT**

20. (1) Bylaw No. C20-05 shall come into force and have effect January 1, 2006.
- (2) Bylaw No. C14-95, and all amendments thereto, is hereby repealed.

READ a first time in Council this 22<sup>nd</sup> day of November A.D. 2005.

READ a second time in Council this 13<sup>th</sup> day of December A.D. 2005

READ a third time in Council this 13<sup>th</sup> day of December A.D. 2005

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Mayor

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Director, Legislative Services

Date Signed: December 14, 2005