

Town of Didsbury Bylaw No. 2012-08
THE BUSINESS LICENCE BYLAW

**A BYLAW OF THE TOWN OF DIDSBURY, IN THE PROVINCE OF ALBERTA, TO
LICENCE AND REGULATE BUSINESSES**

WHEREAS pursuant to section 7(a) of the *Municipal Government Act*, a council may pass bylaws for municipal purposes respecting the safety, health and welfare of people and the protection of people and property; and

WHEREAS pursuant to section 7(e) of the *Municipal Government Act*, a council may pass bylaws for municipal purposes respecting businesses, business activities and persons engaged in business; and

WHEREAS pursuant to section 7(i) of the *Municipal Government Act*, a council may pass bylaws for municipal purposes respecting the enforcement of bylaws made under the *Municipal Government Act* or any other enactment including any or all of the matters listed therein; and

WHEREAS pursuant to section 8 of the *Municipal Government Act*, a council may in a bylaw:

- (a) Regulate or prohibit;
- (b) Deal with any development, activity, industry, business or thing in different ways, divide each of them into classes and deal with each class in different ways; and
- (c) Provide for a system of licences, permits or approvals, including any or all of the matters listed therein;

NOW THEREFORE the Council of the Town of Didsbury, in the Province of Alberta, duly assembled, enacts as follows:

PART I – GENERAL LICENCING PROVISIONS Short Title

1. This Bylaw may be cited as the “Business Licence Bylaw”.

2. Interpretation and Definitions

- (1) In this Bylaw, unless the context otherwise requires:
 - (a) “*applicant*” means a *person* who applies for a *licence* or renewal of a *licence*;
 - (b) “*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*.

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- (c) “*carry on*”, “*carrying on*”, “*carried on*” and “*carries on*” means to conduct, operate, perform, keep, hold, occupy, deal in or use, for a fee or exchange of benefits, whether as principal or agent;
- (d) “*charitable organization*” means any incorporated or unincorporated organization that is formed for a *charitable purpose*;
- (e) “*charitable purpose*” includes a philanthropic, benevolent, educational, health, humane, religious, cultural, artistic or recreational purpose;
- (f) “*Town*” means The Town of Didsbury, a municipal corporation in the Province of Alberta, and includes the area contained within the geographic boundaries of the Town of Didsbury where the context requires;
- (g) “*CAO*” means the chief administrative officer of the *Town* or his/her delegate;
- (h) “*Contractor*” means the business of offering to any *person* to perform or arrange to perform work involving an *improvement*;
- (i) “*Council*” as defined in the *Municipal Government Act, R.S.A. 2000, Chapter M-26*, as amended;
- (j) “*dwelling unit*” means a dwelling unit as defined in the *Land Use Bylaw*;
- (k) “*improvement*” means anything built, placed, altered or repaired which is in, upon, over or under land or water, including a building and any clearing, dismantling, digging, drilling, excavating, grading, filling or tunnelling;
- (l) “*Land Use Bylaw*” means the current Town of Didsbury *Land Use Bylaw*;
- (m) “*licence*” means a licence issued under this Bylaw;
- (n) “*licence fee*” means those fees payable for a *licence* as prescribed in the *Rates and Fees Bylaw*;
- (o) “*Licencee*” means a *person* holding a valid and subsisting *licence*;
- (p) “*mobile business unit*” means a motor vehicle, temporary structure or display, or stand from which a *business* is *carried on* and for which the *Licencee* is not listed on the assessment roll;
- (q) “*Municipal Tag*” means a ticket alleging an offence issued pursuant to the authority of a Bylaw of the *Town*;
- (r) “*Peace Officer*” means a peace officer as defined in the *Provincial Offences Procedure Act*;
- (s) “*person*” means an individual human being or a corporation and includes a partnership, an association or a group of *persons* acting in concert unless the context explicitly or by necessary implication otherwise requires;
- (t) “*premises*” means a store, office, *dwelling unit*, warehouse, factory, building, enclosure or the place occupied or capable of being occupied, by any *person* for the purpose of *carrying on any business*;

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- (u) “*Rates and Fees Bylaw*” means the current Town of Didsbury *Rates and Fees Bylaw*
- (v) “*subsequent offence*” means any offence under this Bylaw committed by a *person* after that *person* has already been convicted of an offence under this Bylaw or has voluntarily paid a fine for such an offence;
- (w) “*Violation Ticket*” means a violation ticket as defined in the *Provincial Offences Procedure Act*;
- (2) Nothing in this Bylaw relieves a Person from complying with any Federal or Provincial law or regulation, other bylaw or any requirement of any lawful permit, order or licence.
- (3) Every provision of this Bylaw is independent of all other provisions and if any provision of this Bylaw is declared invalid for any reason by a court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable.
- (4) Any headings or subheadings in this Bylaw are included for guidance purposes and convenience only, and shall not form part of this Bylaw.
- (5) Specific references to laws in this Bylaw are meant to refer to the current laws applicable within the Province of Alberta at the time this Bylaw was enacted and as they are amended from time to time, including successor legislation.
- (6) All references in this Bylaw shall be read with such changes in number as may be appropriate according to whether the reference is to a person, or a corporation or partnership.

3. Licence Requirements

- (1) No *person* shall *carry on a business* in the *Town* unless the *person* holds a *licence* authorizing the *person* to *carry on* that *business*.
- (2) Notwithstanding subsection (1), a *licence* is not required for:
 - (a) a *business carried on* by the *Town*;
 - (b) a *business carried on* by the Government of the Province of Alberta or the Government of Canada or a Crown Corporation created by either Government;
 - (c) a *business* expressly exempted from the requirement of a *licence* by a statute of the Legislature of Alberta or Parliament of Canada or;
 - (d) a *business carried on* by any *person* as part of the Didsbury Farmer’s Market;
- (3) A person who contracts with any of the Governments or corporations designated in subsection (2) will be subject to all the requirements of this Bylaw.
- (4) No person shall contravene a condition of a licence.
- (5) A licence is required for each premises or mobile business unit where the business is carried on.

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4. Licence Application

- (1) Before the issue or renewal of a *licence* a *person* must submit to the *CAO*:
 - (a) an application in a form established by the *CAO*;
 - (b) the applicable *licence fee*; and
 - (c) any additional information required by this Bylaw or by the *CAO*.
- (2) No *person* shall give false information in an application pursuant to the provisions of this Bylaw.

5. Licence Fees

- (1) Unless otherwise specified in this Bylaw, *licence fees* are not refundable.
- (2) The *CAO* may refund a *licence fee* if the *licence* is not issued or renewed.
- (3) Where a *licence* has been issued in error without payment of the applicable *licence fee*, the *licence* may be revoked by the *CAO*.
- (4) A *person* who does not reside or maintain a permanent *business premises* in the *Town* shall pay the *non-resident licence fee* set out in the *Rates and Fees Bylaw*.
- (5) A *person* who operates a business from land zoned for residential use pursuant to the *Town of Didsbury Land Use Bylaw* shall obtain a home occupancy business licence.
- (6) A *Licencee* may apply to amend a *licence* by paying the amendment fee set out in the *Rates and Fees Bylaw*
- (7) A *Licencee* may obtain a replacement *licence* for a *licence* that has been lost or destroyed by paying to the *Town* the fee for a replacement *licence* set out in the *Rates and Fees Bylaw*.

6. Fee Exemptions for Charitable Organizations

- (1) Where any *charitable organization* wishes to be exempted from the requirements of this Bylaw to pay a *licence fee*, it shall apply to the *CAO* for an exemption providing the name of the organization and such other information as the *CAO* requires determining that the organization is a *charitable organization*.
- (2) Where an exemption to pay the *licence fee* has previously been granted to the *charitable organization* applying under the same or similar circumstances or a similar relief or benefit was granted to the same or a similar *charitable organization* pursuant to the provisions of this Bylaw, the *CAO* may issue a *licence* without requiring the payment of the *licence fee* from the *charitable organization*.
- (3) A *charitable organization* which receives an exemption under this section must otherwise comply with all provisions of this Bylaw.

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7. Consultations and Approvals

- (1) The *CAO* may consult, prior to issuing or renewing a *licence*, with authorities and agencies including but not limited to the Province of Alberta, the RCMP, other authorities having jurisdiction and *Town* departments, to determine whether they are in possession of information which, in the opinion of the *CAO*, renders it inappropriate for a *licence* to be issued to a *person*.
- (2) Where a *person* intends to *carry on business* at a specific *premises* or location within the *Town*, the person shall, prior to the *CAO* issuing a *licence*, ensure that all necessary approvals required under the *Land Use Bylaw* have been obtained and shall provide satisfactory proof thereof to the *CAO*.
- (3) Where a *licence* has been issued in error without all the necessary approvals required pursuant to this Bylaw, the *licence* may be revoked by the *CAO*.
- (4) The *CAO* may determine that it is inappropriate to issue a *licence* to a *person* where the safety, health or welfare of the public may be at risk due to the issuance of a *licence*.

8. Inspections

- (1) Where a *business* requires a consultation or approval for *licencing* or is *licensed*, then the *premises* and surrounding lot may be inspected by the *CAO* or a *Peace Officer*.
- (2) A *person* who the *CAO* or a *Peace Officer* reasonably believes is *carrying on a business* requiring a *licence*, an *applicant*, or a *Licencee* shall:
 - (a) permit and assist in all inspections requested by the *CAO* or a *Peace Officer*;
 - (b) furnish to the *CAO* or a *Peace Officer* all identification, information, or documentation related to the inspection or *licencing* requirement; and
 - (c) not provide to a the *CAO* or a *Peace Officer* false or misleading information or information intended to mislead with regard to any matter or thing arising in connection with the *licencing* of the *business*.
- (3) No *person* shall attempt to prevent, obstruct or hinder the *CAO* or a *Peace Officer* from making an inspection authorized by this Bylaw.
- (4) During an inspection authorized under this section, the *CAO* or a *Peace Officer* may examine any *business* record or document for the purpose of enforcing this Bylaw, remove any relevant record or document from the *premises* for the purpose of copying it, and will provide a receipt for any document or record so removed.
- (5) No *person* shall allow any false or misleading information to appear on any record required to be kept or prepared pursuant to this Bylaw.

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9. Licence Approval, Refusal, Suspension or Revocation

- (1) The *CAO* may refuse to issue or renew a *licence*, may suspend or revoke a *licence* and may impose any conditions on a *licence* for the following reasons:
- (a) The *applicant* or *Licencee* does not or no longer meets the requirements of this Bylaw with respect to the *licence* applied for or held;
 - (b) The *applicant* or *Licencee* or any of its' officers or employees:
 - (i) furnishes false information or misrepresents any fact or circumstance to a *Peace Officer* or the *CAO*;
 - (ii) has, in the opinion of the *CAO* based on reasonable grounds, contravened this Bylaw whether or not the contravention has been prosecuted;
 - (iii) fails to pay any fee or outstanding fine required by this Bylaw; or
 - (c) In the opinion of the *CAO*, based on reasonable grounds, it is in the public interest to do so.
- (2) Where any certificate, authority, licence or other document of qualification under this or any other Bylaw, or under any statute of Canada or the Province of Alberta is suspended, cancelled, terminated or surrendered, the *CAO* shall suspend any *licence* issued under this Bylaw based in whole or in part on the certificate, authority, *licence* or other document of qualification.

10. Notice to Applicant or Licencee

Before refusing to issue or renew a *licence*, and before a *licence* is suspended or revoked or conditions are imposed, other than conditions imposed by this Bylaw, the *applicant* or *Licencee* must be given:

- (a) notice of the proposed refusal, suspension, revocation or the proposed conditions with reasons; and
- (b) an opportunity to make written representations to the *CAO*.

11. Decision of CAO

If a decision is made to refuse the issue or renewal of a *licence*, to suspend or revoke a *licence* or to impose conditions on a *licence*, other than conditions imposed by this Bylaw, notice of the decision may be served on the *applicant* or *Licencee*:

- (a) in person on the *applicant* or *Licencee* or any of its officers or employees; or
- (b) by registered mail to the address in the application or in the records of the *Town* for the *Licencee*.

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12. Appeal to Town Council

- (1) A *person*:
- (a) who has been refused the issue or renewal of a *licence*;
 - (b) whose *licence* has been suspended or revoked; or
 - (c) whose *licence* is made subject to conditions, other than conditions imposed by this Bylaw;
- may appeal the decision within fourteen (14) days by providing written notice to the Deputy CAO and paying the notice of appeal fee set out in the *Rates and Fees Bylaw*.
- (2) Where a *Licencee* has given notice of an intention to appeal the revocation, suspension or conditions of a *licence*, the *CAO* may, in the *CAO*'s sole discretion, stay the revocation, suspension or conditions pending the hearing of the appeal if the continued operation of the *business* does not create a danger to the safety, health or welfare of the public.

13. Licence Identification

- (1) A *licence* must be issued on a form bearing the identification of the *Town* and all *licences* issued pursuant to this Bylaw are and shall remain the property of the *Town*.
- (2) A *licence* must bear on its face the date on which the *licence* will expire.
- (3) A *Licencee* shall:
- (a) post the *licence* in a prominent visible location in the *premises*; or
 - (b) if it is not practical to post the *licence*, produce the *licence* forthwith upon demand by a *Peace Officer*.
- (4) No person shall reproduce, alter, or deface a *licence*.

14. Notification of Changes

A *Licencee* shall forthwith notify the *CAO* in writing of:

- (a) a change in the address of the *Licencee's business premises*;
- (b) a change in the partners of the *business* if the *licence* is issued to a partnership; or
- (c) a change in the officers or directors of the corporation if the *licence* is issued to a corporation.

15. Transfer of Licence

A *licence* does not confer any property right and no *Licencee* may sell, transfer, assign, lease or otherwise dispose of or deal in a *licence*.

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16. Term of Licence

- (1) A *licence* issued pursuant to this Bylaw, unless previously suspended or revoked, or as otherwise specified in this Bylaw, is valid from the date issued and shall expire at twelve o'clock midnight on December 31 in the year in which it was issued.
- (2) The *CAO* may issue a *licence* for a limited term or for a specified date in any case where the *CAO* considers it appropriate to do so.
- (3) A *person* may not appeal a decision to issue a *licence* for a limited term or for a specified date.

PART II – REGULATIONS PERTAINING TO PARTICULAR BUSINESSES

17. Contractor

- (1) A *Contractor* that applies to the *Town* for a permit, including but not limited to a Building Permit, a Development Permit, a Plumbing and Gas Permit, an Electrical Permit or a Mechanical Permit, must have a *licence*.
- (2) The *CAO* or a *Peace Officer* may inspect the *premises* or the site at which a *Contractor* is working.
- (3) Notwithstanding Section 30, proof of one offer to perform or offer to arrange to perform work on an *improvement* is sufficient to establish that the *business* of a *Contractor* is being *carried on*.

PART III – ENFORCEMENT

18. Offence

A *person* who contravenes this Bylaw is guilty of an offence.

19. Continuing Offence

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 not less than that established by this Bylaw for each such day.

20. Vicarious Liability

For the purposes of this Bylaw, an act or omission by an employee of a *person* is deemed also to be an act or omission of the *person* if the act or omission occurred in the course of the employee's employment with the *person*.

For the purposes of this Bylaw, an act or omission by an agent of a *person* is deemed also to be an act or omission of the *person* if the act or omission occurred in the course of the agent's exercising the powers or performing the duties on behalf of the *person* under their agency relationship.

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21. Corporations and Partnerships

- (1) When a corporation commits an offence under this Bylaw, every principal, director, manager, employee or agent of the corporation who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence whether or not the corporation has been prosecuted for the offence.
- (2) If a partner in a partnership is guilty of an offence under this Bylaw, each partner in that partnership who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence.

22. Fines and Penalties

- (1) A Person who is guilty of an offence is liable to a fine in an amount not less than that established in the Rates and Fees Bylaw, and not exceeding \$10,000.00, and to imprisonment for not more than 6 months for non-payment of a fine.
- (2) Without restricting the generality of subsection (1) the specified penalties for use on Municipal Tags and Violation Tickets if a voluntary payment option is offered shall be found in the Rates and Fees Bylaw.

23. Municipal Tag

- (1) A Bylaw Enforcement Officer is hereby authorized and empowered to issue a Municipal Tag to any Person who the Bylaw Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- (2) A Municipal Tag may be issued to such Person:
 - (a) Either personally; or
 - (b) By mailing a copy to such Person at his or her last known post office address.
- (3) The Municipal Tag shall be in a form approved by the CAO and shall state:
 - (a) The name of the Person;
 - (b) The offence;
 - (c) The specified penalty established by this Bylaw for the offence;
 - (d) That the penalty shall be paid within 30 days of the issuance of the Municipal Tag; and
 - (e) Any other information as may be required by the CAO.

24. Payment in Lieu of Prosecution

Where a Municipal Tag is issued pursuant to this Bylaw, the Person to whom the Municipal Tag is issued may, in lieu of being prosecuted for the offence, pay to the Town the specified penalty within the time period indicated on the Municipal Tag.

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25. Violation Ticket

If a Municipal Tag has been issued and if the specified penalty has not been paid within the prescribed time, then a Bylaw Enforcement Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to the *Provincial Offences Procedure Act*;

Notwithstanding subsection (1), a Bylaw Enforcement Officer is hereby authorized and empowered to immediately issue a Violation Ticket pursuant to the *Provincial Offences Procedure Act* to any Person who the Bylaw Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw;

If a Violation Ticket is issued in respect of an offence, the Violation Ticket may;

- (a) Specify the fine amount established by this Bylaw for the offence; or
- (b) require a Person to appear in court without the alternative of making a voluntary payment.

26. Voluntary Payment

A Person who commits an offence may:

- (a) if a Violation Ticket is issued in respect of the offence; and
- (b) if the Violation Ticket specifies the fine amount established by this Bylaw for the offence;

make a voluntary payment by submitting to a Clerk of the Provincial Court, on or before the initial appearance date indicated on the Violation Ticket, the specified penalty set out on the Violation Ticket.

27. Obstruction

A *person* shall not obstruct or hinder any *person* in the exercise or performance of the *person's* powers pursuant to this Bylaw.

PART IV - GENERAL

28. Proof of Licence

The onus of proving that a *person* has a valid and subsisting *licence* for a *business* is on the *person* alleging the *licence* on a balance of probabilities.

29. Proof of Exemption

The onus of proving that a *person* is exempt from the provisions of this Bylaw requiring a *licence* is on the *person* alleging the exemption on a balance of probabilities.

30. Proof of Business

In a prosecution for a contravention of this Bylaw against *carrying on a business* without a *licence*, proof of one transaction in the *business* or that the *business* had been advertised is sufficient to establish that a *person* is *carrying on the business*.

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31. CAO

Without restricting any other power, duty or function granted by this Bylaw, the *CAO* may:

- (a) carry on whatever inspections are reasonably required to determine compliance with this Bylaw;
- (b) delegate any powers, duties or functions under this Bylaw to an employee of the *Town*; and
- (c) establish forms for the purposes of this Bylaw.

32. Certified Copy of Record

A copy of a record of the *Town*, certified by the *CAO* as a true copy of the original, shall be admitted in evidence as prima facie proof of the facts stated in the record without proof of the appointment or signature of the *person* signing it.

33. Existing Licence

An existing licence issued under Bylaw No. 94-13, the Town of Didsbury Business Licence Bylaw, remains valid until the term of such licence expires.

34. Repeal

Bylaw No. 94-13 is repealed.

35. Enactment

This Bylaw shall come into force and effect when it received third reading and is duly signed.

READ A FIRST TIME this	_____	day of	_____	2012
READ A SECOND TIME this	_____	day of	_____	2012
READ A THIRD AND FINAL TIME this	_____	day of	_____	2012

Mayor

Chief Administrative Officer