

## BYLAW #2022-2060

### A BYLAW OF THE CITY OF ESTEVAN TO PROVIDE FOR THE LICENING OF BUSINESSES OPERATING WITHIN THE CITY OF ESTEVAN

WHEREAS, the Council of the City of Estevan, in the Province of Saskatchewan has deemed it necessary to establish a licencing and regulatory system for the carrying out of business, business activities and persons engaged in business pursuant to Section 8(h) of the Cities Act.

NOW THEREFORE, the Council of the City of Estevan, in open meeting, enacts as follows;

#### PREAMBLE:

- 1) That this Bylaw be known as the *City of Estevan Business Licencing Bylaw*.
- 2) That *City of Estevan Business Licensing Bylaw 2016-1969*, and any amendments thereto, be rescinded.
- 3) This Bylaw shall:
  - a) establish a structure for the regulation of businesses,
  - b) compliance monitoring with land use, fire and building regulations, and
  - c) be an aide to short and long-term economic development and land use planning decisions.

#### PART I - INTERPRETATION

- 4) For the purpose of this Bylaw, the following words and terms are defined as follows:
  - a) **Block Face** means a portion of a street between two intersections.
  - b) **Business** means any of the following activities, whether or not for profit and however organized or formed:
    - i. A commercial merchandising or industrial activity or undertaking;
    - ii. The carrying on of a profession, trade, occupation, calling or employment; or
    - iii. An activity providing goods or services.as defined by *The Cities Act*, as amended.
  - c) **Business Premise** means a parcel of land or a building where a business and any related activities occur.
  - d) **Charity** means an organization that is:

- i. Incorporated as a non-profit corporation in the Province of Saskatchewan;
  - ii. A registered charity authorized to issue tax receipts for donations pursuant to the *Income Tax Act*; or
  - iii. An organization that can demonstrate it is formed for social, educational, religious or philanthropic purposes from which the members do not receive any direct economic gain.
  
- e) **City** means the City of Estevan inclusive of all lands within the corporate limits of the City of Estevan.
  
- f) **Contractor** means a person who constructs, alters, maintains, repairs or remove buildings or structures, installs heating plants, plumbing or other fixtures or performs other similar work in the City and who does not have business premises in the City.
  
- g) **Designated Officer** means a person designated by Council or the City Manager to carry out duties pursuant to this Bylaw.
  
- h) **Direct Sales Contractor** means a person who does not have business premises in the City and who sells, offers for sale or solicits orders for:
  - i. Constructing, altering, renovating, maintaining, repairing, adding to or improving a building that is used or is to be used as a house by the owner, occupier or person in control of it; or
  - ii. Altering, maintaining or improving real property to be used in connection with a house.
  
- i) **Direct Seller** means a person who does not have a business premises in the City and;
  - i. Goes from house to house selling or offering for sale, or soliciting orders for the future delivery of goods or services; and/or
  - ii. By telephone offers for sale or solicits orders for the future delivery of goods or services.
  
- j) **Farmers Market** means a group of persons operating collectively which sell products that they make, bake or grow.
  
- k) **Garage Sale** means a sale for used personal items or crafts made by a person within the home on a residential lot for a period of no more than three consecutive days.
  
- l) **Hawker** means a person who:
  - i. goes from place to place selling or offering to sale any merchandise or service to a person; and who is not a wholesale or retail dealer in merchandise or service with a permanent place of business in the City of Estevan;
  - ii. offers or exposes for sale to any person by means of samples, patterns, cuts or blueprints, merchandise to be afterwards delivered or shipped into the City of Estevan; or
  - iii. sells merchandise on the streets or roads or elsewhere than a building that is his permanent place of business or dwelling in the City of Estevan.

- m) **Home Based Business** means any occupation, business, trade, profession, or craft, including a bed and breakfast operation and home day care as defined in this Bylaw, carried on by an occupant of a residential building as a use secondary to the residential use of the building and which does not change the character thereof or have any exterior evidence of such secondary use.

Home based business (Class I) is generally characterized as a business that has no client visitations, uses light duty vehicles and uses a minimal amount of floor area within the residence. May include education services such as music classes.

Home based business (Class II) is generally characterized as a business that has client visitations and/or uses a larger area of the home or accessory business for business purposes.

- n) **Legally parked** means the standing of a vehicle on a public road right of way as determined by the City of Estevan.
- o) **Licensing Officer** means the person(s) appointed by the City Manager to administer this Bylaw.
- p) **Minor** means an individual under the age of eighteen (18) years.
- q) **Mobile Concession** means a self-contained, self-propelled (motorized or muscle powered) vehicle (truck and/or trailer) or cart containing appropriate equipment for the type and method of prepared food served.
- r) **Mobile Concession Vendor** means any person who offers food for sale from a mobile concession.
- s) **Outdoor Recreation Area** means any public park or sports field under the control of the City of Estevan.
- t) **Pawnbroker** means any person that lends money in exchange for personal property that can be sold if the loan is not repaid in time.
- u) **Peddler** means a retail dealer who brings goods from place to place and offers them for sale.
- v) **Person** includes business corporations, partnerships and sole proprietorships.
- w) **Prepared food** means food sold by Vendors intended for immediate consumption without further preparation/cooking.
- x) **Public Roadway** means that part of a public street designated or intended for use by vehicular traffic.
- y) **Public sidewalk** means any sidewalk(s) included on public property.
- z) **Trade Show** means a place where the public is invited and where goods or merchandise are offered for sale by retail or auction on a short-term basis such as hobby shows, home improvement shows, sportsman shows, and craft shows.

aa) **Transient Trader** means a person carrying on business in the City who:

- i. Offers goods or merchandise for sale by retail or auction; or
- ii. Solicits any person who is not a wholesaler or retail dealer for orders for the future delivery of goods, services or merchandise; or
- iii. is a non-resident contractor providing a service

but, does not include a person who is required to be licensed pursuant to the *Direct Sellers Act* or who is an occupant or property that is used for business purposes.

## **PART II - LICENSES-GENERAL:**

- 5) Subject to (6) below, no person shall carry on business within the City unless such person holds a valid and subsisting license to do so issued pursuant to this Bylaw.
- 6) A license shall not be required for:
  - a) a business activity carried on by the City of Estevan;
  - b) an activity carried on by a minor;
  - c) a garage sale in compliance with this Bylaw;
  - d) a business carried on by the Governments of the Province of Saskatchewan, Canada or a Crown Corporation created by either Government;
  - e) any person operating within the limits of the Estevan Exhibition Grounds during the annual exhibition or other event as approved by City Council;
  - f) any activity carried on by a Charity or Community Club; or
  - g) any other activity or business that City Council may be resolution exempt from the requirements of this Bylaw.
- 7) A person shall apply in writing to the City for a license prior to commencement of the business.
- 8) For clarification, the activities of a contractor or subcontractor providing goods or services to another business within the City is a business activity within the meaning of this Bylaw and persons who are contractors or subcontractors providing such goods or services are required to obtain a license pursuant to the terms of this Bylaw.
- 9) A person may conduct business activities from more than (1) premises under a single business license, provided that:
  - a) each premises is identified on the license as a location at or from which the person intends to conduct his/her business activities; and
  - b) only one location is a physical "brick and mortar" store; and
  - c) similar business activities are being conducted at each such location; or
  - d) the nature of the business is such that the business provides services in various locations as a normal practice (i.e., a carpenter or a home care nurse).

## **APPLICATION:**

10) An application shall include all of the requested information, including:

- a) Contact information for the applicant (name, phone number, full mailing address);
- b) Contact information for the landowner if different from the applicant (name, phone number, full mailing address);
- c) Contact information for the business owner (name, phone number, full mailing address) if different from the applicant or landowner;
- d) Proof of registration of the business name with the corporation branch or equivalent federal or provincial agency;
- e) Description of the nature of the business;
- f) Address where business is to be carried out;
- g) Area of the premise where the business will be carried out;
- h) Any certificate, authority, license or other document of qualification under this or any other bylaw, or under any Statute of Canada or the Province of Saskatchewan that may be required in connection with the carrying on of the business; and
- i) In the case of mobile concessions, proof of current registration when the mobile concession is to be parked on a public roadway or operating on public property.

## **FEE:**

11) A person shall remit a fee as provided for in Schedule "A" when applying for a license,

12) A license shall not be issued until the applicable fee has been completed.

13) The applicable fee is calculated by the Licencing Officer, based upon reasonably exercised discretion as to the nature of the business and the information provided by the applicant.

14) Licenses are not transferable to other persons or locations.

15) If a person makes an application for a license after August 31 of the current year, the applicable fee may be prorated at the discretion of the licensing officer for the portion of the year remaining.

16) A business that ceases operation is not eligible for a refund, in whole or in part, of their licensing fee.

## **TERM OF USE:**

17) All licenses issued pursuant to this Bylaw shall expire after the 31<sup>st</sup> day of December of the year in which the license was issued.

18) Any person to whom a business license has been issued that intends to continue said business shall make application to a Licensing Officer for the renewal of the said license prior to January 31 of the following year.

19) It is the responsibility of the person responsible for the business license to notify the City if the business is discontinued or if the nature of the business changes.

**DISPLAY:**

20) Any license issued under this Bylaw must be displayed in a prominent place on the premise of the business for which the license was issued.

21) Placards for the temporary parking of construction trailers on a City street must be prominently attached and displayed on the trailer.

22) In the case of a transient business, the license holder shall produce his/her license when requested by the Licensing Officer either at the time of request or within 48 hrs.

**PART III – REGULATORY COMPLIANCE:**

23) A license will not be issued under this Bylaw where the business does not conform to applicable zoning or building requirement of the City.

24) The issuance of a license under this Bylaw does not relieve a person from the responsibility to comply with any other municipal bylaw, requirement of the Province of Saskatchewan or the Government of Canada.

25) The Licensing Officer shall refer an initial application for a business license to applicable City Departments such the Building Official, Estevan Fire Department or Bylaw Enforcement services with the Estevan Police Service.

26) As a clarification to (25) above, the City:

a) shall refer all licenses for cannabis related activities, body rub and/or massage services or taxi services to the Estevan Police Department for their review and comment; and

b) may require confirmation of satisfactory insurance and registration from Saskatchewan General Insurance (SGI) for taxi services and a mobile concession.

27) If a person contravenes any term or condition of a license issued to him/her, the City may suspend or cancel the license.

28) The City may reinstate a suspended license if it is satisfied that the licensee is complying with this Bylaw.

29) In a prosecution for a contravention of this Bylaw, proof of one (1) transaction in the business or that the business has advertised is sufficient to establish that a person is engaged in or operates a business.

30) No person shall advertise a business or promote an activity for which a license is required pursuant to this Bylaw unless said person holds a valid license to do so.

### **PART III – SPECIFIC LICENSES:**

#### **AUCTIONS:**

- 31) No auction shall take place on public land, including roadways, parks, parking lots, etc., without the approval of the City Manager.
- 32) An auction license shall not be used for the purpose of pawnbroker services.

#### **CONTRACTORS:**

- 33) Contractors that operate within the City on an intermittent basis may have their license fee adjusted at the discretion of the Licensing Officer.

#### **FARMER’S MARKETS:**

- 34) A license issued for a farmer’s market includes all businesses/persons that offer goods or merchandise for sale at the said farmer’s market.
- 35) Farmers markets may include vendors for charities, public information campaigns, raffles, etc.
- 36) Should the Licensing Officer determine that a certain business operating at a farmer’s market should not be eligible for operation within the farmer’s market, the License Inspection may require that business to vacate the said farmer’s market.
- 37) Where section (34) of this Bylaw is applied, the license for the farmer’s market shall be maintained.

#### **GARAGE SALES:**

- 38) A garage sale is subject to the City’s sign regulations as set forth in the City of Estevan Zoning Bylaw and the City’s Traffic Bylaw. *(Private signage on City lands is generally prohibited, please consult with the City Zoning Bylaw/Sign provisions for more information)*
- 39) A garage sale may be held for four consecutive days with operating hours from 9:00 AM to 9:00 PM, except for Sundays where the closing time is 5:00 PM.
- 40) All signage related to a garage sale shall be removed by no later than 10:00 PM of the final day of the sale.
- 41) Failure to remove garage sale signage may result in enforcement actions taken by the Licensing Officer.

42) More than one home in a neighbourhood may collectively hold a garage sale in a single location.

43) A garage sale may not take place at the same location more than once every three months.

#### **TRADE SHOWS:**

44) A person shall obtain a license to operate a trade show.

45) Once a trade show license has been obtained, all participating businesses in the trade show are included within the trade show license.

#### **HAWKERS AND PEDDLERS:**

46) Hawkers and Peddlers shall not call on residents between 9:00 PM and 9:00 AM.

47) Hawkers and Peddlers shall not locate on public land or roadways without the written consent of the City of Estevan.

48) Hawkers and Peddlers that offer meat fish, fruit, greenhouse products or other farm produce outside of a farmer's market shall be administered as a mobile concession.

#### **MOBILE CONCESSIONS – FOOD CARTS AND FOOD TRUCKS:**

##### **General**

49) No person shall operate a mobile concession on public or private land, public roadway, outdoor recreation area, sidewalk or boulevard except as provided for in this Bylaw.

50) A license for a mobile concession may include requirements as imposed by City Engineering Services, City Roads and Drainage and/or the City Fire Department.

51) The hours of operation for a mobile concession are limited to 8:00 AM to 9:00 PM daily unless otherwise determined by a Licensing Officer.

52) Mobile concessions are approved on a first come first served basis.

53) The City may require as part of the business license application:

- a) a sample menu, photo(s) or detailed drawings of the mobile concession,
- b) A copy of written approval from Sask Health and where applicable, Sask Gas,
- c) Approval of the City of Estevan Fire Department, and



- d) Approval of the landowner when on private land.

### **Approved Locations**

- 54) A mobile concession may operate at a residence for a period of 2 hours as part of a celebration related to a resident of that property during the hours provided in (51) above.
- 55) A mobile concession may operate in residential, recreational or institutional/urban services area, provided they do not remain in the same general location for more than 2 hours.
- 56) A mobile concession may operate in an industrial area for a period no longer than 2 hours on any day.
- 57) Operating hours under this section do not include time taken for setup which is a maximum of 1 additional hour.
- 58) A mobile concession may operate within a “block party” area as approved by the City of Estevan for the duration of the block party.
- 59) A Licensing Officer may approve a longer operating time for Section (54), (55) and (56) where the mobile concession is not to be located on a public roadway or sidewalk.

### **Prohibited Locations**

- 60) A mobile concession shall not be less than 20m (66 ft.) from the entrance or outer wall of a restaurant, whichever is greater, unless the restaurant owner agrees in writing to a lesser distance. A copy of the written permission shall be provided to the Licensing Officer where approval is granted for a lesser distance.
- 61) A mobile concession shall not operate within 20 m (66 ft.) of another mobile concession unless both concession owner/operators agree.
- 62) On any block of a street adjacent to a school site on a school day between 8:00 AM and 6:00 PM. unless written permission is obtained from the school.
- 63) A mobile concession shall not be located within a loading zone or between a loading zone and a store-front.
- 64) A mobile concession shall not be located on a public or private lot without the permission of the landowner and City.

### **Sidewalk Carts – Location Criteria**

- 65) No person shall operate a mobile concession from a public sidewalk or public land, unless the operation complies with the following standards:

- a) A minimum setback of 1.2 m (4.0 ft.) of sidewalk shall remain free of obstructions to facilitate pedestrian movements between the concession and the curb or any other physical obstruction such as a utility pole, light standard, fire hydrant or waste receptacle.
- b) Otherwise represent a danger to public safety.
- c) The use of the sidewalk shall not impede access to a building entrance or exit.
- d) No permanent alterations or attachments to the sidewalk or boulevard shall be permitted.
- e) Waste receptacles shall be provided and the area shall be left in a state of cleanliness. All storage and waste containers shall be kept adjacent to the concession.
- f) The owner/operator of the concession shall be responsible for maintaining and keeping the adjacent sidewalk, boulevard and street clean at all times.

### **Mobile Concession – Location Criteria**

- 66) There are no fixed locations for mobile concessions on public property. Locations for mobile concessions are determined on a first come first served basis daily.
- 67) Vehicles shall not be parked at a vending location overnight unless part of a multi-day public event.

### **Mobile Food Courts**

- 68) The City may establish a mobile food court on private land or public land on or adjacent to any parcel where a restaurant or eating establishment is an allowable use in the City of Estevan Zoning Bylaw.
- 69) A mobile food court may consist of one or more mobile concession vendors and accessory uses including, but not necessarily limited to: washroom facilities, picnic tables and landscaping and customer parking.
- 70) A mobile food court shall require an approved development permit in accordance with the *City of Estevan Zoning Bylaw*.

### **Insurance Requirements**

- 71) An application for a mobile concession shall include:
  - a) A minimum of \$2 million commercial general liability insurance, and shall indemnify the City of Estevan from any and all claims of injury to persons or damage to property, attributable, in whole or in part, to that persons use of the City sidewalk or any other portion of the City street.

- b) Any person using a public roadway under the provision of this policy shall carry a minimum of \$2 million auto liability insurance on each owned or non-owned vehicle/trailer associated with the business.
- c) The City of Estevan shall be provided notice of cancellation or change to the insurance policies.
- d) The City of Estevan shall be listed as additional insured on all insurance policies.

#### **PART IV– CONTRAVENTION AND ENFORCEMENT:**

##### **Inspections:**

- 72) The Licensing Officer is authorized to enter any property or premises in the City of Estevan during normal business hours to:
- a) determine if this Bylaw is being complied with, or contravened, as the case may be;
  - b) verify the accuracy of information provided by a person when applying for a business license or the renewal of a business license; and/or
  - c) obtain any additional information from any person to whom a license has been issued regarding the conduct of that person's business activities that may be required under this Bylaw.
- 73) Pursuant to Section 324 of *The Cities Act*, the City of Estevan shall appoint all Licensing Officer's and all inspections shall be carried out pursuant to this Bylaw and *The Cities Act*.
- 74) Landowner consent is required for a Licensing Officer to enter a residential dwelling or accessory building. The Licensing Officer may apply to a justice of the peace or a provincial court judge for a warrant pursuant to Section 325 of the *The Cities Act* should a residential landowner refuse consent to enter.
- 75) No person shall obstruct a Licensing Officer who is authorized to conduct an inspection under this Bylaw, or a person assisting a License Officer.

##### **Violation Order:**

- 76) A person who:
- a) Obstructs or hinders a Designated Officer or any other person acting under the authority of this Bylaw; and/or
  - b) Fails to comply with a provision of this Bylaw;
- has committed or is alleged to have committed an offence under this Bylaw.
- 77) A person who commits or is alleged to have committed an offence for which a penalty is described in Schedule "A" of this Bylaw, a License Inspector or any other person authorized by the Director shall issue a Violation Order to such person.
- 78) The Violation Order shall provide for the voluntary payment of a penalty in the amount set forth in Column A of Schedule "A" for the offence which the person has or is alleged to have committed.

- 79) If payment of the amount specified on the Violation Order is made on or before the date indicated on the Violation Order, the person shall not be liable for prosecution for the offence indicated.
- 80) If the payment of the amount specified on the Violation Order is not made the Licensing Officer shall continue the enforcement of the Violation Order in accordance with Section 325, 326 and 328 of *The Cities Act*.
- 81) Where a penalty is not specified in Schedule "A", a person who has or is alleged to have contravened this Bylaw, upon summary conviction is liable to a fine:
- a) For the first offence of \$250;
  - b) For the second offence of \$400;
  - c) For the third or subsequent offence of not less than \$500 and no more than \$10,000 in the case of an individual or \$25,000 in the case of a corporation.

**PART V- GENERAL MATTERS:**

- 82) If any section, sub-section, sentence, clause, phrase or other portion of this Bylaw is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, that portion shall be deemed a separate, and distinct and independent provision and the holding of the Court shall be affect the validity of the remaining portions of the Bylaw.
- 83) City of Estevan Business Licence Bylaw 2016-1969 and all amendments thereto are hereby repealed upon the coming into force of this Bylaw.
- 84) This bylaw shall come into force and effective on January 1, 2023

**CITY OF ESTEVAN**

  
**ROY LUDWIG, MAYOR**

**JUDY PILLOUD, CITY CLERK**

**Read a First Time** this 22<sup>nd</sup> day of August, 2022 A.D.

**Read a Second Time** this 12<sup>th</sup> day of September, 2022 A.D.

**Read a Third and Final** time, Approved, and Adopted for use by The City of Estevan this 12<sup>th</sup> day of September, 2022 A.D.

## SCHEDULE "A"

### OFFENCES FOR WHICH A VIOLATION ORDER MAY BE ISSUED

Section #	Description	Voluntary Payment	Full Payment
	Operating a business activity without a license	\$200.00	\$300.00
	Conducting a business activity from a location not identified on a business license	\$100.00	\$150.00
	Continuing to conduct a business activity without making application for renewal of previous license, payment of prescribed fees or provision of required information within specified period of time	\$200.00	\$300.00
	Failing to post copy of business license at premises or at which business activities are being conducted.	\$100.00	\$150.00
	Advertising a business or promoting a business activity without a business license	\$200.00	\$300.00
	Operating a mobile concession on public land without City approval	\$300.00	\$400.00
	Operating a mobile concession on a public roadway, boulevard or sidewalk in a prohibited area	\$100.00	\$150.00

## SCHEDULE "B":

### BUSINESS LICENSE FEES

Description	FEE
Commercial Business outside of City Limits	\$500
• Sub-trade to another business on a per/job basis	\$125
Commercial Business within City Limits	\$50
Construction Trailer Placard (per placard)	\$50
Direct Sales/Seller	\$500
Farmers Market	\$125
Mobile Concession	\$200
Residential Home-Based Business (Class I)	\$75
Residential Home-Based Business (Class II)	\$300
Trade Show (Organizer)	\$250
Transient Trader	\$300
Other	\$250