



DISTRICT OF CLEARWATER

BYLAW NO. 124, 2014

A bylaw to Regulate and License Business

WHEREAS the *Community Charter* permits a Council to regulate the carrying on of business within the municipality;

NOW THEREFORE, the Council of the District of Clearwater, in open meeting assembled, enacts as follows:

1. **CITATION**

- 1.1 This bylaw may be cited for all purposes as the "*District of Clearwater Business Licensing and Regulation Bylaw No. 124, 2014*".

2. **INTERPRETATION**

- 2.1 In this bylaw:

"Bed and Breakfast" means a business operation carried on by a member of a resident family to provide temporary sleeping accommodations, with or without meals being provided, within the same dwelling unit resided by the operator.

"Business" means the carrying on of a commercial or industrial activity or undertaking of any kind or nature or the providing of professional, personal or other service for the purpose of gain or profit, but does not include any activity carried on by the government, its agencies or government owned corporations;

"Contractor" means any person, who performs any type of construction or building work or service for a fee and any person who takes out more than one building permit in any one calendar year for the construction of new residences or alterations to existing buildings.

"Convenience Store" means a retail business which provides for the retail sale of household goods to serve the day-to-day shopping needs of the general public, and that may include the sale of fast foods and rental of audiovisual products.

"Council" means the Council of the District of Clearwater.

"District" means the District of Clearwater.

"Entertainment Use" means a use providing for the entertainment of the public and includes bingo halls, dance halls, amusement arcades, pool halls, licensed premises, theatres and associated ancillary sales.

“Farmers Market” means a temporary or seasonal market for the display and sale of farm produce and associated products in an open air or indoor venue.

“Film Production” means the business of casting, shooting, directing or otherwise creating a motion picture using property owned or held by the District or the government.

“Flea Market” means an occasional or period sales activity held within a building, structure or open area where groups or individual sellers offer goods, new and used, for sale to the public, but does not include a garage or yard sale.

“Garage or Yard Sale” means a sale on residential property by the resident of that property of personal and household items used by the resident.

“Home Based Business” means an occupation, craft or profession that is carried out for a business purpose within a dwelling unit or on a residential lot primarily by and one or more residents as an accessory use.

“Licence Inspector” means a person appointed by Council to administer and enforce this bylaw or, if no person has been appointed or that person is not available for any reason, the chief administrative officer, corporate clerk or financial officer.

“Licence” means a Licence issued under this Bylaw.

“Liquor Primary” has the same meaning as in the *Liquor Control and Licensing Regulation*.

“Medical Marihuana Production Facility” means the use of land, buildings, and structures for the production and testing of medical marihuana as licensed by Health Canada.

“Mini-Storage Facility” means a use providing for the rental of space within a building for the purpose of storing domestic goods not classified as dangerous or toxic under federal and provincial statute, but does not include wholesaling, retailing, manufacturing, and processing of any kind; vehicle repairs or vehicle wrecking; the storage of dirt, filth, refuse, debris; or the storage of any substance which, if exposed to persons not suitably protected, is likely to endanger health or safety.

“Mobile Vendor” means any person who offers for sale and immediate delivery any food, goods, or merchandise from a motor vehicle, temporary structure or display, or from a stand that is not permanently affixed to real property.

“Nursery” means the use of premises for the propagation, early cultivation and sale of seeds, plants and nursery stock and the retail sale of related materials such as tools, soil and fertilizers, but does not include the sale of heavy or large agricultural machinery.

“Operator” means a person who carries on a business.

“Personal Service Use” means a business which provides professional or personal services to customers which may include the accessory sale of retail goods, and includes barber shops, beauty parlours, animal grooming services, laundry or dry cleaning shops, laundromats, financial institutions, professional offices, services for printing, shoe repair, tailoring, dressmaking, optical or watch repairs, fitness centres, electrical appliance repairs, training, educational or instructional services and other similar uses.

“Preschool” means a facility licensed under the Community Care and Assisted Living Act, Child Care Licensing Regulation in which children are provided with opportunities for social, emotional, physical and intellectual growth.

“Professional Office” means an establishment engaged in transacting business or providing professional services such as medical, dental, financial, counselling, insurance, real estate, administration and legal offices.

“Public Market” means an occasional or temporary market for the purpose of offering goods for sale to the public including local artisan crafts, fruits, vegetables and plants, secondary agricultural products including cheese, preserves, honey, home baking, fresh/frozen/preserved fish and seafood, and locally prepared and ready-to-eat foods or light refreshments as approved by the Medical Health Officer.

“Restaurant” means the use of land, buildings or structures where food or beverages are prepared and served for consumption on or off the premises and may include cafes, coffee shops, delicatessens, and fast food outlets with or without drive-through service or window.

“Retail Store” means the use of land, buildings or structures for the sale of goods to the ultimate consumer, but does not include vehicle sales or service stations.

“Service Station” means a use providing for the retail sale of motor fuels including natural gas and diesel, lubricating oils, propane, and vehicle accessories and may include a cardlock facility and the servicing or repair of vehicles, but does not include vehicle body work or painting.

“Secondhand Dealer” means an Operator whose business involves purchasing, selling, procuring or offering for sale used or second-hand items whether on a wholesale or retail basis.

“Special Event” means a business involving temporary or short term activity such as a parade, procession, circus or carnival, fair, exhibition, sporting or cultural event, a musical, theatrical or other performance, with or without mobile vendors, whether outdoors or within a building or other structure.

“Temporary Sawmill Use” means silviculture, harvesting and the processing of timber and other forestry products grown only on the subject lot.

“Tourist Information Services” means a building or structure for the purpose of providing information to the travelling public and the business community.

“Vehicle Wrecking” means the wrecking, salvaging or dismantling of vehicles, vehicle parts, vehicle frames or vehicle bodies and includes the storage of inoperable or unlicensed vehicles and the storage and sale of used parts of vehicles.

“Veterinary Clinic” means a facility operated under the supervision of a veterinarian for the care and treatment of domestic or wild animals including, and without limiting the generality of the foregoing, equine or bovine species.

“Winery, Cidery, Microbrewery” means the growing, processing, storage and sale of fruit or grain based beverages licensed under the *Liquor Control and Licensing Act* and may include a bistro and gift shop as an accessory use.

2.2 Unless otherwise provided in this bylaw, words and phrases used herein have the same meanings as in the *Community Charter, Local Government Act* and the *Interpretation Act* as the context and circumstances may require. A reference to an Act refers to a statute of British Columbia and a reference to any statute, regulation, bylaw or other enactment refers to that enactment as it may be amended or replaced from time to time. Headings are for convenience only and must not be construed as defining or limiting its scope or intent. If any part of this bylaw is held to be invalid by a court of competent jurisdiction, the invalid part is severed and the remainder continues to be valid.

2.3 This bylaw does not apply to:

- (a) a society registered in British Columbia or Canada or a registered charitable organization who does not operate a retail or other commercial business on a regular basis;
- (b) occasional fund-raising activities held by educational organizations, churches, sports teams, societies or other non-profit organizations;
- (c) rental of a single family dwelling or duplex where the rental agreement is subject to the *Residential Tenancy Act*;
- (d) farm business as defined in the *Farm Practices Protection (Right to Farm) Act*;
- (e) an activity carried on by or on behalf of the Provincial or Federal government or a corporation or agency of the government.
- (f) Garage or Yard Sales held less than four (4) days per year

2.4 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 license.

3. LICENCE REQUIREMENTS

3.1 A person must not engage in or carry on a business within the District unless that person holds a valid Licence issued by the Licence Inspector.

- 3.2 Every operator must renew the Licence applicable to the business prior to the beginning of each licensing period as long as such business is being carried on.
- 3.3 Without limiting the requirement for every operator to obtain a Licence, any person who:
- a) advertises by newspaper publicity or otherwise, as open for business of any kind within the District;
 - b) deals in or buys, sells, barter or displays, or offers by advertisement or otherwise to buy, sell or barter things of any kind, either on behalf of himself or any other person within the District;
 - c) advertises as open to render professional or other services within the District;
- to residents, visitors, or other operators in the District, is deemed to be carrying on a business.
- 3.4 A person must not carry on a business in or from any premises in the District other than those specified on a valid Licence.
- 3.5 Where a business is carried on in or from more than one premise in the District, the operator must obtain a Licence for each premises and the business carried on at each premises is deemed to be a separate business.
- 3.6 A person to whom a Licence has been issued under this bylaw must promptly notify the Licence Inspector in writing of any change or correction to the information provided on the business licence application. In particular, without limiting the foregoing, before changing the location, operator, or any condition related to size, volume, number or other limit or restriction noted in the Licence, the licence holder must apply to have the licence modified accordingly.
- 3.7 A Licence under this bylaw is personal to the operator named therein and is not transferable. In the event of a change of operator of the business for which such Licence was issued, the new operator must apply for a separate Licence.
- 3.8 The person to whom a Licence has been issued must ensure that the Licence is posted in a conspicuous place and manner in a part of the business premises to which the public has access, or as directed by the Licence Inspector.
- 3.9 Business Licences shall be deemed effective from January 1st to December 31st in any year.
- 3.10 Every operator must endeavor to meet trade, occupational, professional or other standards established by law or in the absence of law, by customary practice for that business.

4. LICENCE APPLICATION and CONSIDERATIONS

- 4.1 A person may apply for a Licence by completing a Licence application and submitting it, together with applicable fees, to the Licence Inspector.

- 4.2 On receiving an application for a Licence, the Licence Inspector may issue a Licence on being satisfied that the Applicant can operate the business in a safe and reasonable manner and in compliance with this and other bylaws of the District.

5. **LICENCE RENEWAL**

- 5.1 The District shall make available to all licencees an invoice and renewal form prior to the end of December of each year.
- 5.2 A licencee who proposed to renew a business licence shall obtain, complete and submit to the District a renewal form/invoice together with the annual licence fee as set out in Schedule "A" **not later than January 31st** each year.
- 5.3 If a business licence is not renewed in accordance with Section 5.2 (by January 31st each year), a licencee who wishes to continue to carry on the business shall submit the renewal form/invoice, the annual licence fee (as per Schedule "A") and a late payment fee of \$25.00.

6. **EFFECT OF LICENCE**

- 6.1 A business licence is not a representation or warranty that the licensed business or the premises on which it is located complies with the Bylaws of the District or with any other applicable statutes, regulations, requirements or standards.
- 6.2 A business licence authorizes only the person named in the business licence to carry on only the business described, at the premises described, for the period of time specified, and upon such terms and conditions as set out in the licence.

7. **INFORMATION AND INSPECTION**

- 7.1 The Licence Inspector may require any information from an Applicant that the Inspector considers to be relevant to the safe and reasonable operation of the business, and the Inspector, or an employee of the District designated by the Inspector, may enter at all reasonable times upon any property to inspect and determine whether the requirements of this bylaw and other applicable enactments are being met.
- 7.2 If the Licence Inspector believes it necessary or advisable in the circumstances, in determining whether a Licence should be issued or in entering a premises, conducting an inspection or enforcing this bylaw, the Inspector may seek information from, consult with, or be accompanied and assisted by any of the following persons:
- (a) a peace officer;
 - (b) a health officer under the *Public Health Act*;
 - (c) a building or fire inspector or a professional engineer;

- (d) a person who is qualified under a statute or by an occupational, trade, or professional standards body to assess, supervise, take action, give direction or make orders or recommendations on the business or an aspect of it that is the subject of the inspection or enforcement; or
- (e) Another person who, in the opinion of the Licence Inspector, would have relevant expertise in relation to the business being inspected.

8. REFUSAL, SUSPENSION AND REVOCATION

- 8.1 The Licence Inspector may refuse to issue a Licence, and may suspend, revoke or cancel a Licence for reasonable cause. Without limiting the Inspector's reasons, any of the following circumstances may constitute reasonable cause:
- (a) the Licence applicant or holder appears to be non-compliant with a bylaw of the District;
 - (b) a Licence holder appears to be non-compliant with a term, limit, restriction, requirement or condition of a Licence or of a permit, approval or Licence issued by another regulatory authority; or
 - (c) the applicant or holder has been formally charged with, convicted of, or deemed to have pleaded guilty to an offence under a federal or provincial law and the offence is relevant to the business operation.
- 8.2 The Licence Inspector must state in writing the reasons for refusal, suspension, revocation or cancellation of a Licence.
- 8.3 The Licence Inspector may impose conditions, restrictions and requirements on a Business Licence, or in connection to the suspension or revocation of a Licence, to ensure compliance with this and other bylaws of the District.

9. RECONSIDERATION (APPEAL TO COUNCIL)

- 9.1 Any person whose Licence has been suspended or cancelled, or has been refused a Licence, or who wishes to appeal a decision of the Licence Inspector, may seek reconsideration by Council within 14 days of the date of the decision by the Inspector. The person must give notice in writing to the District's corporate officer of the intention to seek reconsideration, and shall state in a concise manner the grounds upon which the appeal is made. The Corporate Officer will arrange for a time and place for the person to be heard by Council. After considering written submissions and hearing from the person or their representative, and any other persons who may have information relevant to the matter, as applicable, Council may confirm, vary or set aside the decision of the Licence Inspector, and may impose any conditions, restrictions and requirements it deems appropriate in the circumstances.
- 9.2 An operator must comply with any and all restrictions, conditions and requirements of a Licence and any notice or direction by the Licence Inspector or in accordance with a decision by Council pursuant to reconsideration.

10. SPECIFIC BUSINESSES

- 10.1 A Business Licence for Farmers Markets or Flea Markets may be issued to a single organization and cover all vendors within the market that the organization identifies as a member.
- 10.2 A Farmers Market or Flea Market may operate no more than two days per week and only at times and locations specified in the Business Licence.
- 10.3 Mobile Vendors must, in addition to other requirements of this bylaw,
- a) before locating on property that is privately owned or held, provide the Licence Inspector with written consent of the owner and any current occupier of that property;
 - b) before locating on property that is owned or held by the District or the School District, provide the Licence Inspector with evidence of Council's approval or that of the School District Board, as applicable, or the written approval of an official having authority to approve the Mobile Vendor locating on the property;
 - c) if food is being prepared and sold, provide the Licence Inspector with evidence of approval by a health officer as may be required under the *Public Health Act*;
 - d) provide suitable garbage collection containers and ensure they are used and maintained properly;
 - e) ensure the area around the vending location is kept clean and free of any waste materials; and
 - f) before locating on property owned or held by the District, provide the Licence Inspector with a copy of a Motor Vehicle Liability Insurance policy with a minimum coverage of \$2,000,000 and Comprehensive Public Liability and Property Damage with coverage of \$2,000,000 inclusive, with the District of Clearwater being identified on the policy as an additionally named insured.
- 10.4 Must not exceed 14 consecutive days in duration within a calendar years.

11. ADMINISTRATION AND ENFORCEMENT

- 11.1 The Licence Inspector is authorized to administer and enforce this bylaw.

12. OFFENCE AND PENALTY

- 12.1 Every person who:
- (a) contravenes this bylaw,

(b) permits, suffers or allows any act or thing to be done in contravention of any of this bylaw, or

(c) fails or neglects to do anything required to be done under this bylaw, of any Licence under this bylaw, commits an offence, and each day any contravention continues constitutes a separate offence.

12.2 A person found guilty of contravening this bylaw is liable to pay a fine of not less than \$100 and not more than \$10,000.

13. SCHEDULES

13.1 Schedule "A" is attached to and forms part of this bylaw.

14. EFFECTIVE DATE

14.1. This bylaw shall come into force and effect on the 1st day of January, 2016.

READ A FIRST TIME THIS 8TH day of July, 2014.

READ A SECOND TIME AS AMENDED this 8th day of September, 2015.

READ A THIRD TIME THIS Day of , 2015.

ADOPTED THIS Day of , 2015.

John Harwood, Mayor

Leslie Groulx, Corporate Officer

Certified to be a true and correct copy of Bylaw No. 124, 2014 cited as "District of Clearwater Business Licensing and Regulation Bylaw No. 124, 2014" adopted by the Council of the District of Clearwater this day of , 2015.

Leslie Groulx, Corporate Officer

SCHEDULE "A"

SCHEDULE OF BUSINESS LICENCE FEES

1. The following fees apply to businesses operating within the District:

| CATEGORY | DESCRIPTION | LICENCE FEE |
|---|--|---|
| 1. SERVICE | All businesses except those identified in Category 2,3,4,5,6, 7 and 8 of this schedule | \$100.00 |
| 2. ESCORT SERVICE | Escort Services | \$1,000.00 |
| 3. FILM PRODUCTION | As defined in Section 2 of the Bylaw | \$100.00 |
| 4. FINANCIAL INSTITUTIONS | Banks, Credit Unions, Trust Companies, Finance Companies, Money Lenders | \$200.00 |
| 5. HOME BASED BUSINESS | Bed and Breakfasts, Services, Contractors, Professional Services | \$100.00 |
| 6. LIQUOR OUTLETS | Pubs, Lounges, Cabarets, Liquor Stores, wineries, cideries and microbreweries | \$250.00 |
| 7. LODGING | Motels / Hotels with less than 10 units, Campgrounds, RV Parks with no ancillary services. | \$100.00 |
| | Motels / Hotels with more than 10 units including ancillary on site restaurant facilities | \$ 200.00 |
| 8. SECOND HAND DEALERS | Pawnbrokers, Auctioneers, Second Hand Goods Shops | \$200.00 |
| 9. SPECIAL EVENTS | As defined in Section 2 | \$ 100.00 per day, to a maximum of \$1,000 per event. |
| 10. ENTERTAINMENT | Bingo Halls, Dance Halls, Amusement Arcades, Pool Halls, Theatres | \$100.00 |
| 11. MEDICAL MARIHUANA PRODUCTION FACILITY | Production and testing of medical marihuana, as licensed by Health Canada | \$1,000.00 |
| 12. PROFESSIONAL OFFICE | Medical, dental, accountant, counselling, insurance, real estate, administration and legal offices | \$100.00 |

2. The Licence fee prescribed in this Schedule applies to the calendar year. The fee shall be reduced by one-half for a person who is required to obtain a Licence only after July 31st in any year.