

City of Portage la Prairie

BUSINESS LICENSE BY-LAW NO. 01-8098

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BY-LAW NO 01-8098

A by-law of The City of Portage la Prairie to provide for licensing and regulating of certain Businesses and trades pursuant to the provisions of The Municipal Act C.C.S.M. Chap. M 225.

The Council of the City of Portage la Prairie, in Council assembled, enacts as follows:

PART 1 GENERAL LICENSING PROVISIONS

1. CITATION

This By-law may be referred to as "The Business License By-law".

2. CONTINUING CONSOLIDATION

- a) The Manager of Administration may cause to be prepared and printed, and kept up to date, a continuing consolidation of this by-law, and indices and appendices thereto, and may make such arrangements with respect thereto, and with respect to matters incidental thereto, as may be required.
- b) Where a continuing consolidation of this by-law is prepared, all approved revisions thereto shall bear the designation and be located as follows:
 - 1) When a specific portion has been amended or replaced by an amending by-law, the designation '[AM. B/L #]' shall be inserted immediately following the affected block of text.
 - 2) When a specific portion has been repealed or deleted by an amending by-law, the designation '[REP. B/L #]' shall be inserted adjacent to the current section, subsection, paragraph or clause number in place of the removed text.
 - 3) When a new portion has been enacted herein by an amending by-law, the designation '[EN. B/L #]' shall be inserted immediately following the added block of text.
 - 4) When any of the designations referred to in paragraphs 1), 2), and 3) above are inserted within the text of this by-law, the figure '#' shall be replaced by the actual number of the respective amending by-law.
 - 5) Where more than one clause, paragraph, or subsection of any particular section is affected by the same amending by-law, the designation may be placed at the end of each clause, paragraph, or subsection so affected or, at the left aligned margin of the paragraph, subsection, or section so affected, whichever is deemed to have more clarity in each particular instance.

3. AMENDMENT OF SCHEDULES

Council of the City of Portage la Prairie may from time to time, by resolution, amend each and every schedule attached to this by-law.

4. INTERPRETATION

In all parts of this by-law, any word importing the male gender shall include the female gender and vice versa, and any word importing the singular shall include the plural, and vice versa, as applicable and unless the context requires a different interpretation.

5. DEFINITIONS

Unless the context otherwise requires, wherever used in this by-law,

- 0.1) "Adult Entertainment" entertainment of a sexual nature and includes but is not limited to lingerie modelling and private dancers; **(AM 04-8252)**
- 1) "Business" includes every trade, occupation, profession or venture conducted or carried on with a view to profit or gain;
- 2) "Business License" or "License" means the certificate issued to an applicant, permitting the applicant to carry on a Business;
- 3) "Charitable Organization" means any organization which is a registered Canadian Charitable Organization as defined in the Income Tax Act of Canada;
- 4) "City" means The City of Portage la Prairie;
- 5) "Council" means the Council of the City;
- 6) "Director of Economic and Community Development" means the Director of Economic and Community Development for the City, and anyone acting or authorized to act on his behalf;
- 7) "Director of Finance" means the Director of Finance for the City, and anyone acting or authorized to act on his behalf;
- 7.1) "Escort" means any person who acts as a date for any customer or client of an escort service; **(AM 04-8252)**
- 7.2) "Escort Service" means any business which offers to provide or does provide an introduction between two or more persons for a period of companionship for which said service fee is charged, levied or otherwise imposed for each occasion the escort service is provided or each occasion the introduction is made, and includes a dating service; **(AM 04-8252)**
- 7.3) "Farmer's Market" means the collection of vendors selling hand-made goods, baked goods or meat, fruit or other farm produce that has been produced, raised or grown by that person within the Province of Manitoba, or fish of his own catching caught within the Province of Manitoba; **(AM 05-8280)**
- 8) "Fees and Charges By-Law" means the most current by-law of the City that establishes fees and charges payable to the City;
- 9) "Fire Chief" means the Fire Chief for the City and anyone acting or authorized to act on his behalf;
- 10) "Garage Sale" means the retail selling or barter of any commodity or thing, including without limiting the foregoing, clothing, goods, wares, merchandise and handicrafts, from residential property, and includes a Rummage Sale and Yard Sale;
- 11) "Hawker" means any Person who goes from place to place on foot or Vehicle, bearing goods, wares, merchandise or food products for sale;

- 12) "Health Inspector" means the Public Health Inspector appointed by the Province under the Public Health Act;
- 13) "License Inspector" means the City Manager or any duly authorized Person acting on his behalf;
- 14) "License Year" means the period of time between the date a License is issued and the anniversary date thereof and each 12 month period thereafter;
- 15) "Licensed Premises" means the premises in which the Business referred to in the context is carried on;
- 16) "Non-Profit Organization" means
 - a) a corporation that is prohibited from paying dividends to its members and distributing the assets to its members on a winding-up, or
 - b) any other entity established under a law of Manitoba or Canada for a purpose other than to make a profit,but does not include a credit union, caisse populaire or co-operative established under a law of Manitoba or Canada;
- 17) "Non-Resident" means a Person who is not a Resident of the City nor a Regional Person;
- 18) "Outdoor Mobile Food Vending Unit" means a Vehicle, mobile cooking or food storage unit, including a Refreshment Vehicle, pushcart, handcart or other similar device from which food is offered for sale and which is moved about from place to place or located on a street or at a temporary outdoor location other than upon premises licensed by the operators of a food handling establishment;
- 19) "Peddler" has the same meaning as Hawker;
- 20) "Person" means any individual and includes a corporation, firm, partnership, club, and association or company or utilities;
- 21) "Refreshment Vehicle" means a Vehicle from which food products are sold or exposed for sale and which is not within a building equipped with sewer and water and other sanitary facilities as required by law in stores or shops;
- 22) "Regional Person" means a Person who is a Resident of the Rural Municipality of Portage la Prairie in Manitoba;
- 23) "Resident" means any Person who resides in the City and who
 - a) is the owner of property in the City which he uses for the purpose of carrying on a Business , or
 - b) has leased premises in the City for a period of not less than 90 days which he uses for the purpose of carrying on a Business .
- 24) "Rummage Sale" means the same as "Garage Sale";
- 25) "Transient Trader" includes any Non-Resident carrying on Business in the City who
 - a) goes from house to house selling or offering for sale any merchandise or services, or both, to any person, and who is not a wholesale or retail dealer in such merchandise or services, and who does not have a permanent place of business in the City;
 - b) offers or exposes for sale to any person by means of samples, patterns, cuts or blue prints, merchandise or services or both, to be afterwards delivered in or shipped into the City;
 - c) sells merchandise or services or both on the streets or roads or elsewhere than at a building that is his permanent place of Business,

and includes a Hawker and Peddler but does not include a person

- a) selling meat, fruit or other farm produce that has been produced, raised or grown by that person within the Province of Manitoba;
 - b) selling fish of his own catching caught within the Province of Manitoba;
 - c) selling goods or services on behalf of a commercial business located within the City limits.
[AM. BL. 03-8196]
- 26) "Vehicle" has the meaning given to it by The Highway Traffic Act and with respect to the trade of Outdoor Mobile Food Vending Unit meaning an automobile, motor bicycle, traction engine, truck tractor, trailer or any device drawn, propelled or driven by any kind of power including muscular power but does not include a handcart.;
- 27) "Yard Sale" means the same as "Garage Sale";
- 28) "Zoning By-Law" means the most current Zoning By-Law of the City of Portage la Prairie.

6. PERSONS REQUIRED TO BE LICENSED

- a) The City of Portage la Prairie will not conduct Business with any Person who is not in compliance with the provisions of this by-law.
- b) Every Person carrying on any Business , whether or not it is carried on continuously or on an intermittent or one-time basis, shall first obtain a Business License from the City. No Person shall carry on a Business for which a License has been issued after the License has lapsed or been cancelled, unless a new License is issued therefore.
- c) Every Person, whether Resident, Non-Resident or Regional, who applies for a License to carry on a Business shall pay a fee upon application and an annual fee thereafter, as established by the Fees and Charges By-Law, while carrying on the Business .
- d) No Person shall manage or conduct any Licensed Business except the Licensee thereof or a manager, employee or agent authorized to carry on the Business in the Licensee's behalf;

6.1 BUSINESSES PROHIBITED (AM 04-8252)

- a) Escorts
- b) Escort Services
- c) Adult Entertainment

(Note: Commercial property is exempt from this by-law. Use of commercial property is subject to the City's Zoning By-Law)

7. PERSONS EXEMPT FROM THIS BY-LAW

The following persons shall not require a Business License:

- a) commercially taxed Business premises;
- b) Charitable and Non-Profit organizations;
- c) community halls and churches;
- d) Businesses engaged exclusively in the wholesale of goods to any of the entities identified in a), b), and c) that are located within the city limits; [AM. BL. 03-8196]
- e) Businesses engaged exclusively in the provision of services to any of the entities identified in a), b), c) that are located within the City limits (not including construction work); [AM. BL. 03-8196]

- f) Automatic vending slot machines;
- g) Farmers markets with current written rental agreements with the City; (*AM BL 05-8280*)
- h) Persons selling meat, fruit or other farm produce that has been produced, raised or grown by that person within the Province of Manitoba; (*AM BL 05-8280*)
- i) Persons selling fish of his own catching caught within the Province of Manitoba. (*AM BL 05-8280*)

8. PROCEDURE FOR ISSUANCE OF LICENSE

- a) Form of application
An application for a License shall be made in writing upon a form approved by the City and shown in Schedule "A".
- b) The License Inspector shall issue a License to an applicant when he is satisfied that the applicant has complied with all conditions set out in this by-law;
- c) All Licenses issued are expressly subject to the provisions of any zoning regulations of the City and the issuance of a License shall not be deemed to be approval to carry on a Business in or on any premises in contravention of the provisions of a Zoning By-Law in force in the City from time to time;

9. FEE ESTABLISHED

- a) Amount of Fee
Subject to this section and before a License is issued, the applicant for a License shall pay to the City the fee set forth in the Fees and Charges By-Law.
- b) Part Year
The License Inspector may issue a License for part of a License Year and the fee to be charged therefore shall be prorated but shall not be less than 50% of the annual License fee, with the exception of Transient Traders who shall pay the full annual License fee.
- c) Cancellation Fee
The cancellation fee set forth in the Fees and Charges By-Law shall apply to the Licensee if the City is advised of the business cessation within the city limits after the expiry date of the business license. [*AM. BL. 03-8196*]
- d) Refund of License Fee
 - 1) Except as provided in subsection 2) and 3) below, no refund of Licensee fee or part thereof shall be made in respect of the revocation of a License or for any reason;
 - 2) The Director of Finance may authorize a refund of all or part of a License fee where the premises occupied by the Licensee have been destroyed by fire or other cause and the Licensee desires to surrender his License for the balance of the year;
 - 3) With the exception of Transient Traders, where a Licensee has ceased to carry on the Business for which the License was issued in the first half of the License Year, he shall be entitled to a refund of 50% of the applicable fee.

10. LICENSE YEAR

- a) Except as otherwise provided in this by-law, a License shall be issued for the period of a License Year.
- b) Every License shall show the date on which it is issued and the date on which it will expire.

11. DUTIES OF THE LICENSEE

- a) Compliance
Every Licensee shall comply with all by-laws of the City.
- b) Change of address
Whenever a Licensee changes his address from that shown on his License, he shall forthwith notify the License Inspector.
- c) Produce License on Demand
Every License issued hereunder shall be produced by the Licensee at all reasonable times on demand.
- d) Inspection of Premises
The Licensee shall permit the License Inspector or his delegates to enter upon and inspect a product or Licensed Premises from time to time.
- e) License to be Posted Up
Every Licensee who holds a License under this by-law which applies to premises shall, so long as the License is in force, keep it or an authentic copy thereof posted up in some conspicuous place on the Licensed Premises.
- f) License to be Visible
In the case of the Transient Trader, the Licensee who holds a License under this by-law shall make the License visible to the general public while conducting Businesses.

12. REVOCATION OF LICENSES

- a) If the License Inspector determines that a Licensee is carrying on his Business in an improper manner, he shall forthwith revoke the License and notify the Licensee of such revocation by registered mail.
- b) A Licensee whose License has been revoked, may, within 14 days of the mailing of the notice of revocation, appeal the revocation to Council and Council shall set a day, time and place for the hearing of the appeal.
- c) Upon hearing all the representations made on the issue, Council may by resolution, direct that the License remain revoked or not be revoked, or that it be renewed upon such conditions as Council deems proper; and any such resolution is final.

13. LICENSE INSPECTOR

- a) Administration
This by-law shall be administered by the License Inspector.
- b) Duties of License Inspector
The License Inspector shall enforce the by-law in accordance with the provisions thereof.
- c) Power of Inspection
The License Inspector is hereby authorized at all reasonable times to enter upon and inspect any product or premises wherein any Business subject to License by this or any other by-law of the City is being carried on.

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**PART II
SPECIAL PROVISIONS RELATING TO CERTAIN TRADES**

14. GARAGE SALES

- a) For the purpose of this section, Garage Sale shall also include Rummage Sale, Yard Sale and any like activity.
- b) Every Licensee of a Garage Sale shall:
 - i) obtain his License prior to the commencement of his sale; and
 - ii) display his License in a prominent manner on the premises where the sale is held.
- c) Every License issued shall be deemed to be a License for a period of three consecutive days.
- d) Rain date must be stated at time of issue of License.
- e) No more than 2 Licenses shall be issued to the same address during one calendar year;
- f) An applicant for a Garage Sale License shall pay a Garage Sale License fee as set out in the Fees and Charges By-Law.
- g) Every Licensee of a Garage Sale shall post only such signs and advertisements as are permitted by the relevant by-laws of the City. Every Licensee shall remove all signs and advertising material within 24 hours following completion of the sale.

15. OUTDOOR MOBILE FOOD VENDING UNIT

- a) In this section "sunset" shall be that time shown on the Sunrise/Sunset Tables issued by Environment of Canada;
- b) No License to carry on the trade of Outdoor Mobile Food Vending Unit or Refreshment Vehicle shall be issued to an applicant unless the applicant first obtains and files with the City a certificate from the Provincial Health Inspector that the Vehicle, mobile unit or premises in respect of which the License is applied for have been examined and found in a fit and clean condition and suitable for the purposes on such trade.
- c) General Liability
 - 1) Every applicant for a License to operate one or more Outdoor Mobile Food Vending Units shall:
 - i) file with the application and shall maintain in force during the currency of the License, a comprehensive general liability policy in a form satisfactory to the City, which includes the City of Portage la Prairie as an additional named insured and contains a cross-liability clause with the following minimum limits of coverage per occurrence; and
 - ii) maintain liability insurance in the minimum amount of \$1,000,000 and submit a copy of the insurance policy to the Licensing Inspector.
 - 2) Every such policy shall be accompanied by a written undertaking signed by the insurer or its duly authorized agent to the effect that the policy will not be cancelled except upon 15 days prior written notice to the City License Inspector;
 - 3) No Person shall carry on the trade of an Outdoor Mobile Food Vending Unit unless the required insurance coverage is in force.
- d) Every Person operating an Outdoor Mobile Food Vending Unit shall cause his name to be legibly and conspicuously displayed in letters of a minimum height of 2 inches on both sides of any Vehicle used in the carrying on of his trade, in a place and manner satisfactory to the License Inspector.

- e) No Person shall operate from or with an Outdoor Mobile Food Vending Unit in a public street before 09:00 hours or after 20:00 hours except that where sunset is later than 20:30 hours, the trade may be carried on until one half hour before sunset;
- f) No Person shall permit an Outdoor Mobile Food Vending Unit used by him to remain standing
 - i) upon a portion of a street located within five metres from a crosswalk or intersection;
 - ii) upon a portion of a street located within three metres from the main entrance to any building if the Outdoor Mobile Food Vending Unit is fuelled by propane gas;
 - iii) within 20 metres from the main entrance to any food service establishment or to any building containing a food service establishment where there is located on the building or premise a sign or notice visible to passers-by indicating the existence of a food service establishment unless the owner or operator of the food service establishment is also the owner or operator of the mobile food vending unit.
 - iv) In the traffic, parking or curb lanes of a street.
- g) No Person shall permit an Outdoor Mobile Food Vending Unit used by him to remain standing on a sidewalk or boulevard unless it is equipped with wheels in such a manner as to be readily moveable by one Person.
- h) No Person shall permit an Outdoor Mobile Food Vending Unit to remain standing unattended on a sidewalk or boulevard.
- i) No Person shall permit an Outdoor Mobile Food Vending Unit used by him to enter upon or remain standing upon private property unless he has obtained written permission from the owner or occupant of the property, which written permission shall be kept available and furnished on demand to any police officer or License Inspector.
- j) Auxiliary receptacles used by a Person Licensed to operate and Outdoor Mobile Food Vending Unit for the sole purpose of storing beverages or ice or for collecting garbage shall not require licensing as an Outdoor Mobile Food Vending Unit but every such receptacle shall be attached to the unit.
- k) No Person shall operate an Outdoor Mobile Food Vending Unit in a park or other facility owned or operated by the City where a food concession has been tendered or awarded without written consent from the ~~Director of Economic and Community Development~~ Manager of Administration. ***[AM by By-Law 10-8481.***
- l) A business or organization that operates an Outdoor Mobile Food Vending Unit for the purpose of conducting an outdoor barbeque to raise funds to donate to a charity may do so up to 4 times in a calendar year and is exempt from the provisions of clauses b, c, d and j of this section. ***[AM by By-Law 10-8481)***

16. TRANSIENT TRADER

- a) No Transient Trader, Hawker or Peddler shall sell, or offer to sell, goods within 150 metres of premises where like or similar goods are sold.
- b) A Transient Trader shall pay the full annual License fee, as set out in Section 9.b).
- c) The fees payable to the City shall be the amount established in the City's Fees and Charges By-Law for Transient Trader License Fee upon application, for each individual in the Business in the City, and for each year thereafter.

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**PART III
ENFORCEMENT**

17. OFFENCES AND PENALTIES

- a) Subject to this section, any Person who contravenes or disobeys or refuses or neglects to obey any provision of this by-law, is guilty of an offence and liable, on summary conviction, to a fine as set out in Section 249 of The Municipal Act.
- b) Where a Corporation commits an offence against this by-law, each director or officer of the Corporation who authorized, consented to, connived at, or knowingly permitted or acquiesced in the doing of the act that constitutes the offence, is also guilty of the offence and liable, on summary conviction, to the penalty for which provision is made in subsection a).

18. COMMENCEMENT OF BY-LAW

This by-law comes into force on the day after it receives final reading.

19. REPEAL

By-law No. 7625 and 7681 are hereby repealed.

DONE AND PASSED AS A BY-LAW OF THE CITY OF PORTAGE LA PRAIRIE BY THE COUNCIL THEREOF IN OPEN SESSION ASSEMBLED THIS 11th DAY OF JUNE, 2001.

[original signed by Ian A. MacKenzie]
Mayor

[original signed by Margaret Loewen]
Manager of Administration

Read a 1st time this 29th day of May, 2001
Read a 2nd time this 11th day of June, 2001
Read a 3rd time this 11th day of June, 2001

SCHEDULE A

City of Portage la Prairie APPLICATION FOR LICENSE	
The undersigned hereby applies for a License as follows:	
Name:	Name of Business:
Home Address:	
Business Address:	
Phone Number:	Type of Business: (describe in detail)
Fax Number:	
E-Mail:	
Type of Product:	
Mode of Transportation:	
Affiliation (if any): (name of company)	
If Salesman – Provincial License Number:	
If Mobile Food Vending Unit – a) Health Inspector's Certificate _____ b) Proof of Insurance _____	
Place of residence last 3 months:	
Other Information:	
DATE:	SIGNATURE:
FOR OFFICE USE ONLY:	
License Fee:	License No.:
	Class:
Conditions:	
Signature:	

**[THIS PAGE LEFT BLANK FOR SCHEDULE "B" – BUSINESS LICENSE
CERTIFICATE]**