



CITY OF DAUPHIN

BY-LAW NUMBER 02/2001

BEING A BY-LAW OF THE CITY OF DAUPHIN FOR THE LICENSING OF BUSINESSES CARRIED ON WITHIN THE MUNICIPALITY OF DAUPHIN

WHEREAS subsection 1(1) of the Municipal Act S.M. 1996, c.58 defines “**business**” as:

- a) a commercial, merchandising or industrial activity or undertaking,
- b) a profession, trade, occupation, calling or employment, or
- c) an activity providing goods and services,

whether or not it is carried on continuously or on an intermittent or one time basis, and whether or not for profit, and however organized or formed, and includes a cooperative and an association of persons;

AND WHEREAS, paragraph 232(1)(n) of the Act provides that a council may pass by-laws for municipal purposes respecting businesses, business activities and persons engaged in business;

AND WHEREAS, paragraph 232(1)(o) of the Act provides that a council may pass by-laws for municipal purposes respecting the enforcement of by-laws;

AND WHEREAS, subsection 232(2) of the Act in part, provides that a council may in a by-law passed under subsection 232(1)

- (a) regulate or prohibit
- (c) deal with any development, activity, industry, business, or thing in different ways, or divide any of them into classes and deal with each class in different ways.
- (e) Subject to the regulations, provide for a system of licenses, permits and approvals, including any or all of the following:
 - i) establishing fees and terms for payment of fees, for inspections, licenses, permits and approvals, including fees related to recovering the cost of regulation,
 - ii) establishing fees for licenses, permits and approvals that are higher for persons or businesses who do not reside or maintain a place of business in the municipality,
 - iii) prohibiting a development, activity, industry, business or thing until a license, permit or approval is granted,
- (g) require persons who do not reside or have a place of business in the municipality to report to the municipal office before conducting business in the municipality.

AND WHEREAS, section 237 of the Act provides that no municipality shall require a license to sell produce grown in Manitoba if the sale is by the individual who produced it or an immediate family member or employee of the individual;

AND WHEREAS Fees, Discounts and Penalties Regulation 50/97 registered March 4, 1997 provides that the maximum fee that the Council of a municipality may establish for a business license for a calendar year under sub-clause 232(2)(e)(i) and (ii) of the Act for a city with fewer than 10,000 residents is \$500.00;

AND WHEREAS, subsection 249(1) of the Act provides, in part, that a person who contravenes a by-law of a municipality is guilty of an offense;

AND WHEREAS, subsection 249(2) of the Act provides that where a contravention continues for more than one day, the person is guilty of a separate offense for each day it continues;

AND WHEREAS, the issuance of a license by the City of Dauphin under this by-law does not in any way guarantee warranty effectiveness or efficiency of any product sold or service provided by any party having obtained such license.

NOW THEREFORE the Council of the City of Dauphin in meeting duly assembled, enacts as follows:

1. That for the purposes of this by-law:

- i) **“Business”** shall be defined as any commercial merchandising or industrial activity or undertaking, profession, trade, occupation or calling whether or not it is carried on continuously or on an intermittent or one time basis however organized or formed, and whether or not the person carrying on the business has an established place of business within the municipality, and includes a cooperative and an association of persons.
- ii) **“Charities”** shall be defined as organizations established for charitable purposes and hold a current Revenue Canada Charitable Donation Number.
- iii) **“Contractor”** shall be defined as any person who is involved in any building trade, particularly but not limited to electricians, plumbers, carpenters, masons, painters, floor covering, installers, and drywallers etc.
- iv) **“Home-based Occupation”** shall be defined as any occupation, trade, profession or craft carried on, in or from a dwelling unit or it’s accessory building for remuneration and which is clearly incidental or accessory to the residential use of the dwelling unit as per definition stated in the City of Dauphin Zoning Bylaw.
- v) **“Fixed Seasonal Unit”** shall be defined as a canteen, or other similar business from which food items are dispensed, being operated seasonally from a building or structure at a fixed location.

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- vi) **“Local Resident”** shall be defined as being a resident of the municipality for a period of at least three months.
 - vii) **“Mobile Food Cart”** shall be defined as a push cart which is designed to be readily moveable but is not self-propelled by motor or pedal power and from which food items are dispensed.
 - viii) **“Motorized Food Unit”** shall be defined as a self-contained unit which is propelled by motor power and from which food items are dispensed.
 - ix) **“Pedal Cart”** shall be defined as a cart, designed for roving which is self-propelled by pedal power and from which food items are dispensed.
 - x) **“Person”** shall be defined as including an individual, proprietorship, partnership, or corporation.
 - xi) **“Seasonal Food Unit”** shall be defined as fixed seasonal unit, mobile food cart, motorized food unit, pedal cart, and trailer food unit unless otherwise expressly provided.
 - xii) **“Trailer Food Unit”** shall be defined as a fifth wheel or other trailer unit which is not self-propelled and from which food items are displayed or dispensed.
 - xiii) **“Tradesperson”** shall be defined as a worker who in the course of employment works from drawing or prints or makes precision measurements or applies general trade experience but does not include an apprentice.
 - xiv) **“Transient “** shall be defined as any person carrying on business in the City who:
 - 1) offers to provide services for a price; or
 - 2) offers goods or merchandise for sale by retail or by auction; or
 - 3) solicits any person who is not a wholesale or retail dealer for order:
 - (i) to provide future services for a price; or
 - (ii) for the future delivery of goods or merchandise; or
 - 4) has not obtained a development permit from the Development Officer; or
 - 5) is not listed on the City’s current Assessment Roll for that business and/or location; or
 - 6) is a non-resident contractor providing a service; but does not include a person who is selling produce of the Province of Manitoba, if such is being sold by the producer or immediate family or employee thereof.
- 2.
- a) That subject to subsections (b) and (c) and (d) hereof, no person shall carry on a business of any kind within the City of Dauphin without first having obtained from the City of Dauphin a license to do so.

- b) That no license shall be required under subsection (a) to sell produce grown in Manitoba if the sale is by the individual who produced it or an immediate family member or employee of the individual.
 - c) That no license shall be required under subsection (a) for businesses engaged exclusively in the wholesale of goods to other businesses within the City of Dauphin.
 - d) That no license shall be required under subsection (a) for businesses where a premise has been established within the City of Dauphin.
3. That all the following shall require a **special license** as set out in Schedule “A” attached:
- Circus, rodeo and other like shows
 - Fairs
 - Contractor/Tradesperson (Sales Of Services)
 - Companies Or Individuals Offering Goods For Sale
 - Home Occupations
 - Seasonal Food Units (Resident)
 - Registered Charities Operated By Groups Or Individuals Not Resident Or Based In The City of Dauphin
- 4.
- a) That all persons carrying on a business as a contractor or tradesperson, as described in “Definitions”, in the City of Dauphin and are local residents shall be subject to a License Fee as per **Schedule “A”**.
 - b) That all persons carrying on a business as contractor or tradesperson as described in “Definitions”, in the City of Dauphin and are not **local residents** and where such business is based outside of the City of Dauphin shall be subject to a license fee as per **Schedule “A”**.
5. That for the purposes of this by-law, a business shall be deemed to be based in a municipality if it has an established place of business, or stock-in-trade or personal property used in connection therewith assessed and set out in the latest revised assessment roll of that municipality.
6. That all transient traders, hawkers, peddlers and other persons who go from place to place or from door to door by any means, bearing, or drawing any goods, wares or merchandise for sale, contractors, tradespeople, or providers of services shall, before transacting business in a municipality, report to the City of Dauphin Office and obtain a license as required under this bylaw.
7. That persons soliciting subscriptions or advertising in daily or weekly newspapers, farm publications and magazines published in Canada require no license under this by-law.
8. That every license issued under this by-law shall be **effective** only from the day of issue and including the 31st day of December of the year of issuance.

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- 9. That any application under this bylaw may be submitted by the City to the Royal Canadian Mounted Police for a Criminal Record Check and to the Better Business Bureau for their recommendation. In the event that the Royal Canadian Mounted Police do not approve of the application and license being issued, the City shall not issue a license to the applicant.**
10. i) That where a license is refused as in subsection 9 or 10, the City Administrator shall notify the applicant in writing and serve in person or by registered letter. The letter shall state that any applicant wishing to appeal must submit an application for license and request for appeal to the City Administrator within 14 days of receipt of the registered letter or revocation.
- ii) If an applicant submits an application for appeal to the City Administrator, the City Administrator shall then submit the appeal to Council and set a date, time and place for a hearing to hear the appeal.
- iii) Upon hearing all representation 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 as final.
11. That every applicant applying for a license to carry on a business in the City shall *designate on his application* a store, shop, building or place in the City in which he intends to carry on his business and *such a place shall be designated* on the license when issued.
12. That wherever two or more persons carry on or engage in partnership in any trade, calling, business or occupation, the license may be issued in the name of one partner but on the application the name and addresses of each member of the partnership or trade must be listed.
13. That every applicant granted a license under this by-law shall post the license in a prominent place in or on the premise or place as designated in the application as long as the license is in force.
15. That every person applying for a direct seller's license shall be granted a license only if the individual holds a valid direct seller license issued under the Consumer Protection Act of Manitoba. When direct selling door to door, sellers shall display on their person an Identification Card as issued by the City of Dauphin. No direct seller shall carry on his trade by means of door to door sales within the City:
- (1) On a Sunday
 - (2) Before 9:00 a.m. or after 9:00 p.m. on any other day of the week.
16. That all businesses subject to this bylaw when advertising or promoting their business in the news media must quote the City of Dauphin License Number issued to them.
17. That no person shall own or operate a seasonal food unit in the City of Dauphin unless such a person is the licensee named in a valid seasonal food unit license under this By-law. Any applicant for a seasonal food unit license shall, at the time of making application for a license:
- a) Submit a valid permit from the Public Health Inspector certifying compliance by the applicant with all Provincial Health Standards with respect to the seasonal food unit.

- b) Submit a diagram showing the proposed location for the seasonal food unit along with the approval for the proposed location received from:
 - i) The City Engineering Department where the proposed location is on property owned by the City, including off-street parking areas or sidewalks; or
 - ii) The Property Owner where the proposed location is on private property.
 - c) Submit proof of liability insurance insuring the applicant with respect to his seasonal food unit business in the minimum amount of \$1,000,000.00 to the Administration Department.
 - d) The Licensee named in a seasonal license:
 - i) Shall maintain a valid permit issued by a Public Health Inspector, certifying compliance by the licensee with all provincial health standards respecting the seasonal food unit designated in the licensee.
18. That any *charitable organization outside* the City of Dauphin wishing to canvass door to door in the City of Dauphin shall first obtain approval from the City and the City shall issue a special license sticker to them showing the organization's name and license number.
19. That every license issued hereunder shall be produced by the licensee at all reasonable times upon demand of an authorized officer of the City of Dauphin or any member of the Royal Canadian Mounted Police.
20. That any person violating the provisions of this by-law shall be liable on summary conviction to a fine of twice the amount of applicable license fee, and where the violation of any of the provisions of this by-law continue for more than one day, the person or firm is guilty of a separate offence for each day that it continues.
21. That the City of Dauphin reserves the right to revoke any license issued for actual or suspected non-compliance with provision of the bylaw.
22. That any of the provisions of this by-law continue for more than one-day, the person or firm is guilty of a separate offence for each day that it continues.
23. That By-law Nos. 31/2000, 3898, 1434, 1460, 2377, 1601, 1710, 1782, 2578, 1449, 2585, 3844, 2136, 3845, 4014, 4350, be hereby repealed.

DONE AND PASSED by Council of the City of Dauphin in Regular Session assembled, this 26th day of February A.D., 2001.

W.H. (Bill) Nicholson, Mayor

James Puffalt, City Administrator

READ A FIRST TIME this 12th day of February A.D., 2001.
READ A SECOND TIME this 26th day of February A.D., 2001
READ A THIRD TIME this 26th day of February A.D., 2001.

SCHEDULE "A"

This is a schedule to By-law 02/2001 of the City of Dauphin for **annual licenses** for the following:

<p>Circus, Rodeos and other like shows (at DMCC Grounds) <i>In the event that any of the above events are <u>sponsored by a Local Charity</u>; they may make application to the City Administrator and he/she may <u>waive</u> the license fee.</i></p>	<p>\$100.00(per day) (1st day and each additional day)</p>
<p>Fairs (at DMCC Grounds)</p>	<p>\$500.00</p>
<p>Contractor & Tradesperson (Sale of Services)</p> <p>i) Local Resident:</p> <p>ii) <u>Non-resident</u>:</p> <p>a) R.M. of Ochre and R.M. of Dauphin</p> <p>b) Parkland Area - McCreary to Grandview including the following: <i>R.M. of McCreary, Village of McCreary, R.M. of Ste.Rose, Town of Ste.Rose, R.M. of Gilbert Plains, Town of Gilbert Plains, Town of Grandview, R.M. of Grandview, R.M. of Ethelbert, Village of Ethelbert, R.M. of Mossey River,</i></p> <p>c) All other non-residents</p>	<p>\$ 50.00 <i>(If sales of services are less than for a period of 7 days annually, then the fee shall be \$25.00)</i></p> <p>\$100.00 <i>(If sales of services are less than for a period of 7 days annually, then the fee shall be \$50.00)</i></p> <p>\$200.00 <i>((If sales of services are less than for a period of 7 days annually, then the fee shall be \$100.00)</i></p> <p>\$300.00 <i>(If sales of services are less than for a period of 7 days annually, then the fee shall be \$150.00)</i></p>
<p>Sales of Goods</p> <p>i) Local Resident</p>	<p>\$ 50.00 <i>(If sales of goods are less than for a period of 7 days annually, then the fee shall be \$25.00)</i></p>

<p>ii) <u>Non-resident:</u></p> <p>a) R.M. of Ochre and R.M. of Dauphin</p> <p>b) Parkland Area - McCreary to Grandview including the following:</p> <p><i>R.M. of McCreary, Village of McCreary, R.M. of Ste.Rose, Town of Ste.Rose, R.M. of Gilbert Plains, Town of Gilbert Plains, Town of Grandview, R.M. of Grandview, R.M. of Ethelbert, Village of Ethelbert, R.M. of Mossey River</i></p> <p>c) All other non-residents</p> <p><u>IN THE EVENT THAT THE TRANSIENT TRADER USES DOOR TO DOOR SALESPERSON(S), AN EXTRA FEE OF \$100.00 PER SALESPERSON SHALL BE IMPOSED.</u></p>	<p>\$100.00 <i>(If sales of goods are less than for a period of 7 days annually, then the fee shall be \$50.00)</i></p> <p>\$300.00 <i>(If sales of goods are less than for a period of 7 days annually, then the fee shall be \$150.00)</i></p> <p>\$500.00 <i>(If sales of goods are less than for a period of 7 days annually, then the fee shall be \$250.00)</i></p>
<p>Home Based Businesses (does not have a conditional use)</p>	<p>\$ 50.00</p>
<p>Seasonal Food Unit (Resident Only) (If transient - Sales of Goods Rates Apply)</p> <p>(a) Mobile food cart</p> <p>(b) Pedal Cart</p> <p>(c) Motorized food unit</p>	<p>\$ 50.00</p> <p>\$ 50.00</p> <p>\$100.00</p>
<p>Charities -there will be no fee charged for recognized charities referred to in this bylaw but they must abide by all other applicable provision of this by-law.</p>	