

# **TOWN OF WAINWRIGHT BYLAW 2011-12**

A BYLAW REGULATING AND SETTING BUSINESS LICENSE FEES FOR ANY PERSON, FIRM, BUSINESS, TRADES, PROFESSIONS OR INDUSTRY IN THE TOWN OF WAINWRIGHT

WHEREAS pursuant to the provisions of section 7(e) of the Municipal Government Act, R.S.A. 2000, Chapter M-26, and amendments thereto, a municipality may pass a bylaw respecting businesses, business activities and persons engaged in business;

AND WHEREAS pursuant to the provisions of section 7(a) of the Municipal Government Act a municipality may pass a bylaw respecting the safety, health and welfare of people and the protection of people and property;

NOW THEREFORE the Council of the Town of Wainwright, in the Province of Alberta, duly assembled, does hereby enact:

## **PART 1 – TITLE AND DEFINITIONS**

### **1.1 TITLE**

This bylaw shall be called the “Business Licensing Bylaw.”

### **1.2 DEFINITIONS**

For the purposes of this bylaw:

- (1) “Business” includes business, trade, profession, industry, occupation, employment or calling and the providing of goods and services, and includes a service of any kind that is conducted for the purpose of generating income, regardless of whether or not the service is conducted for the purpose of earning a profit;
- (2) “Business License” means a license issued pursuant to this bylaw;
- (3) “Business License Fee” shall be those sums of money which are required for payment for a business license as detailed in part 5 of this bylaw;
- (4) “Chief Administrative Officer” means the Chief Administrative Officer appointed by the Town or a representative authorized by him or her;
- (5) “Council” shall mean the Council of the Town of Wainwright;
- (6) “Hawker” or “Peddler” means any person whether as a principle or agent who:
  - (a) goes from door to door selling or offering for sale any merchandise or service to any person, and who is not a wholesale or retail dealer in merchandise or service with a permanent place of business in the Town of Wainwright, or
  - (b) 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 Town of Wainwright, or
  - (c) acts as a Street Vendor;
- (7) “Home Occupation” means a resident business that is operated out of a residence located in a residential district as identified in the Town’s land use bylaw and is operated as a use secondary to the residence and is subject to the requirements set out in the Town’s land use bylaw;
- (8) “Licensing Officer” means the Director of Planning and Development of the Town or his or her designate;
- (9) “Non-resident business” means a business operating in the Town without maintaining a regular place of business within the Town, and includes a Hawker or Peddler;

- (10) "Peace Officer" means a member of the Royal Canadian Mounted Police, a community peace officer appointed under the Peace Officer Act, S.A. 2006, Chapter P-3.5, and amendments thereto, or a bylaw enforcement officer appointed for or by the Town;
- (11) "Person" means a person or persons, hawker, peddler, corporation, partnership, firm or organization;
- (12) "Resident business" means a business that maintains a regular place of business within the Town;
- (13) "Street Vendor" means a person who sells merchandise or service on the streets or elsewhere than at a building that is his or her permanent place of business in the Town;
- (14) "Street Vending Vehicle" means the device by which a Street Vendor transports, displays, prepares and/or sells his/her goods or services and is either:
  - (a) motorized – where the principle means of locomotion of the vehicle is by a motor or attachment to a motorized vehicle, or
  - (b) non-motorized – where the vehicle is designed so that its principal means of locomotion is by human power;
- (15) "Town" means the Town of Wainwright, a municipal corporation in the Province of Alberta, and where the context so requires means the area contained within the corporate boundaries of the Town of Wainwright;
- (16) "Trade Show" means an exhibition organized so that businesses and/or persons can showcase, demonstrate and sell their products and services, and includes a farmer's market; and
- (17) "Wholesaler" means a person who is selling goods or merchandise to a business that resells said goods or merchandise on a retail basis.

**PART 2 – BUSINESS LICENSING**

**2.1 BUSINESS LICENSE REQUIREMENT**

- (1) Except as allowed under subsection (2), no person shall within the Town carry on or be engaged in any business unless he or she has paid the prescribed fee as set out in this bylaw and is in possession of a valid and subsisting business license issued pursuant to the provisions of this bylaw.
- (2) Any person that:
  - (a) is under 18 years of age and does not have a permanent place of business or is not operating as a hawker or peddler,
  - (b) is conducting business as a participant of a trade show that has been approved by the Licensing Officer,
  - (c) operates an entertainment or business operation that, upon the satisfaction of the Licensing Officer, is carried out for religious, charitable or community purposes, or
  - (d) is operating as a wholesaler
 shall be exempt from the requirements of subsection (1).

**2.2 TIME PERIOD OF BUSINESS LICENSE**

- (1) Except as allowed under subsection (2), each business license shall only be valid for the calendar year (January 1<sup>st</sup> - December 31<sup>st</sup>) for which it is issued.
- (2) Any person required to obtain a business license as prescribed by this bylaw may apply for a special temporary license which may be valid for a period of 7 consecutive days. The special temporary license is subject to special fee as set out in this bylaw.

### 2.3 DISPLAYING BUSINESS LICENSE

Persons issued business licenses under this bylaw shall:

- (1) display such license in a conspicuous location in their place of business; or
- (2) carry the license on their person if there is no permanent place of business.

### 2.4 PRODUCTION OF BUSINESS LICENSE

A person shall produce their business license for the inspection of any licensing officer or peace officer upon demand.

## **PART 3 – STREET VENDORS**

### 3.1 OPERATION

(1) In the case of motorized street vending vehicles:

- (a) operation shall be restricted to privately or publicly owned properties located in commercial, industrial or recreational districts as identified in the Town's land use bylaw. Operation will not be allowed on any public roadway or street right-of-way,
- (b) notwithstanding article (a) the street vendor shall operate his/her business in a manner and location on the property that causes minimal disturbance to the normal use of the property and no damage to the property,
- (c) where Town owned lands are involved, the street vendor shall first obtain approval from the licensing officer before setting up operation, and
- (d) where certain Town owned lands as identified by policy of Council to have a rental fee attached for their use are involved, the street vendor shall first pay the rental fee, also established by policy, before setting up operation.

(2) In the case of non-motorized street vending vehicles operation will be allowed in all land use districts and on streets but the operation, including the gathering of customers, shall not impede vehicular or pedestrian traffic.

### 3.2 DISPLAYS

The use of freestanding displays including goods placed on tables, shelves or other such devices that are separate from the street vending vehicle shall be approved by the licensing officer.

### 3.3 NON-OPERATING HOURS

When a street vendor has ceased business operations for the day, the street vending vehicle and all displays shall be removed and parked or stored in a manner consistent with the regulations of Town bylaws governing parking and/or storage of said vehicles and/or goods.

## **PART 4 – PURCHASE OF BUSINESS LICENSES**

### 4.1 ISSUING BUSINESS LICENSES

All business licenses will be obtained at the Town Office upon payment of the required fee subject to the requirements of this bylaw and no business license shall be issued until the fee has been paid.

### 4.2 PROVINCIAL LICENSES

In all cases where a Provincial license is required, no Town business license will be issued until the necessary Provincial license has been obtained.

### 4.3 APPLICATION FOR BUSINESS LICENSE

(1) Every person applying for a business license shall submit to the licensing officer a written application in the prescribed form and signed by the applicant or his or her duly appointed agent.

(2) Every application for a business license for an existing business shall be submitted to the licensing officer by the 31<sup>st</sup> day of January of each year.

#### 4.4 DECISION ON BUSINESS LICENSE

Upon receipt of an application for a business license, the licensing officer may:

- (1) grant a business license, or
- (2) refuse a business license if in his or her opinion there are just and reasonable grounds for the refusal.

#### 4.5 REVOCATION OF BUSINESS LICENSE

The licensing officer may at any time revoke or suspend a business license if in his or her opinion:

- (1) the licensee has failed to comply with this bylaw, any other bylaw of the Town, or any provincial or federal statute, act or law,
- (2) the licensee has withheld or concealed information from the licensing officer or a peace officer or has provided false information on a business license application, or
- (3) there are other reasonable grounds to revoke or suspend the license.

#### 4.6 APPEAL OF REFUSAL OR REVOCATION

- (1) In every case where under the provisions of sections 4.4 or 4.5:
  - (a) an application for a business license has been refused, or
  - (b) a business license has been revoked;an appeal may be made to Council by the person seeking the business license.
- (2) An appeal under subsection (1) shall be made by serving written notice of appeal to the Chief Administrative Officer within 14 days after the date of the refusal or revocation.
- (3) Upon receipt of an appeal pursuant to subsection (2), Council:
  - (a) shall hold a hearing on the appeal within 30 days from receipt of the notice of appeal,
  - (b) shall insure notice of the hearing is mailed by regular mail at least seven days prior to the date of the hearing to the appellant, and
  - (c) shall consider each appeal having due regard to the circumstances and merits of the case.
- (4) When an appeal is being heard, Council shall hear:
  - (a) the licensing officer who made the decision to refuse or revoke the business license, and/or
  - (b) the appellant, and/or
  - (c) any other person who in Council's opinion might be affected should be heard.
- (5) In determining an appeal, Council
  - (a) may confirm, reverse or vary the decision of the licensing officer and may impose such conditions or limitations as it considers proper and desirable in the circumstances, and
  - (b) shall render its decision in writing to the appellant within 30 days from the date on which the hearing is held.
- (6) A decision of Council on any appeal is final and binding on all parties.

4.7 The issuance of a business license pursuant to this bylaw does not in any way authorize or permit the licensee to carry on a business or any activity contrary to the provisions of the Town's land use bylaw or any other Town bylaw or Provincial or Federal statute.

## **PART 5 – BUSINESS LICENSE FEES**

### **5.1 BUSINESS LICENSE FEES**

- (1) Except as allowed for under subsection (5), the fee for a yearly business license for a resident business operating out of a commercial or industrial district as defined by the Town's land use bylaw shall be \$100.00.
- (2) Except as allowed for under subsection (5), the fee for a yearly business license for a home occupation shall be \$150.00.
- (3) Except as allowed for under subsection (5), the fee for a yearly business license for a non-resident business shall be \$200.00.
- (4) The fee for a weekly business license (7 consecutive days) shall be \$50.00.
- (5) If a business license is purchased pursuant to subsections (1), (2), or (3) on or after July 1st of any given year, for a business that did not hold and was not required to hold a business license in the previous calendar year, the fee for the business license issued for that year shall be as follows:
  - (a) for a business pursuant to sentence (1), \$50.00, or
  - (b) for a business pursuant to sentence (2), \$75.00, or
  - (c) for a business pursuant to sentence (3), \$100.00.

## **PART 6 – REFUNDS**

6.1 Where a business license issued under this bylaw is revoked or surrendered, the licensee shall be entitled to a refund of a portion of the license fee calculated as follows:

- (1) a \$50.00 administration charge is first deducted from the amount of fees paid, and then
- (2) the remainder of the fees paid shall be refunded in proportion to the non-expired part of the term for which the license was granted.

## **PART 7 – ENFORCEMENT**

### **7.1 CONTRAVENTION**

- (1) Any person who contravenes any of the provisions or requirements of this bylaw is guilty of an offence and is liable for and subject to a specified penalty as stated in Schedule A.
- (2) In the case of violation of subsection 2.1(1), each business transaction shall constitute a separate offence.

### **7.2 OFFENCE TICKET**

- (1) Where a peace officer has reasonable grounds to believe that a person has contravened any provision of this bylaw, he or she may serve upon such person an offence ticket allowing the payment of the penalty specified in subsection 7.1(1) to the Town within 14 days of the issuance of the offence ticket. Such payment shall be accepted by the Town in lieu of prosecution for the offence.
- (2) Service of an offence ticket shall be sufficient if it is:
  - (a) personally served,
  - (b) mailed by registered mail to the last known business location or residence of the person who is alleged to have committed the offence, or
  - (c) left with some competent person 18 years old, or older, who resides with or works at the business location of the person who is alleged to have committed the offence.
- (3) The offence ticket shall state:
  - (a) the name and business or residence address of the person who is alleged to have committed the offence, if ascertainable,
  - (b) the offence,
  - (c) the location, date and time of the offence,
  - (d) the specified penalty for the offence, and
  - (e) that the penalty shall be paid within 14 days of the issuance of the offence ticket to avoid prosecution for the offence.

**7.3 CONTINUING OFFENCE**

Unless otherwise stated in this bylaw, where a contravention of this bylaw is of a continuing nature, further offence tickets may be issued by a peace officer, provided however that no more than one offence ticket shall be issued for each day that the contravention continues except for a contravention pursuant to subsection 7.1(2) .

**7.4 VIOLATION TICKET**

- (1) If the penalty specified in the offence ticket is not paid within the prescribed time period, then a peace officer may issue a violation ticket regarding the offence in accordance with the provisions of the Provincial Offences Procedure Act, R.S.A. 2000, Chapter P-34, and amendments thereto.
- (2) Notwithstanding subsection 7.2(1), a peace officer is hereby authorized and empowered to immediately issue a violation ticket to any person who the peace officer has reasonable grounds to believe has contravened any provision of this bylaw.
- (3) A violation ticket issued under subsections 7.4(1) or 7.4(2) shall specify a penalty as described in Schedule A.

**7.5 MINIMUM FINE**

The minimum fine for any contravention of this bylaw is \$50.

**PART 8 – IMPLEMENTATION**

**8.1 REPEAL**

This bylaw shall repeal Bylaw 92-11, and amendments thereto, upon this bylaw coming into force.

**8.2 EFFECTIVE DATE**

This bylaw shall come into full force and effect on January 1<sup>st</sup>, 2012.

**READ a First Time in Council this 16<sup>th</sup> day of August, A.D., 2011.**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Chief Administrative Officer

**READ a Second Time in Council this 6<sup>th</sup> day of September, A.D., 2011.**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Chief Administrative Officer

**READ a Third Time in Council and Finally Passed this 6<sup>th</sup> day of September, A.D., 2011.**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Chief Administrative Officer

**Schedule A**  
**Specified Penalties**

<b>Section</b>	<b>Description</b>	<b>Specified Penalty</b>
2.1(1)	Conducting business without a license	\$350
2.3(1)	Improper/failure to display of business license	\$50
2.3(2)	Failure to carry business license on person	\$50
2.4	Failure to produce business license	\$50
3.1(1)(a)	Operate motorized street vending vehicle in unapproved district or street	\$50
3.1(1)(b)	Operate motorized street vending vehicle that causes a disturbance or damage to property	\$250
3.1(1)(c)	Operate motorized street vending vehicle on Town land without approval	\$50
3.1(1)(d)	Operate motorized street vending vehicle on Town Land without paying rental fee	\$50
3.1(2)	Operate non-motorized street vending vehicle that obstructs traffic or pedestrians	\$50
3.2	Street vendor using unapproved display or table	\$50
3.3	Street vendor not parked or stored in accordance with Town regulations	\$50