

Business Licence Bylaw Update

A Business Licence Bylaw

A business licence bylaw establishes:

- the collection of fees
- terms of licences
- approvals, rejections, suspensions, or cancellations of licences
- violations and penalties
- regulations

Current Bylaw and Business Licence Fees

- The current Business Licence Bylaw was adopted by Council in 1998.
- Shortly thereafter, Council directed Staff to undertake a review of fees with the goal of establishing a clear, consistent, simplistic and equitable fee structure.
- The review established that the general consensus of the local business community was the fee structure was confusing, inconsistently applied, and not business-friendly.
- Several options were presented; however, the Selective Flat Fee model was the preferred option.
- As a result, an amendment to the Business Licence Bylaw to change the fees from the Tiered Fee model to the Selective Flat Fee model was adopted.
- To date, no further changes have been made to the fee structure except to add food truck fees.

Best Practice Review

In preparing to amend the bylaw, a best practice review of the following municipalities was completed:

- Kamloops
- Kelowna
- Prince George
- Victoria
- Saanich

Business Licence Fees

- Most municipalities administer fees via the **Tiered Fee model**. Of the municipalities reviewed for best practices, only Saanich calculates fees using the Selective Flat Fee model.
- The **Selective Flat Fee** model works well and is easy for Staff to administer and for customers to understand. As such, **changes to fees are not being proposed at this time**.
- However, as it is desired to keep all City bylaw fees in one bylaw, Staff are recommending the fee schedule be removed from the Business Licence Bylaw and incorporated into the **Fees and Charges Bylaw**.
- If directed by Council to proceed with the amended Business Licence Bylaw, amendments to the Fees and Charges Bylaw will be forwarded to a future Council meeting for first, second, and third readings.

Examples of a Tiered Fee Model

Kamloops:

BUSINESS LICENCE FEES BY CATEGORY		PRIMARY FEE	SECONDARY FEE
b)	Call Centre, 1-100 Workstations	\$146.00	\$111.00
c)	Call Centre, More Than 100 Workstations	\$280.40	\$245.40
d)	Data Centre	\$280.40	\$245.40
e)	Game Meat Cutting	\$196.40	\$161.40
f)	Day Care Facility		
i)	1-10 Children in Care, Where the Location is Home-based, Principal Residence, and Owner Operated	\$ 67.20	n/a
ii)	More Than 10 Children in Care	\$146.00	\$111.00

Bank, trust company, credit union, finance and loan company, brokerage company, cheque cashing services, payday loans services, independent stock broker, or independent mortgage broker:

a)	1-20 Employees	\$ 729.20	\$ 694.40
b)	Over 20 Employees	\$1,234.40	\$1,199.40
c)	Stand-alone Cash Machine(s)*	\$ 112.40 each	n/a
d)	Cheque Cashing and Payday Loan Services	\$ 280.40	\$ 245.40
e)	Independent Stock Broker or Mortgage Broker (maximum two people)	\$ 196.40	\$ 161.40

Kelowna:

FINANCIAL AND BROKERAGE COMPANIES

Bank, trust company, credit union, finance and loan company, brokerage company, cheque cashing services, payday loans services, independent stock broker, or independent mortgage broker:

a)	1-20 Employees	\$ 729.20	\$ 694.40
b)	Over 20 Employees	\$1,234.40	\$1,199.40
c)	Stand-alone Cash Machine(s)*	\$ 112.40 each	n/a
d)	Cheque Cashing and Payday Loan Services	\$ 280.40	\$ 245.40
e)	Independent Stock Broker or Mortgage Broker	\$ 196.40	\$ 161.40

(maximum two people)

*Stand alone cash machine(s) requiring a separate business licence are machines located in a separate premise(s) from a bank or under private ownership.

Prince George:

Commercial Retail (<1000 m ² GFA)	Commercial Retail (less than 1000 m ²)		\$280.00
Commercial Retail (>1001 m ² GFA)	Commercial Retail - Department Store (greater than 1000 m ²)		\$561.00
		Aircraft Sale and Rental	
		Business or Office Supplies	
		Retail, Convenience	
		Retail, General	
	Building or Garden Supplies	Building and Garden Supply	\$280.00
	Farmers Retail	Retail, Farmers Market	\$74.00
	Flea or Farmers Market (year)	Retail, Flea Market	\$421.00
	Direct Sales, Group	Direct Sales, Group	\$280.00
	Direct Sales, Individual	Direct Sales, Individual	\$74.00
Commercial Service (<100 m ² GFA)	Commercial Service (100 m ² or less floor area)		\$140.00
Commercial Service (>101 m ² GFA)	Commercial Service (more than 100 m ² floor area)		\$280.00

Victoria:

licensed food primary business with a lounge endorsement, as defined under B.C. Regulation 244/2002, located inside the Downtown Area shown on the map in Schedule C

\$200 plus \$7 per each unit of licensed liquor primary person capacity

licensed food primary business with a lounge endorsement, as defined under B.C. Regulation 244/2002, located outside the Downtown Area shown on the map in Schedule C

\$200 plus \$6 per each unit of licensed liquor primary person capacity

Any person carrying on the business of a bank

(a)	for the first business location	1,000.00
(b)	for each additional business location	700.00

Selective Flat Fee Model Adopted by Nanaimo

Business Type	Fee
Casino/Escort Service/Massage Parlour	\$3,000
Cabaret/Lounge/Pub/Bank/Credit Union	\$1,100
Food Truck/Trailer/Cart	\$165 - \$365
Childcare (home-based and commercial)	\$50
Special Event (up to 5 consecutive days)	\$41.25
All other businesses	\$165

Business Licence Fines

- Changes to the fine schedule are **not being proposed at this time.**
- Similar to fees, the current practice is to have all City fines contained in the **Bylaw Notice Enforcement Bylaw.**
- If directed by Council, amendments to the Fines Bylaw will accompany the amended Business Licence Bylaw for three readings at a future Council meeting.

Overview of Business Licence Fines

Fine Schedule	
Operating without a business licence	\$100
Operating in contravention of a business licence condition	\$100
Failure to supply sub trade list	\$50
Failure to notify of a change in business	\$50
Failure to change business address	\$50
Failure to post FASD signage	\$100
Disobey suspension order	\$200

Proposed Amendments to the Bylaw

- **Definition updates**
- **Bylaw section updates**
- **Regulation updates**
- Fee schedule
- Fine schedule
- **Map updates**

Definition Updates

Definition	Description	Rationale
"Business"	means carrying on a commercial or industrial undertaking of any kind or providing professional, personal or other services for the purpose of gain or profit, <i>but does not include an activity carried on by the government, its agencies or government-owned corporations.</i>	Updated to exclude business carried on by the government.
"City Licence"	means a business licence issued by the Licence Inspector for operating a business in or from a premises within the City.	Added to better differentiate from an Inter-Community and a Non-resident licence.
"Commercial Landlord"	means a person who owns or operates any premises within city boundaries and leases, lets or rents such premises to any other person or entity for the purpose of operating a business.	Added as a result of new requirement for licence under Section 3.2.1
"Council"	means the municipal Council of the City.	Added to expand on references to Council within the bylaw.

Definition	Description	Rationale
"Escort Service"	means a business which provides persons as escorts for social, business, cultural or recreational occasions, but does not mean a person providing assistance to another person because of that person's age or disability.	Updated to exclude social assistance escorts.
"Inter-Community Business Licence"	means a business licence issued for the purpose of conducting business in a municipality that participates in the inter-community business licence program as described in the "Inter-Community Business Licence Bylaw 2013 No. 7176".	Added as a result of new reference in Section 3.1.
"Liquor-Primary Establishment"	means a business licensed under the <i>Liquor Control and Licensing Act</i> of British Columbia where the service of liquor is the primary focus of the business.	Added to replace reference to Liquor-Licensed (Schedule A, Section 11)
"Mobile Business"	means a business that performs or provides a service or activity by moving from client to client within the City, but does not include operating in another municipality.	Added to differentiate between mobile and inter-community.
"Non-Profit"	means an organization registered as a legal entity under Provincial or Federal legislation whose constitutional purposes do not include gain or profit.	Added as a result of new requirement for non-profits to obtain a business licence (Section 3.1)
"Non-Resident Business"	means a business, other than a business carried on, in or from premises within the City, that is carried on in the City or with respect to which any work or service is performed in the City.	Added to differentiate between a resident business and a non-resident business.
"Special Event"	means an event such as a concert, performance, festival, exhibition, trade show or similar business activity operating for 5 or fewer consecutive days.	Updated to include activities.

Definitions Removed

Definition	Description	Rationale
"Carrying on Business"	means selling, bartering or advertising for sale, any product or service for profit or gain.	Replaced by updated definition for Business.
"Licencee"	means a business entity which holds a licence to operate a business within the City of Nanaimo under this bylaw.	Standard definition that does not require an explanation.
"Liquor Licenced Establishment"	means a Liquor business licenced under the Liquor Control and Licensing Act of British Columbia".	Not required if FASD regulation is removed from bylaw.
"Pub"	means a business primarily engaged in the sale of alcoholic beverages to the public.	Standard definition that does not require an explanation.

Definition	Description	Rationale
"Rave"	includes dance, entertainment, performance or other event, commencing or continuing after 2:00 A.M.; or an event the duration of which is in excess of six hours, where 30 or more persons assemble at any time and that is undertaken without obtaining a Liquor Licence issued under the Liquor Control and Licensing Act".	This event type does not occur anymore.
"Temporary Business"	means a business that does not operate for more than 30 days in a calendar year.	A temporary licence fee is \$165 which is the same fee as the general business licence fee.
"Trade Show"	means an event carried on to promote and sell products from a fixed premises, the activity of which is intended to promote further sales; and which does not operate for more than five (5) consecutive days at a time.	Included in the definition of Special Event.
"Video Store"	means a business primarily engaged in the rental of videos to the public.	Redundant business.

Bylaw Section Updates

Inclusion of non-profit sector

A person, including without limitation a Non-Profit, must not carry on any Business in the City without first obtaining either a City Licence or a business licence issued by another Vancouver Island municipality to which the Inter-community Business Licence has been added.

- Currently, non-profits do not require a licence.
- Including non-profits provide information and data as to which sectors of the community are being serviced.
- Provides an opportunity to ensure that premises occupied by non-profits are compliant with land-use, building, and fire code requirements. Currently, this is not being completed.

Commercial leased property

For certainty, a Commercial Landlord must obtain a City Licence for each building identified by a separate civic address.

- Provides a **consistent approach** to licensing commercial leased properties.
- Historically, commercial lease properties were treated as one business regardless of how many properties an individual owned and despite the requirement for a separate licence.
- A commercial leased property includes:
 - Industrial warehouses where there are two or more rental units
 - Commercial buildings where there are two or more rental units
 - Apartment buildings

Business licence application

Every application for a business licence must include the following information:

- (a) *the full name and contact information of the applicant;*
 - (b) *the type and description of the business, and related activities;*
 - (c) *the relationship of the applicant to the business;*
 - (d) *the trade or operating name of the business;*
 - (e) *if incorporated, the corporate name, address of its registered and records office, business telephone number and name of a corporate officer or manager who may be contacted;*
 - (f) ***any Provincial or Federal enactments that apply to the business, and whether applicable approvals under those enactments have been obtained;***
 - (g) *proposed date of commencement and times of operation;*
- Expands on the current bylaw requirements by formalizing information requested on the application form; and
 - Ensures that application submissions include any enactments that apply to the business.

Prorating of fees

Businesses that have closed and re-opened under the same business name and ownership are not eligible for prorated fees, regardless of how long the business was not operating.

- Currently, most business licence fees are pro-rated for the first year of business only.
- The proposed bylaw will provide clarity that businesses that have closed and re-opened under the same business are not eligible to receive the pro-rated fee.

Business licence renewals

Each business operator whose business activity is intended to or does continue in the year following issuance of their business licence must ensure that their business licence is renewed annually by December 31st, whether notice is given by the City or not, and the business operator must pay the annual renewal fee as set out in the City's Fees and Charges Bylaw.

- To establish the requirement to renew regardless of whether or not the annual invoice has been received.

Business licence renewals, cont

If a licence is not renewed as required by this Bylaw, the licence shall be terminated and the licensee who wishes to continue to carry on the business shall submit an application form and supporting documentation in the same manner as an application for an initial licence.

- Provides the ability to close accounts where the fee has not been paid.
- Requesting a new application ensures that the information on file is correct and up-to-date.

Business licence renewals, cont

Business licence applications received as a result of the licence being terminated shall not be eligible for the prorated rate as laid out in Section 5.2 and shall pay any outstanding fees before the licence is reinstated.

- Provides clarity and establishes that the business is not eligible for the prorated fee.
- If the business operated without a valid licence, any outstanding fees that were previously reversed will need to be paid before the licence can be reinstated.

Regulation Updates

- Regulations for specific businesses have been **added as a separate schedule**.
- Currently, the regulations are contained within five pages in the middle of the bylaw.
- Removing them from the body of the bylaw and adding them as a separate schedule provides for a more succinct bylaw.

The following regulations have been added:

Regulation	Rationale
Adult Store	It was discovered when licensing a new adult store that there were no regulations in place with respect to minors or displayed material. Establishing a regulation provides a means of adding a condition to the licence and ensuring compliance.
Assisted Living Residence	In working with Community Care, it was discovered that assisted living residences where more than two unrelated adults are being supported requires a licence from the Ministry of Health. Working in collaboration with Community Care ensures that the businesses licensed to provide support have been pre-approved by the Ministry to operate.
Cannabis – Cultivation, Processing, Testing, Research	In researching Health Canada website and the requirements for cannabis cultivation, processing, testing and research, it was discovered that Federal Government approval is required before a business operates and that a new licence is required every five years. In establishing the requirement through the regulations section, it provides for a means to add it as a condition to the licence.
Commercial Landlord	Established business licences for commercial landlords have historically not been handled consistently. For instance, some landlords have a separate business licence for each building owned; whereas, other landlords have one business licence for multiple buildings on multiple properties. Establishing a regulation provides for a more consistent means of licensing commercial rental units.
Security Services	Security services and private investigators are regulated under the <i>Securities Act</i> . In establishing a regulation, it provides for a means to add it as a condition of the licence.

The following regulations have been removed:

Regulation	Rationale
Raves	A business licence for a rave has not been issued in the past four years and is, in staff's opinion, considered a redundant event and the regulation thereof is no longer required.
Fetal Alcohol Spectrum Disorder	<p>The Fetal Alcohol Spectrum Disorder (FASD) regulation was adopted as an amendment to the Business Licence Bylaw by Council 2013-MAY-27, and came into affect 2014-JAN-01 (attached). As per the bylaw, all liquor-licensed establishments were required to post signs advising of the harmful effects of consuming alcohol while pregnant.</p> <p>Provisions for FASD awareness are important; however, in consultation with legal counsel, these provisions will require input from the Public Health Officer and must be deposited with the Ministry of Health.</p>

Summary of Proposed Changes

In conclusion, the proposed changes are intended to:

- Reorganize the layout of the existing bylaw
- Update the bylaw to reflect current business trends ;
and
- Provide an opportunity to adhere to current bylaw formatting standards.

Business Licence Revenues

Trial balance totals as of April 30, 2021

REVENUE				
141900-6306-00000	Misc Rev - Collections	0.00 CR	0.00 CR	0.00 CR
151200-5530-00000	BL Revenue	1,067,203.75 CR	5,888.75 CR	1,073,092.50 CR
151250-5530-00000	Licencing - Inter-Community	131,702.50 CR	2,550.00 CR	134,252.50 CR
159300-4561-00000	City Parks Recoveries	150.00 DR	0.00 CR	150.00 DR
159800-5530-00000	BL Write Offs	0.00 CR	0.00 CR	0.00 CR

Business Licence Stats 2019

Licence Type	Number of Licences
Home-based	348
Non-Resident	198
Inter-Community	102
Other	330
Total licences issued	876
Total Revenue	\$124,659

Business Licence Stats 2020

Following are the stats for the 2020 year illustrating that 50% of all applications received are for home-based businesses and only a small percentage are commercial.

Licence Type	Number of Licences
Home-based	423
Non-Resident	202
Inter-Community	145
Other	197
Total licences issued	822
Total Revenue	\$109,873

Business Licence Stats 2021

2021 stats up to June 29

Licence Type	Number of Licences
Home-based	290
Non-Resident	115
Inter-Community	103
Other (Commercial/Special Events)	127
Total licences issued	532
Total Revenue	\$68,185

Business Licence Stats – Total Open

Total Open Business Licence Accounts

Licence Type	Number of Licences
Home-based	2,685
Non-Resident	1,092
Inter-Community	845
Other	2,993
Total open accounts	6,770

End of Presentation

