

TOWN OF FOAM LAKE

BYLAW NO. 05-2011

A BYLAW OF THE TOWN OF FOAM LAKE TO REGULATE THE LICENSING OF BUSINESSES

The Council of the Town of Foam Lake, in the Province of Saskatchewan, enacts the following:

PART I GENERAL MATTERS:

Short Title

1. This Bylaw may be cited as the Business Licensing Bylaw.

Purpose

2. The purpose of this Bylaw is to license businesses in The Town of Foam Lake so as:

- (a) To regulate businesses;
- (b) To ensure compliance with land-use and building regulations;
- (c) To gather land-use information;
- (d) To gather workforce statistics; and
- (e) To facilitate planning decisions.

PART II DEFINITIONS:

Definitions

3. In this Bylaw,

“Act” means *The Municipalities Act* and amendments thereto.

“Administrator” means the Town Administrator, or other person designated by him/her to issue business licenses pursuant to this Bylaw.

“Business” means any of the following activities, whether or not for profit and however organized or formed:

- (a) A commercial, merchandising or industrial activity or undertaking;
- (b) The carrying on of a profession, trade, occupation, calling or employment;
- (c) An activity providing goods or services;

“Contractor” means a person who constructs, alters, maintains, repairs or removes buildings or structures, installs heating plants, plumbing or other fixtures or performs other similar work in the Town and who does not have a business premises in the Town.

“Direct seller” means a person who does not have a business premises in the Town and:

- a) Travels from house to house selling or offering for sale, or soliciting orders for the future delivery of goods or services; and/or
- b) By telephone offers for sale or solicits orders for the future delivery of goods or services; and
- c) Is licensed for business with the Province of Saskatchewan;

“Farmers’ Market” means a group of persons operating collectively which sells products that they bake, make, or grow.

“Goods” means any article, thing or substance and includes subscriptions for books, magazines or any printed matter.

“Home Based Business” means a business located on land or within a building where the land or building is primarily used for residential purposes and the owner(s) are the full-time residents.

“Local Business” means any business that is owned and operated with a civic address in the Town.

“Not Classified” includes every person carrying on any trade or business for gain not otherwise specified anywhere in this bylaw.

“Services” means performing a service or any work, act or deed, for any compensation whether monetary or otherwise.

“Store-front Business” means any business located in the commercial and/or industrial district(s) as shown on the Zoning District Map in the Town Zoning Bylaw.

“Town” means the Town of Foam Lake in the Province of Saskatchewan.

“Transient trader” means a person carrying on business in a municipality who:

- (i) Offers goods or merchandise for sale by retail or auction; or
- (ii) Solicits any person who is not a wholesaler or retail dealer for orders for the future delivery of goods or merchandise;

but does not include a person who is required to be licensed pursuant to *The Direct Sellers Act* or who is an occupant of property that is used for business purposes.

PART III GENERAL LICENSING:

License Required

4. No person shall carry on any business in the Town without a license.

Application

5. A person must apply in writing to the Town for a Business License before commencing any business as per Schedules 1 to 5 of this bylaw

6. An application must include all requested information, including but not limited to:

- (a) Name and address of the applicant,
- (b) The nature of the business for which the application is required,
- (c) The place where the business is to be carried on,
- (d) The name under which the business will be operated,
- (e) The area of the premises where the business will be carried on;
- (f) The name of a contact person;
- (g) A completed Development Permit and supporting documents (when applicable).

7. Notwithstanding the provisions of this bylaw, the Town, at its sole discretion, may require the general contractor of a project to provide a list of sub-trades for the project and the total business license fees will be payable by the general contractor with the term of the business license to expire at the end of the project. Business licenses for the individual sub-trades listed will be included within the business license of the contractor.

License Fee

8. (a) A person must pay the fee provided for in Schedule "A" prior to the license being issued. A person will not be issued a license until the fee has been paid.

Granting of Licenses

9. The Town may issue licenses in the following circumstances:

- (a) The required application form has been completed;
 - (b) The required license fee has been paid;
 - (c) If required, the necessary provincial or federal license has been produced;
 - (d) If required, the necessary written approval of Sunrise Health Region has been produced;
- and
- (e) The business or the premises occupied by the business complies with all the zoning, building, plumbing and other requirements of the Town.

10. The following establishments are considered exempt from obtaining a Business License from the Town.

- a.) Any "Store-front" business subject to the commercial levy mill-rate factor;
- b.) Home based party-type businesses such as, but not limited to, Avon, Epicure, Mary Kay, Pampered Chef, Party-Lite, Tupperware, Watkins, Gold Canyon Candles, Arbonne, and Silpada;
- c.) Home based businesses that provide special requests for home-made food products;
- d.) Real Estate Agents that do not operate a Home Based business within the Town limits.
- e.) Publicly funded organizations such as, but not limited to, educational institutions, educational administration, municipal administration and its entities, and hospitals;
- d.) Non-profit organizations, service groups and community groups such as, but not limited to, churches or places of worship, unless operating a service for profit out of a location within the Town limits.

License Issued for One Year Unless Otherwise Stated

11. Every license, unless suspended or revoked, shall expire on December 31st of each calendar year and must be renewed by the last working day of December.

Renewal

12. A person must renew their license annually or purchase a license for each project in the manner prescribed by the Town. Submission of application is required in writing for all renewals.

13. A person must pay the fee provided for in Schedule "A" when renewing the license.

Discontinuance or Change

14. A person must notify the Town if a business is discontinued.

15. A person must notify the Town if either the size or nature of the business changes.

16. A person must apply for a new license if the business relocates.

17. A person purchasing or taking over an existing business must apply for a new license but shall not be required to pay a new license fee. In this circumstance, the new license will expire at the end of the original license period.

Revoking or Suspending of Licenses

18. If a licensee contravenes any term or condition of this Bylaw, the Town may suspend or cancel the license pursuant to this Bylaw, in accordance with Section 8 of the Act. No refunds will be issued for any licenses suspended or revoked.

19. The Town may reinstate a suspended license if it is satisfied that the licensee is complying with the Bylaw.

20. Any licensee may appeal the suspension or cancellation of a license to Council.

Distress

21. The Town may recover any license fee by distress in accordance with the provisions of *The Municipalities Act*.

Premises Licensed Separately

22. If a business is carried on at more than one location, a person must obtain a license for each location.

23. A license issued under the provisions of this Bylaw is only valid at the location for which it is issued.

Town Bylaws

24. No license shall be issued for a business which does not or will not conform to any zoning, building, plumbing and/or any other bylaws of the Town.

25. As per the Zoning Bylaw, a Development Permit will be required prior to the issuance of a Business License for certain businesses which include but are not limited to Home Based Businesses and Store Front Businesses.

26. The issuing of a license to a person/business does not relieve that person/business of the responsibility of conforming to any zoning, building, plumbing, and other requirements of the Town.

Federal or Provincial License Required

27. A license will not be issued under this Bylaw to any person required by law to obtain a federal or provincial license, until the person has first produced the required provincial license to the Town.

28. Any license issued under this Bylaw without the person first obtaining the required federal or provincial license is invalid.

License to be Displayed

29. A license issued under this Bylaw shall be as per Schedule "C" and must be displayed in a prominent place at the place of business for which the license was issued.

30. Every person licensed under this bylaw shall, at all reasonable times, upon request of the Town Manager, a Bylaw Enforcement Officer or Peace Officer, produce such license for inspection purposes.

Enforcement of Bylaw

31. The administration and enforcement of this Bylaw is hereby delegated to the Administrator for the Town of Foam Lake.

32. The Administrator is hereby authorized to further delegate the administration and enforcement of this Bylaw to any municipal official.

Inspections

33. The inspection of property by the Town to determine if this Bylaw is being complied with is hereby authorized.

34. Inspections under this Bylaw shall be carried out in accordance with Section 362 of *The Municipalities Act*.

35. No person shall obstruct a designated officer who is authorized to conduct an inspection under this Section, or a person who is assisting a designated officer.

36. Examples of business activity may include but is not limited to one monetary or non-monetary transaction and/or business advertising.

Offences and Penalties

37. No person shall:

- (a) Obstruct or hinder any designated officer or any other person acting under the authority of this Bylaw; or
- (b) Fail to comply with any other provision of this Bylaw.

38. Notwithstanding any other penalty provisions on this bylaw, a designated officer may issue a voluntary payment in lieu of a summons and the accused may within 15 days pay the following monetary penalty to the Town:

- a) For the first offence \$ 50.00
- b) For a second offence \$100.00
- c) For a third and subsequent offence \$100.00

39. Except where a penalty is specifically provided for in this Bylaw, every person who contravenes any provision of Section (37) is guilty of an offence and liable on summary conviction and shall be liable for the penalties listed in Schedule "B" and costs in default of payment.

40. In the event that a person who has been refused a license carries on a business, he shall be guilty of an offense and shall be liable on Summary Conviction to a fine of Fifty Dollars (\$50.00) for each day that such business is carried on and costs associated with conviction. Upon conviction under this paragraph, the Court may order that the accused cease to carry on such business.

41. If a license fee imposed for the licensing of building contractors is unpaid, a designated officer:

(a) may give a written notice to any person by whom the contractor is employed requiring that person to pay the license fee out of moneys payable by that person to the contractor; and

(b) if the designated officer gives written notice pursuant to clause (a), he/she shall send a copy of the written notice to the contractor.

42. On receipt by a person mentioned in Section (41) of a written notice requiring the person to pay a license fee, the amount of the license fee is, to the extent of the moneys so payable, a debt due by that person to the Municipality; and may be recovered in the same manner as taxes may be recovered.

PART V SEVERABILITY:

Scope

43. If any section, subsection, sentence, clause, phrase or other portion of this Bylaw is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, that portion shall be deemed a separate, distinct and independent provision and the holding of the Court shall not affect the validity of the remaining portions of the Bylaw.

PART VI REPEAL OF BYLAWS:

Repeal of Former Bylaws

44. Upon effective date of this bylaw Bylaw 3-88 and Bylaw 14-88 are hereby repealed.

PART VII EFFECTIVE DATE OF BYLAW:

Coming Into Force

45. This Bylaw shall come into force upon its passing.

Mayor

S E A L

Administrator

Read three times by unanimous consent and adopted this _____, day of _____, 2011

CERTIFIED A TRUE COPY OF:

Bylaw #5-2011, passed on the

14th day of June 2011, AD

Administrator

Schedule “A” to Bylaw 05-2011**SCHEDULE OF FEES**

License fee for home-based businesses	\$100
License fee for contractors employing help (annual)	\$250
License fee for contractors employing help (daily)	\$100
License fee for contractors not employing help (annual)	\$100
License fee for contractors (special–per new construction permit)	\$350
License fee for direct sellers (holding a valid provincial license) (each salesperson must be licensed)	\$ 50
Transient Traders (annual)	\$250
Transient Traders (daily)	\$100

Schedule “B” to Bylaw 05-2011**SCHEDULE OF OFFENSES**

Conducting a business without a license	\$200
Conducting business activity from a premises not identified on license	\$100
Conducting business without renewal	\$200
Failing to post license	\$100
Failing to produce license upon request by authorized personnel	\$100
Advertising or promoting a business without license	\$200
Providing false or misleading information to the Town	\$500
Providing false or misleading information to Bylaw Enforcement Officer	\$500