
THE CORPORATION OF THE DISTRICT OF KENT

BYLAW NO. 1485

“A Bylaw to Provide for the Licencing and Regulation of Businesses”

WHEREAS the Council of the Corporation of the District of Kent has deemed it advisable to provide for the licencing and regulation of businesses;

NOW THEREFORE the Council of the Corporation of the District of Kent, in open meeting assembled, enacts as follows:

1. CITATION

1.1 This Bylaw may be cited for all purposes as “Business Licencing and Regulation Bylaw No. 1485, 2012” and comes into effect on the date of adoption.

2. DEFINITIONS

2.1 In this bylaw:

Agri-tourism use means a tourist activity, service or facility accessory to land that is classified as a farm under the Assessment Act and approved by the Agricultural Land Commission where applicable, if the use is temporary and seasonal and promotes or markets farm products grown, raised or processed on the farm operation; excludes accommodation;

Business means the carrying-on of a commercial or industrial undertaking of any kind or nature, or the providing of professional, personal, or other services for the purpose of gain or profit;

Bylaw Enforcement Officer means a person appointed from time to time by the Council of the District for the purpose of enforcing and carrying out provisions of this Bylaw, and shall include any Assistant Bylaw Enforcement Officer or designate so appointed;

Cabaret / Night Club means a Liquor Primary Licensed Establishment primarily engaged in providing for dancing by customers and that may provide entertainment (excluding adult entertainment and gaming or gaming establishments);

Contractor/Sub-Contractor means a person who carries on a business of performing construction, alteration or repair work upon a building or other structure; the owner-operator of machinery and/or mobile equipment for road building, excavating, ground moving, blasting or transportation purposes;

Council means the Municipal Council of the District of Kent;

District means the District of Kent;

Drug Paraphernalia means any goods, products, equipment, things or materials of any kind primarily used or intended to be primarily used to produce, process, package, store, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance as defined in the *Controlled Drugs and Substances Act (R.S.C)*, but does not include a controlled substance that is permitted under that Act;

Farm means an area of land whose primary use is for 'farming' and which:

- Consists of one or more Lots , all of which are operated by a farm owner and managed as a single business unit; and
- Is classified as a Farm under the *BC Assessment Act*, as amended or replaced from time to time.

Farm Retail Sales use means a use approved by the Agricultural Land Commission where applicable, accessory to an agricultural use providing for the retail sales of agricultural products which are produced on the same farm operations or at least 50% of the retail sales area is limited to the sale of farm products produced on the farm on which the retail sales are taking place; excludes areas such as washrooms, offices, and storage areas not accessible to the public;

Home Occupation means a business carried out in a dwelling or a building accessory to a dwelling or both.

Kennel means any building, structure, compound, group of pens or cages, within a building or property in which, or where the combination of six (6) or more dogs or cats are, or are intended to be, trained, cared for, bred, boarded or kept for any purpose whatsoever and charges a fee for certainty, shall specifically include any building, or part thereof, in which the combination of six (6) or more dogs or cats are kept for breeding purposes;

Licence means a valid business licence issued by a Licence Inspector pursuant to this bylaw for the operation of a business within the District;

Licence Inspector means a person appointed from time to time by the Council of the District for the purpose of enforcing and carrying out provisions of this Bylaw, and shall include the Bylaw Enforcement Officer or any Assistant Licence Inspector or designate so appointed;

Liquor Retail Store means a private liquor store or cold beer and wine store licensed under the *Liquor Control and Licensing Act and Regulation*;

Liquor Primary Licensed Establishment means an establishment licensed under the *Liquor Control and Licensing Act and Regulation* where the service of liquor, as opposed to food, is the primary focus of the establishment;

Mobile Vendor means any person(s) who, from a motor vehicle, trailer or cart, sells or offers for sale food or merchandise, or who advertises or takes orders for goods and services;

Neighbourhood Pub means a Liquor Primary Licensed Establishment which offers full lunch and dinner menus complete with hot and cold meals and has a person capacity of not more than 100 or meeting the seating capacity pursuant to the fire and building codes, whichever is less;

Non-Resident Business means a business that is carried on in or from premises located outside the District with respect to which any work or service is performed or offered in the District;

Premises means the location or building, portion of a building or an area of land where a business is carried on or that is the subject of an application for a licence;

Resident Business means a business carried on in or from premises within the District;

Retail means a business that sells goods to a consumer;

Yard/Garage Sales means a one-time sale of surplus personal items; and

UBrews and UVins means business licensed under the *Liquor Control and Licensing Act and Regulation* that provide their customers with the ingredients, equipment, and advice that they need to make their own beer, wine, cider, or coolers.

DIVISION 1 – BUSINESS LICENCING**3. LICENCE REQUIREMENTS**

- 3.1 A person must not engage in or carry on a business within the District unless that person holds a valid and subsisting licence issued by the Licence Inspector pursuant to this bylaw.
- 3.2 A person carrying on a resident or non-resident business within the District must comply with this and with any and all terms, conditions, restrictions, and limits of a licence issued by the Licence Inspector.
- 3.3 Every non-resident business must also hold a current and valid licence required by the jurisdiction of which the business has an office, business address or is normally resident.
- 3.4 Every business must endeavor to meet trade, occupational, professional or other standards established by law or in the absence of law, by customary practice, for that business.
- 3.5 A person may apply for a licence by completing an application on the prescribed form and delivering it, together with any further information that may be requested by the Licence Inspector and payment of the fee identified in the District's Fees and Charges Bylaw for that licence, to the Licence Inspector.
- 3.6 Every person carrying on more than one business must obtain a separate licence for each business.
- 3.7 Every person who carries on business from more than one premise in the District shall obtain a separate licence for each premise.
- 3.8 A person must not carry on a business at any premise other than the premise specified in a licence under this bylaw.
- 3.9 Each owner or operator of a business engaging in business in an exhibition or trade show shall obtain a business licence.
- 3.10 No person carrying on a business shall:
- (a) Display or permit to be displayed on a street, or in a window facing a street, or elsewhere it can be seen by a person outside the premises, any drug paraphernalia.
 - (b) Except where the premises are licenced as a pharmacy under the Pharmacists Act, sell drug paraphernalia to any person under the age of 19 years.

4. EXEMPTIONS

4.1 The following are not required to hold a business licence in the District of Kent:

- (a) With the exception of the Farmers Market Society, a society registered in British Columbia or Canada or a registered charitable or non-profit organization whose revenues are used solely for charitable or benevolent purposes;
- (b) Occasional fund-raising activities held by educational organizations, churches, sports teams, societies, or other non-profit organizations;
- (c) Rental of a single family dwelling, secondary suite, or duplex where the rental agreement is subject to the *Residential Tenancy Act*;
- (d) Businesses renting apartment suites where not more than two (2) suites are available for renting and the rental agreement is subject to the *Residential Tenancy Act*;
- (e) Farm Operations with the exception of agri-tourism, kennels, and farm retail sales where less than 100% of the agricultural products are produced on the farm on which the retail sales are taking place;
- (f) An activity carried on by or on behalf of the local, provincial, or federal government or a corporation or agency of the government;
- (g) A performance, concert, exhibition or entertainment for which the entire proceeds, above actual expenses, are devoted to a charitable purpose and/or it is designated a 'Special Event' governed by the regulations and fees as per the District of Kent Management and Use of Parks and Public Facilities Bylaw and District of Kent Fees and Charges Bylaw;
- (h) A performance, concert, exhibition, entertainment or concession which is held in a licenced theatre or other licenced place;
- (i) A business that pays a user fee to the Farmers Market Society to participate in the the farmers market authorized by the District of Kent and conducts no other business within the District of Kent;
- (j) Vendors at the annual Fall Fair that are approved by the Agassiz Agricultural and Horticultural Association;
- (k) A non-residential business that only delivers commodities sold and delivered by them in the ordinary course of business and picks up commodities being returned or exchanged. This however does **not** include non-residential contractors or subcontractors as defined in this bylaw and doing business in the District;
- (l) Day care services to not more than two unrelated children, or to the children of one family, by a person who is not related to those children; and

- (m) A yard or garage sale limited to one weekend at three month intervals (maximum 4 times per calendar year).

5. EFFECT OF LICENCE

- 5.1 A Licence is applicable only to the business described on the Licence, and only at the premises or locations described on the Licence.
- 5.2 A Licence is not a representation or warranty that the licenced business or the business premises complies with the bylaws of the District, Provincial or Federal legislation, or with any other regulations or standards.

6. LICENCE PERIODS

- 6.1 Annual licences shall be granted for a period commencing each January 1st and expiring each December 31st.

7. APPLICATION FOR LICENCE

- 7.1 An application for a Licence under this bylaw must be made to the Inspector on the application form provided for that purpose and shall be signed by an owner of the business or the owner's duly authorized agent.
- 7.2 A separate application form is required for each business.
- 7.3 Every applicant must make a true and correct statement in writing on the application form disclosing the nature and character of the business, the address of the business, and all other facts as are required by the application form.
- 7.4 The application form shall be accompanied by the appropriate fee prescribed in the current District of Kent Fees and Charges Bylaw.

8. LICENCE FEE

- 8.1 Every person applying for a new licence or for a renewal of a licence shall, at the time of making application, pay to the District:
 - (a) The licence fee for the applicable type of business specified in the District's Fees and Charges Bylaw; and
 - (b) All outstanding fees, charges and penalties due and payable to the District in respect to the business.
- 8.2 Every person making application for a new licence or a change of name or other change to a licence shall also pay the administrative fee prescribed in the District's Fees and Charges Bylaw.

- 8.3 Only in the initial year of application, the licence fee prescribed in the Fees and Charges Bylaw shall be reduced by one-half if application for licence is made after July 31st in that year.
- 8.4 Licences shall be issued for the current year until the 31st day of December, after which a licence for the next year shall be issued.
- 8.5 No refund of an annual licence fee shall be made to any person ceasing to do business at any time. Fifty percent (50%) of the licence fee may be refunded only if the licence application is withdrawn prior to issuance of the licence or if issuance of the licence is refused.
- 8.6 Despite Sections 8.5 of the Bylaw, the Chief Administrative Officer or the Director of Development Services may ascertain whether an unusual circumstance exists whereby structural or physical damage substantiates undue financial hardship causing the business operation to discontinue operation. Then Council may by resolution provide a one time additional licence fee refund.

9. LICENCE RENEWAL

- 9.1 Business licence renewal notices shall be forwarded to the licensee on or before November 15th. A licensee who proposes to renew a licence shall submit the annual licence fee to the District Office for processing prior to expiry of the licence on December 31st. The licensee shall ensure that the business licence is renewed as required annually, whether notice is given or not.
- 9.2 If the licence is not renewed by February 28th, applicable fines may be applied and the District of Kent may post a notice of business licence termination at the business premises or location, on the District website, and advertised in the local newspaper.

10. DISCOUNT OF LICENCE FEE AND LATE PAYMENT FEE

- 10.1 As shown in the District of Kent Fees and Charges Bylaw, a reduced fee that includes a 10% early payment reduction, will be provided if the annual renewal Licence Fee imposed by this bylaw is paid before December 15th of the year preceding the commencement of the Licence period.
- 10.2 As shown in the District of Kent Fees and Charges Bylaw, a higher fee that includes a 10% late payment amount, will be charged if the annual renewal Licence fee imposed by this bylaw is paid after January 31st.

11. CHANGES IN BUSINESS

- 11.1 A person to whom a licence has been issued under this bylaw must promptly notify the Licence Inspector in writing of any change or correction to the information provided on the business licence application. In particular, without limiting the foregoing, before changing the location, owner, mailing address, or

any condition related to size, volume, number, or other limit or restriction noted in the licence, the licence holder must:

- (a) Make application in the form provided; and
- (b) Make payment of any additional licence fee applicable as per the District of Kent Fees and Charges Bylaw.

12. TRANSFER OF LICENCE

- 12.1 Any person proposing to obtain a transfer ownership of a Licence held by any other person shall make application in the form provided and the powers, conditions, requirements and procedures relating to the initial Licence application apply. Payment of an administration fee as per the District of Kent Fees and Charges Bylaw is required for transfer of ownership applications.
- 12.2 Any person proposing to obtain a transfer of a Licence with respect to a change of premises shall make application on the application form provided for that purpose and pay the full licence fee for the applicable type of business specified in the District's Fees and Charges Bylaw.

13. DISPLAY OF LICENCE

- 13.1 Every Licencee shall keep the Licence posted in a conspicuous place on the premises for which the Licence is issued.
- 13.2 The District of Kent may distribute or display the name, type of business, address and contact number of all valid licence holders.

14. LICENCE INSPECTIONS

- 14.1 The Licence Inspector may, at reasonable times and in a reasonable manner, enter on or in a property, building, vehicle, vessel or other premises where business is or appears to be conducted to inspect or investigate to determine whether the requirements of this bylaw are being observed and to administer and enforce this bylaw.
- 14.2 If the Licence Inspector believes that it is necessary or advisable in the circumstances, in determining whether a licence should be issued, or in entering a premises, conducting and inspection, or enforcing this bylaw, the Licence Inspector may seek information from, consult with, or be accompanied and assisted by any of the following persons:
 - (a) A police officer or other peace officer;
 - (b) A public health official or licenced medical practitioner;
 - (c) A member of the District's fire department;

- (d) A Building Inspector;
 - (e) A person who is qualified under a statute or by an occupational, trades, or professional standards body to assess, supervise, take action, give direction or make orders or recommendations on the business or an aspect of it that is the subject of the inspection or enforcement process; or
 - (f) Another person who, in the opinion of the Licence Inspector, would have the knowledge, skill or expertise relevant and necessary to making a determination as to matters pertaining to the business at issue.
- 14.3 On receiving a completed application on the application form provided for that purpose, the Licence Inspector may require further information from the applicant that, in the opinion of the Licence Inspector or a person described in subsection 14.2 (a) through (f) is relevant and material to determining whether a licence should be issued under this bylaw.
- 14.4 Without limiting any other provisions of this section, a business licence applicant may be required to undergo a criminal record search by the Royal Canadian Mounted Police and must pay any fee associated with that search.
- 14.5 A Licence Inspector may issue a Licence under this bylaw upon being satisfied that the applicant is in compliance with this and other applicable bylaws or standards, and it appears that the business will be carried on in a safe and reasonable manner.
- 14.6 The Licence Inspector may refuse to issue a licence, and may suspend, revoke or cancel a licence that has been issued, for reasonable cause.
- 14.7 Without limiting subsection 14.6, any of the following circumstances may constitute reasonable cause for refusal, suspension, revocation or cancellation of a licence:
- (a) the applicant or holder is non-compliant with any bylaw of the District;
 - (b) in the case of a non-resident business, the applicant or holder is non-compliant with any bylaws of the jurisdiction from which the person is required to hold a business licence;
 - (c) the holder is non-compliant with a term, limit, restriction, requirement or condition of a licence under this bylaw or of a licence or permit issued by another regulatory authority; or
 - (d) the applicant or holder has been formally charged with, convicted of, or deemed to have pleaded guilty to an offence under a Federal or Provincial law and the offence is relevant to the operation of the business.
- 14.8 The Licence Inspector must state in writing the reasons for refusal, suspension, revocation or cancellation of the licence.

- 14.9 Within 30 business days of the date of the Licence Inspector has delivered a decision, a person who has been refused a licence, or whose licence has been suspended, cancelled or revoked may, apply to Council for a reconsideration.
- 14.10 On receiving a request for reconsideration, Council may require any and all information and further information that it considers may be relevant, and may hear from the licence applicant or holder and any other person whom the Council considers may have information that is relevant to the decision.
- 14.11 Council may confirm, vary or set aside the decision of the Licence Inspector and may impose any covenant, terms, conditions, restrictions and requirements it deems appropriate in the circumstances.
- 14.12 A licence applicant or holder must comply with any covenant, terms, conditions, restrictions, and requirements imposed by Council in connection with a decision to confirm, vary or set aside the decision of the Licence Inspector.

DIVISION 2 – BUSINESS REGULATION**15. CONTROL OF REFUSE**

- 15.1 All Mobile Vendors, Take-Out-Food Businesses, including Food Convenience Stores shall provide on-site receptacles for garbage and recyclable materials, and dispose of the waste in an appropriate manner. Drive-In and Drive-Through Businesses shall provide site receptacles at each entry and exit point of the property, in addition to other locations for pedestrian traffic.

16. OWNERS / CONTRACTORS

- 16.1 Every owner, owner's agent, or contractor on a project requiring a building permit shall provide the Building Inspector with a list on a form provided by the Building Inspector of all known sub-trades to be engaged on each specific site, prior to or at framing inspection. The Building Inspector shall be informed of any additional or new sub-trades during the course of the project.

17. MOBILE VENDORS

- 17.1 Mobile Vending shall, subject to application with the District, only be permitted during:
- (a) District sponsored events on District Community Parks or Recreational property; and
 - (b) Events held by third party user's renting or leasing District Community Parks or Recreation facilities.
- 17.2 The owner of a Mobile Vending business:
- (a) shall have the name and address displayed in a conspicuous place on both sides of every vehicle used by the business for such trade, satisfactory to the Licence Inspector;
 - (b) shall provide on-site receptacles for garbage and recyclable materials, and dispose of the waste in an appropriate manner;
 - (c) shall carry \$1,000,000 liability insurance with the District of Kent named as additional insured; and
 - (d) Shall carry a food permit from the Ministry of Health.

18. RETAIL BUSINESS HOURS

18.1 Every retail business shall operate within the hours identified in Schedule 'A' of this bylaw.

18.2 Council may by resolution:

- (a) Amend Schedule 'A' of this bylaw;
- (b) At the written request of the specific business owner, permit retail business owners to remain open for the serving of customers during special events.

DIVISION 3 – GENERAL REGULATIONS**19. CLASSIFICATION**

- 19.1 For the purposes of this bylaw, businesses are classified in accordance with the current District of Kent Fees and Charges Bylaw and as permitted under the current District of Kent Zoning Bylaw.

20. OFFENCE AND PENALTY

- 20.1 No person shall interfere with, obstruct, or impede the Bylaw Enforcement Officer in issuing a ticket or bylaw notice or otherwise carrying out his or her duties in accordance with this bylaw, and it is an offence for any person to interfere with a Bylaw Enforcement Officer in the enforcement of this bylaw.
- 20.2 Every person who contravenes, fails or violates any of the provisions of this bylaw, who suffers or permits any act to be done in violation of this bylaw, or who fails or neglects to do anything required to be done by any provision of this bylaw, commits an offence, and each day that the offence continues shall constitute a separate offence.
- 20.3 This bylaw may be enforced by way of a ticket issued under the Bylaw Notice Enforcement Bylaw, Municipal Ticket Information Bylaw, or as a legal proceeding in Provincial Court or Supreme Court
- 20.4 A person convicted of an offence under this bylaw is liable to pay:
- a) a fine not exceeding the maximum identified in the Bylaw Notice Enforcement Bylaw;
 - b) a fine not exceeding the maximum identified in the Municipal Ticket Information Bylaw; or
 - c) a fine not exceeding \$10,000 for each offence; and
 - d) Without limiting other remedies authorized by law, a contravention of this bylaw may be dealt with by proceedings brought into the BC Supreme Court for an order to enforce, prevent, or restrain a contravention.

21. SEVERABILITY

- 21.1 If any section, subsection, sentence, clause or phrase of this bylaw is, for any reason, held to be invalid by the decision of any court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of this bylaw.

22. SCHEDULES

- 22.1 Schedule 'A' forms part of this bylaw.

23. REPEALS

23.1 “District of Kent Business Licence Bylaw No. 1059, 1994,” and “District of Kent Business Regulation Bylaw, No. 1454, 2010,” and any amendments thereto are hereby repealed.

READ A FIRST TIME this 26th day of November, 2012.

READ A SECOND TIME this 26th day of November, 2012.

A PUBLIC INFORMATION MEETING WAS HELD this 17th day of December, 2012.

A PUBLIC INFORMATION MEETING WAS HELD this 7th day of January, 2013.

RESCIND SECOND READING this 11th day of March, 2013.

READ A SECOND TIME this 11th day of March, 2013.

READ A THIRD TIME this 11th day of March, 2013.

FINALLY PASSED AND ADOPTED this 25th day of March, 2013.

CERTIFIED CORRECT:

John Van Laerhoven, Mayor

Wallace Mah, Chief Administrative Officer

CERTIFIED A TRUE AND CORRECT COPY
of “Business Licencing and Regulation Bylaw No. 1485, 2012”
adopted on the 25th day of March, 2013.

Clair Lee, Director of Corporate Services

SCHEDULE 'A'**BUSINESS LICENCING AND REGULATION
BYLAW No. 1485, 2012**

1. Every Retail Business, unless listed under Section 2 of this Schedule, has the option to remain open for the serving of customers from 6:00 a.m. until 12:00 a.m. Monday to Sunday.
2. Retail Businesses listed in this section have the option to remain open for the serving of customers at the times specified below.

Business Class	Day(s) of the Week	Hours
Liquor Retail Store, UBrews and UVins	All days	9:00 a.m. to 11:00 p.m.
Restaurants	All days	5:00 a.m. to 1:00 a.m.
Liquor Primary Licensed Establishment, Neighborhood Pub	All days	9:00 a.m. to 1:00 a.m.
Cabaret/Night Club	All days	9:00 a.m. to 1:00 a.m.
Automobile Service Stations	All days	Unregulated