

DISTRICT OF LANTZVILLE
BYLAW NO. 167, 2021

A Bylaw for the Licensing and Regulation of Businesses
within the District of Lantzville

WHEREAS in accordance with the *Community Charter* a municipality may, by bylaw, regulate in relation to business, provide for a system of licences and has additional powers in respect of business regulation;

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

1. CITATION

This Bylaw may be cited for all purposes as the “District of Lantzville Business Licence Bylaw No. 167, 2021”.

2. DEFINITIONS

In this Bylaw:

“**Babysitting**” means the occasional unlicensed care of children.

“**Bed and Breakfast**” means a temporary accommodation in sleeping units up to five consecutive nights, where guests are provided only one daily meal in the morning.

“**Business**” means the carrying on of a commercial or industrial activity of any kind or nature or the providing of professional, personal or other service for the purpose of gain or profit but does not include any activity carried on by the government, its agencies or government owned corporations.

“**Cannabis**” means **cannabis** as defined in the *Federal Controlled Drugs and Substances Act* or *Cannabis Act* and includes any products containing **cannabis**.

“**Cannabis Production**” means the Federally-licensed and Provincially-approved production, manufacturing, processing, testing, packaging and shipping of **cannabis** and **cannabis** products, but excludes retail of **cannabis** or **cannabis** products.

“**Childcare**” means the provincially-licensed care of children who require supervision during the day.

“**Council**” means the elected **Council** of the District of Lantzville.

“**Farmers Market**” means a temporary or seasonal market for the display and sale of farm produce and associated products in an open air or indoor venue.

“**Flea Market**” means an occasional or periodic sales activity held within a building, structure or open area where groups or individual sellers offer goods, new and used, for sale to the public, but does not include a **garage or yard sale**.

“**Food and Beverage Service**” means mixing, combining, cooking or otherwise preparing and serving food or drinks, including restaurants, cafés, pubs, brew pubs, commercial kitchens, and catering services.

“**Garage or Yard Sale**” means a sale on residential property by the resident of that property of personal and household items used by the resident.

“**Home Business(es)**” means a home occupation, **business** or professional practice and is limited to an artisan studio, **bed and breakfast**, craft kitchen, child care, fine woodworking, **market gardening**, personal service, office or short-term rental.

“**Lantzville-Based Business**” means a **business** carried on, in or from premises within the **Municipality**.

“**Licence Inspector**” means a person appointed by the Chief Administrative Officer to administer and enforce this bylaw.

“**Licence(s)**” means a **Licence** issued under this Bylaw.

“**Market Gardening**” means the growing, harvesting and selling of fruits, vegetables and flowers grown on the parcel on which the **market gardening** is taking place, but excludes processing crops, intensive agriculture and **cannabis** production.

“**Mobile Food Vendor(s)**” means a **business** using a vehicle, trailer or cart equipped with facilities for cooking, selling food, or beverages.

“**Municipality**” means the District of Lantzville.

“**Non-Lantzville-Based Business**” means a **business** that is carried on in or from premises located outside the **Municipality** with respect to which any work or service is performed or offered in the **Municipality**.

“**Operator(s)**” means a person who carries on a **business**.

“**Public Market**” means an occasional or temporary market for the purpose of offering goods for sale to the public, including local artisan crafts, fruits, vegetables and plants, secondary agricultural products including cheese, preserves, honey, home baking, fresh/frozen/preserved fish and seafood and locally prepared and ready-to-eat foods or light refreshments as approved by the Medical Health Officer.

“**Secondhand Dealer(s)**” means an **operator** whose **business** involves purchasing, selling, procuring or offering for sale used or second-hand items whether on a wholesale or retail basis.

“**Senior Care**” means the unlicensed or provincially-licensed care of seniors.

“**Special Event**” means a **business** involving temporary, periodic or short-term activity such as a parade, procession, circus or carnival, fair, exhibition, sporting or cultural event, a musical, theatrical or other performance, with or without Mobile Vendors, whether outdoors or within a building or other structure.

3. INTERPRETATION

- 3.1 In this bylaw, words and phrases defined in the *Community Charter, Local Government Act, Interpretation Act* and “District of Lantzville Zoning Bylaw No. 180, 2020”, or any successor legislation, shall have the same meaning when used in this Bylaw unless otherwise defined in this Bylaw. Unless otherwise indicated, a reference to a statute refers to a statute in British Columbia, and a reference to any statute, regulation, bylaw or other enactments refers to that enactment as it may be amended or replaced from time to time. In the event of a conflict between this Bylaw and an enactment of British Columbia, the stricter law prevails. Headings are for convenience only and must not be construed as defining or limiting scope or intent. If any part of this bylaw is for any reason declared invalid by a court of competent jurisdiction, the decision will not affect the validity of the remaining portions of this bylaw.
- 3.2 The **Municipality** is not a Participating Municipality under any Inter-Community Business Licence Bylaw; and
- (a) any **licence** issued under an Inter-Community Business Licence Bylaw will not be deemed valid in the **Municipality**.
- 3.3 Nothing in this bylaw relieves a person from complying with any Federal or Provincial law or regulation, other bylaw or any requirement of any lawful permit, order or licence.

4. LICENCE REQUIREMENTS

- 4.1 As of January 1, 2022, except as exempted under this Bylaw:
- (a) a person must not engage in or carry on a **business** within the **Municipality** unless that person holds a valid **licence** issued by the **Licence Inspector**;
- (b) without limiting the requirement for **operators** to obtain a **licence**, any person who:
- i) advertises by newspaper, publicity, or otherwise, as open for **business** of any kind within the **Municipality**;
 - ii) deals in or buys, sells, barter or displays, or offers by advertisement or otherwise to buy, sell or barter things of any kind, either on behalf of themselves or any other person within the **Municipality**;
 - iii) advertises as open to render professional or other services within the **Municipality**;
- to residents, visitors, or other **operators** in the **Municipality**, is deemed to be carrying on a **business**;
- (c) Every **non-Lantzville-based business operator** must, in addition to holding a **licence** issued by the **Licence Inspector**, also hold a current and valid **licence** required by the jurisdiction where the **business** has an office, **business** address or is normally based, must:

- i) provide the address and contact information of the **business** in the other jurisdiction;
 - ii) carry that **licence** with them when engaging in the business within the Municipality;
 - iii) produce the **licence** at the request of the **Licence Inspector**; and
 - iv) notify the **Licence Inspector** of any change in **business** address, contact information, or licensing status in that jurisdiction.
- (d) every **operator** required to hold a **licence** must renew the **licence** applicable to the **business** prior to the beginning of each licensing period;
- (e) subject to a decision under this Bylaw to suspend, revoke or cancel a **licence**, a **licence** is effective from January 1st to December 31st in any year (the licensing period);
- (f) a person must not carry on a **business** in or from any premises in the **Municipality** other than those specified on a valid **licence**;
- (g) where a **business** is carried on in or from more than one premise in the **Municipality**, the **operator** must obtain a **licence** for each premises and the **business** carried on at each premises is deemed to be a separate **business**;
- (h) 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, **operator**, or any condition related to size, volume, number or other limit or restriction noted in the **licence**, the **licence** holder must apply to have the **licence** modified accordingly;
- (i) in the event of a change of **operator** of the **business** for which such **licence** was issued, the new **operator** must, within 30 calendar days, notify the **Municipality** in writing of the change; and
- (j) the person to whom a **licence** has been issued must ensure that the **licence** is posted in a conspicuous place and manner in a part of the **business** premises to which the public has access, or in a central location that is readily visible, or as directed by the **Licence Inspector**.
- 4.2 Every **operator** must endeavour to meet trade, occupational, professional, or other standards established by Provincial and Federal statute or in the absence of law by customary practice for that **business**.

5. LICENCE APPLICATION and CONSIDERATIONS

- 5.1 A person required to obtain a **licence** must complete and submit, an application in a form approved by the **Licence Inspector**, together with the fee established in “District of Lantzville Miscellaneous Fees and Charges Bylaw No. 26-2004”.
- 5.2 An application for a **licence** must include the following information:
- (a) nature of the **business**;
 - (b) full name of the owner and the **operator**, if different, and where they may be contacted for **business** purposes, including email address;
 - (c) civic address and legal description of the land of the location of the business, current registered property owner name and the owner’s authorization;
 - (d) number of persons employed;
 - (e) a parking plan;
 - (f) total indoor and outdoor floor area of the **business** premises;
 - (g) if an accommodation service, the number of sleeping units to be provided;
 - (h) if a **food and beverage service**, number of seats to be provided; and,
 - (i) if required by the **Licence Inspector**, documentation showing:
 - i) certification or approvals by Federal, Provincial, local government, or by a trade or professional association, applicable to the **business**;
 - ii) criminal record checks for the **business operator**, employees, volunteers or other personnel as required under the *Criminal Records Review Act* or other enactment;
 - iii) a satisfactory fire safety inspection by a qualified inspector acceptable to the **Licence Inspector**;
 - iv) a list of hazardous, toxic, volatile or flammable materials stored or used on-site;
 - v) written requirements of a registered building official or a registered professional under the *Building Act*; and
 - vi) other information that the **Licence Inspector** considers relevant and material to the reasonable and safe operation of the **business** and to meeting the requirements of this Bylaw and other applicable enactments.
- 5.3 An application will not be considered complete until information has been provided and the fee established in “District of Lantzville Miscellaneous Fees and Charges Bylaw No. 26-2004” has been paid.
- 5.4 No refund of the **licence** fee will be made on account of any person ceasing to do **business** in the **Municipality** at any time.

6. LICENCE RENEWAL

- 6.1 The **Municipality** will make available to all licencees a renewal form prior to the end of November of each year.
- 6.2 A licencee who intends to renew a **licence** must obtain, complete and submit to the **Municipality** a renewal form no later than December 31st each year.
- 6.3 If a **licence** is not renewed by December 31st each year, a licencee who wishes to continue to carry on the **business** must submit the renewal form and the late renewal fee established in “District of Lantzville Miscellaneous Fees and Charges Bylaw No. 26-2004”.
- 6.4 If the **licence** is not renewed by January 31st each year, the **licence** shall be deemed expired and for the **business** to continue the **operator** must reapply for a Business Licence in accordance with Section 5, meeting all information requirements and paying all applicable fees.

7. EFFECT OF LICENCE

- 7.1 A Business Licence is not a representation or warranty that the **licenced operator, business** or the premises on which it is located complies with the bylaws of the **Municipality** or with any other applicable statutes, regulations, requirements or standards.
- 7.2 A **licence** authorizes the person named in the **licence** to operate only the **business** described, at the premises described, for the period specified, and upon such terms and conditions as set out in the **licence** and is not transferable to another person.

8. INFORMATION AND INSPECTION

- 8.1 The **Licence Inspector** may, from time to time, require any information from an **operator** that the **Licence Inspector** considers to be relevant to the safe and reasonable operation of the **business**.
- 8.2 The **Licence Inspector** may enter at all reasonable times upon any property to inspect and determine whether the requirements of this Bylaw and other applicable enactments are being met.
- 8.3 In determining whether a **licence** should be issued or upon entering a premise, conducting an inspection, or enforcing this Bylaw, the **Licence Inspector** may consult with or be accompanied by:
 - (a) a peace officer, health officer, fire or building safety inspector, government agency; or
 - (b) any person who is qualified under a statute or by an occupational, trade, or professional standards body who, in the opinion of the **Licence Inspector**, would have relevant expertise in relation to the **business** being inspected.

9. REFUSAL, SUSPENSION AND REVOCATION

- 9.1 The **Licence Inspector** may refuse to issue a **licence** and may suspend, revoke or cancel a **licence** for reasonable cause. Without limiting the **Licence Inspector's** reasons, any of the following circumstances may constitute reasonable cause:
- (a) the **licence** applicant or holder appears to be non-compliant with a bylaw of the **Municipality** or with a Federal or Provincial statute;
 - (b) a **licence** holder appears to be non-compliant with a term, limit, restriction, requirement, or condition of a **licence** or of a permit, approval or **licence** issued by another regulatory authority;
 - (c) the applicant or holder has been formally convicted of, or deemed to have pleaded guilty to, an offence under a Federal or Provincial law and the offence is relevant to the **business** operation.
- 9.2 The **Licence Inspector** must state in writing the reasons for refusal, suspension, revocation, or cancellation of a **licence**.
- 9.3 Before suspending or cancelling a **licence**, the **Licence Inspector** must give the **licence** holder an opportunity for reconsideration.
- 9.4 The **Licence Inspector** may impose conditions, restrictions, and requirements on a **licence**, so that the **operator** may avoid suspension or revocation of a **licence**, and to ensure compliance with this and other bylaws of the **Municipality**.

10. RECONSIDERATION (APPEAL TO COUNCIL)

- 10.1 Any person who has received a notice of **licence** suspension or cancellation, or who has been refused a **licence**, may request reconsideration by **Council** within 14 days after the date on which the decision is communicated to the applicant in writing.
- 10.2 A request for reconsideration must be delivered in writing to the Director of Corporate Administration for the **Municipality**, must include a copy of the reasons given by the **Licence Inspector**, and must state the grounds on which the applicant considers the **Licence Inspector's** decision is inappropriate.
- 10.3 The Director of Corporate Administration will place a request for reconsideration on the agenda of a **Council** meeting to be held within one month from the date on which the request for reconsideration was received.
- 10.4 **Council** may consider the request in written form or through an in-person hearing, or both, and may require any, and all information and further information that it considers may be relevant. After considering the appeal, **Council** may either confirm the decision of the **Licence Inspector** or substitute its own decision, and may impose additional conditions, restrictions, or requirements that it considers to be warranted in the circumstances.

- 10.5 An **operator** must comply with any, and all restrictions, conditions, and requirements of a **licence** and any notice or direction by the **Licence Inspector** or in accordance with a decision by **Council** pursuant to reconsideration.

11. SPECIFIC BUSINESSES

- 11.1 A **licence** for a **farmers market, flea market, public market** or **special event** may be issued to a single incorporated organization and cover all vendors within the market that the organization identifies as a member.
- 11.2 A **farmers market, flea market** or **public market** may operate no more than two (2) days per week and only at times and locations specified in the **licence**.
- 11.3 **Mobile food vendors** must, in addition to other requirements of this Bylaw:
- (a) if food is being prepared and sold, provide the **Licence Inspector** with evidence of approval by a health officer as may be required under the *Public Health Act*; and
 - (b) ensure the area around the vending location is kept in reasonable condition as determined by the **Licence Inspector**, including but not limited to being free of waste and provided suitable garbage, recycling, and composting containers.
- 11.4 **Secondhand dealers** must maintain a log of persons providing materials or goods for sale, including the quantity and price of goods sold and amount reimbursed to the original owner.
- 11.5 An **operator** of a **cannabis** production **business** must ensure that:
- (a) the **business** does not produce odours, noise or ground vibrations that cause substantial and unreasonable interference with the comfort of neighbouring properties and occupants;
 - (b) all waste is disposed of in a responsible manner, including but not limited to solid waste biomass and wastewater discharges, and in accordance with relevant local and Provincial regulations; and
 - (c) adhere to all pertinent regulations and best practices with respect to **cannabis** production and flammable solvent storage, handling, recycling.
- 11.6 **Home businesses** must adhere to specific regulations set out in “District of Lantzville Zoning Bylaw No. 180, 2020”.

12. GENERAL EXEMPTIONS

- 12.1 A **licence** is not required:
- (a) for an activity or **business** carried on by or on behalf of the Provincial or Federal government or a corporation or agency of the government;
 - (b) for a society registered in British Columbia or Canada or a registered charitable organization who does not operate a retail or other commercial **business** on a regular basis;

- (c) for occasional fundraising activities held by educational organizations, churches, sports teams, societies, or other non-profit organizations;
- (d) for a farm **business**, as defined by the *Farm Practices Protection Act*;
- (e) with respect to a performance, concert, exhibition, entertainment, or concession that is held in an establishment for which a **licence** has been issued;
- (f) for **operators** who only discharge passengers or provide delivery services within the **Municipality**;
- (g) for rental of a single-family dwelling or duplex where the rental agreement is subject to the *Residential Tenancy Act*;
- (h) for the letting or rental of not more than two (2) rooms within a dwelling unit for a residency period of 30 consecutive days or longer, where the dwelling unit is the primary residence of the **operator**;
- (i) for the **business** of childcare or senior care if not more than two (2) persons are being supervised or cared for at any given time;
- (j) for babysitting;
- (k) for garage/yard sales when held on residential premises, for no more than:
 - i) ten (10) sale days per year per residence; or
 - ii) ten (10) sale days per year per building where the building contains more than three (3) dwelling units in multiple family areas.
- (l) for **market gardening** when held on residential premises.

13. ADMINISTRATION AND ENFORCEMENT

13.1 The **Licence Inspector** is authorized to administer and enforce this Bylaw.

14. OFFENCE AND PENALTY

14.1 Every person who:

- (a) contravenes this Bylaw;
- (b) permits, suffers or allows any act or thing to be done in contravention of this Bylaw;
- (c) fails or neglects to do anything required to be done under this Bylaw;

commits an offence and each day any contravention continues constitutes a separate offence.

14.2 A person found guilty of contravening this Bylaw is liable to pay:

- (a) a fine of not less than \$100 and not more than \$50,000, together with the costs of prosecution if proceedings are brought under the *Offence Act*;
- (b) a fine of up to \$1,000 if a ticket is issued under the “District of Lantzville Municipal Ticket Information Bylaw No. 100, 2012”; or
- (c) a penalty in the amount established in a bylaw made under the *Local Government Bylaw Notice Enforcement Act*.

READ A FIRST TIME this 29th day of March, 2021.

READ A SECOND TIME this 16th day of June, 2021.

READ A THIRD TIME this 21st day of July, 2021.

ADOPTED this 8th day of September, 2021.

ORIGINAL SIGNED

ORIGINAL SIGNED

Mark Swain, Mayor

Trudy Coates, Director of Corporate Administration