

Licence

Chapter 0564 Business Licensing

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WHEREAS subsection 11 (2) of the *Municipal Act, 2001*, c. 25, provides a lower tier municipality with the authority to pass by-laws for the health, safety and well-being of persons and the protection of persons and property, including consumer protection;

AND WHEREAS the Scope of Powers conferred under subsection 8 (3) of the *Municipal Act, 2001*, c. 25 permit that by-laws passed under sections 10 and 11 may provide for a system of licenses respecting the matter;

AND WHEREAS section 150 of the *Municipal Act, 2001*, c. 25 without limiting the broad powers granted to municipalities through sections 9, 10 and 11 of the *Municipal Act, 2001*, c. 25 provides that a local municipality may licence, regulate and govern any business wholly or partly carried on within the municipality for one or more of the following purposes: health and safety, nuisance control or consumer protection;

AND WHEREAS the Council of the City of Woodstock deems it advisable to license the businesses for the purposes of health and safety, nuisance control and consumer protection.

Article 1 - Short Title

564.1.1 Citation

This Chapter may be cited and known as the "Business Licensing By-law."

Article 2 - Interpretation

564.2.1 Applicant – defined

"applicant" means a person who is required to be licensed pursuant to this Chapter or who has made application for a licence to the City Clerk and shall include a licensee.

564.2.2 Business – defined

"business" means an establishment offering goods, wares or services for sale to the general public from premises and includes a home occupation but excludes a business operated on a temporary basis as defined by Chapter 591 of the Woodstock Municipal Code.

564.2.3 By-law Enforcement Officer – defined

"By-law Enforcement Officer" means a person appointed by the municipal Council of the City to enforce the by-laws of the municipality or a public officer employed by the Woodstock Police Services Board or its successor.

564.2.4 City – defined

"City" means The Corporation of the City of Woodstock.

564.2.5 Clerk – defined

“Clerk” means the Clerk of the City or the Clerk’s designate.

564.2.6 Home occupation – defined

“home occupation” has the same meaning as defined in the City’s Zoning By-law, as amended.

564.2.7 Licence – defined

“licence” means a licence issued by the City to a business pursuant to this by-law.

564.2.8 Licensee – defined

“licensee” means any person licenced under this by-law.

564.2.9 Municipality – defined

“municipality” means the geographic boundaries of the City of Woodstock.

564.2.10 Person – defined

“person” means a natural person, corporation, organization, association and a partnership and the heirs, executors, administrators and other legal representatives of a person to whom the context can apply.

564.2.11 Premises – defined

“premises” means land including any and all buildings or other structures thereon.

Article 3 - General Provisions

564.3.1 Operation - without licence – prohibited

Subject to Article 7, no person shall carry on, conduct, operate, maintain or keep a business without a licence (See Set Fines).

564.3.2 Licence – compliance

No licence shall be issued where the use is not permitted under the provisions of the City’s Zoning By-law or if the operation of the business does not conform within the applicable standards and requirements of:

- a) Every by-law of the City;
- b) Every provincial or federal Act, and any regulation made under such Act; and
- c) Every instrument of a legislative nature made or issued under a provincial or federal Act or regulation, including standards and requirements with respect to qualifications of the persons carrying on or engaged in the business and with respect to vehicles and equipment used for the purposes of the business.

No person shall be licenced to carry on, conduct operate, maintain or keep a business that contravenes:

- a) A by-law of the City;
- b) A provincial or federal Act, and any regulation made under such Act; and
- c) An instrument of a legislative nature made or issued under a provincial or federal Act or regulation, including standards and requirements with respect to qualifications of the persons carrying on or engaged in the business and with respect to vehicles and equipment used for the purposes of the business.

There shall be a separate application for each premise to be used or person to be licensed.

A Licensee shall not advertise or promote or carry on such licensed business under any name other than the name endorsed on his or her licence.

No Licensee or employee or agent of the licensee shall refuse to permit a person to enter and remain in a place of business or other premises used for the business to which the public are customarily admitted for the reason that he or she is a person with a disability accompanied by a guide dog or other service animal unless the animal is otherwise excluded by law from the premises.

If animals are excluded by law from the premises, the Licensee shall ensure that other measures are available to enable the person with a disability to obtain, use or benefit from the Licensee's goods or services.

In this sub-section "guide dog" and "service animal" has the same meaning as defined in Ontario Regulation 429/07.

564.3.3 Licence - displayed - at all times

A Licensee shall, while carrying on the business to which the licence applies, display the licence in a conspicuous place in or on the premises from which the business operates.

564.3.4 Cancellation - suspension – refund

The City may at any time cancel or suspend any licence issued under this Chapter and any licence fee collected for such licence shall be refunded for the period of cancellation or suspension.

564.3.5 Cancellation - suspension - privileges – discontinued

While any licence granted under this Chapter is suspended or cancelled, the Licensee shall not exercise any right or privilege conferred by such licence and any such Licensee attempting to exercise any right or privilege under such licence shall be liable to the same penalties and may be prosecuted in the same way as though such person had procured no such licence.

Article 4 - Licence - Issue - Requirements

564.4.1 Procedure – requirements

Applications must be filed in writing on the prescribed form with payment of the applicable application fee. The Applicant shall provide any documentation that the Clerk deems appropriate. The Clerk shall provide a copy of every application to such civic departments, boards, commissions, authorities or agencies as the Clerk considers may have an interest in the application, who may submit comments or recommendations to the Clerk in respect of the application within such time specified by the Clerk.

564.4.2 Information - held by Clerk - open to inspection

Any application, comment, recommendation, information, document or thing in the possession of the Clerk pursuant to the provisions of this Chapter shall be made available by the Clerk for an inspection by any person employed by the City for administration purposes and/or enforcement purposes subject to the limitations imposed by the *Municipal Freedom of Information and Protection of Privacy Act*.

564.4.3 Licence - granted - signed - by Clerk

Each licence shall be issued by the City and shall be granted and signed by the Clerk or the Clerk's designate.

564.4.4 Contravention - other laws – prohibited

The issuance of a licence is not intended and shall not be construed as permission or consent by the City for the Licensee to contravene or to fail to observe or comply with any law of Canada or Ontario or any Chapter of this Code or by-law of the City.

564.4.5 Issuance - rejected – conditions

The Clerk shall issue a licence to an Applicant except where:

- a) the past conduct of the Applicant or an individual who is a member of a partnership Applicant affords reasonable grounds for belief that the business will not be carried on in accordance with the law;
- b) the information in the application is inaccurate;
- c) the past conduct of an officer, director or shareholder who owns or controls 10% or more of its issued and outstanding voting and non-voting shares of a corporate Applicant affords reasonable grounds for belief that the business will not be carried on in accordance with the law;
- d) the Applicant is carrying on activities that are, or will be if the Applicant is licenced in contravention of this Chapter; or
- e) the Applicant is in default with respect to any other financial obligation to the City.

564.4.6 Issuance - rejected - dispute to Review Tribunal

Where an Applicant disputes in writing the non-issuance of a licence or the revoking of a licence, the disputed matter shall be referred by the Clerk to the Review Tribunal, which shall hear submissions from the applicant and the City and determine the matter.

564.4.7 Obstruction - hinder inspection – prohibited

No person shall obstruct a person inspecting or withhold, destroy, conceal or refuse to furnish any information or thing required by a person inspecting for the purposes of this Chapter.

564.4.8 Issue

Each licence granted under this Chapter shall be a onetime licence issued prior to opening of a business.

564.4.9 Transfer – prohibited

Every licence, at all times, is owned by and is the property of the City and is valid only in respect of the person, location and premises named therein and for the nature of the business stated in the licence. No licence may be sold, purchased, leased, mortgaged, charged, encumbered, assigned, transferred or otherwise dealt with.

564.4.10 Licence - address - notification of change

Every licensee shall notify the Clerk within seven days of any change in their mailing address.

Article 5 - Fees

564.5.1 Fees - required - set out

The Licence fee shall be \$150.00 provided at the time the application is filed.

Article 6 - Refusal - Revocation - Suspension of Licence

564.6.1 Notice - issued - conditions set out

The Clerk shall provide a notice of refusal to issue a licence to an Applicant if the conditions for issuance have not been met, the Clerk determines that the information on the Licensee’s application for a licence is inaccurate or the Applicant has contravened a Section of this Chapter. If the Applicant, or any of its directors, officers or managers have been convicted of an offence under the Criminal Code of Canada, the Clerk may, with the consultation of the Police Department, refuse to issue a licence to an Applicant.

The Clerk shall provide the Applicant with the written notice of refusal to issue a licence setting out the reasons for refusal, when the right to review will expire and how to apply for a review. By-law 9141-17 – July 13, 2017.

564.6.2 Notice - how served

The notice shall be served personally or by registered mail to the Applicant at the address shown on the application.

564.6.3 Application - not filed - expired without notice

If an application for review has not been filed within fourteen days of the Clerk having effected service of the notice, the Applicant's right to a review will expire without further notice.

564.6.4 Revocation or suspension of a licence

The Clerk shall provide a notice to revoke or suspend a licence if the Licensee no longer complies with the conditions for issuance after the licence is issued, the Clerk determines that, the information on the Licensee's application for the licence is inaccurate, the Licensee has contravened a Section of this Chapter or if the Licensee or any of its directors, officers or managers have been convicted of an offence under the Criminal Code of Canada. The Clerk shall give the Licensee notice of the revocation or suspension in writing setting out the reasons for revocation or suspension, when the right to a review will expire and how to apply for a review. The notice shall be served personally or by registered mail to the Licensee's address last on file with the Clerk.

564.6.5 Application for review – expiry

If an application for review has not been filed within fourteen days of the Clerk having effected service of the notice, the Applicant's right to review will expire without further notice.

564.6.6 Application for review - procedure – deadline

An Applicant or Licensee in receipt of a notice to refuse, revoke or suspend a licence, may, within fourteen days after service of the said notice apply in writing for a review of the notice to refuse, revoke or suspend a licence by filing the application for review with the Clerk.

564.6.7 Report for a review of status of licensee

The Clerk may report to the Review Tribunal any reasons for the issuance of notice of refusal, revocation or suspension including any breaches by the Licensee of this Chapter or other relevant considerations.

564.6.8 Review hearing - date of

Upon receipt of the application to review, the Clerk shall determine a date for the review hearing with the Review Tribunal chairperson which shall be at least fourteen days after receipt of the application for review.

564.6.9 Review hearing - notice of

Upon determination of the review hearing date, the Clerk shall give notice in writing to the Applicant or Licensee, said notice:

- a) shall include a statement as to the time, date, place and purpose of the review hearing;
- b) shall indicate that, if the Applicant or Licensee does not attend the review hearing, the Review Tribunal shall proceed in the absence of the Applicant or Licensee and the Applicant or Licensee will not be entitled to any further notice;
- c) shall be served personally or by registered mail to the Applicant or Licensee at the address last on file with the Clerk; and
- d) shall, where the good character, propriety of conduct or competence of an Applicant or Licensee is an issue, contain reasonable information of any allegation with respect thereto.
- e)

564.6.10 Review hearing - by Review Tribunal – procedure

The Review Tribunal shall hold the review hearing at the time, place and date set out in the notice. The Applicant or Licensee may be represented at the review hearing by counsel, and the Applicant or Licensee or their counsel shall have the right to adduce evidence, submit argument on their behalf and cross-examine witnesses adverse in interest.

564.6.11 Review hearing - City – represented

The City shall be represented at the review hearing by its designate who will be entitled to adduce evidence and submit arguments in reply to evidence and arguments on behalf of the Applicant or Licensee.

564.6.12 Review hearing - onus upon applicant

At the review hearing, the onus shall be upon the Applicant or Licensee to show cause why:

- a) the licence should be granted;
- b) the licence should not be suspended or revoked; or
- c) conditions should not be imposed on the licence.

564.6.13 Review hearing - open to public – exception

All review hearings shall be public hearings unless the Applicant or Licensee requests that the hearing be held in closed session and the Review Tribunal may approve the request by a simple majority.

564.6.14 Review hearing - applicant absent - decision rendered

Where notice of the review hearing has been served on the Applicant or Licensee and the Applicant or Licensee does not attend the hearing, the

Review Tribunal may proceed with the review hearing and render a decision in the absence of the Applicant or Licensee.

564.6.15 Review hearing - completion - decision rendered

Upon completion of the review hearing, the Review Tribunal shall render a decision which shall:

- a) confirm the Clerk's decision to refuse, revoke or suspend the licence;
- b) reject the Clerk's decision and order the Clerk to issue a licence; or
- c) reject the Clerk's decision to revoke or suspend the licence.

564.6.16 Licence - conditions – imposed

Where the Review Tribunal rejects the Clerk's decision, the Review Tribunal may impose conditions, including special conditions, on the Applicant or Licensee as a requirement to hold a licence on such terms as are deemed just.

564.6.17 Review Tribunal - decision final – binding

The Review Tribunal's decision shall be final and binding.

564.6.18 Review Tribunal - decision in writing

The Review Tribunal shall give its decision in writing to the Clerk within seven days of the date of the completion of the review hearing.

564.6.19 Waiver of hearing

Despite any of the provisions of this Chapter, a proceeding may be disposed of by a decision of the Review Tribunal given:

- a) without a hearing; or
- b) without compliance with any other requirements of the Statutory Powers Procedure Act, as amended, or of this Chapter, where the Applicant or Licensee has waived such hearing or compliance.

564.6.20 Review Tribunal - decision - notification procedure

The Clerk shall notify the Applicant or Licensee of the decision by serving a copy personally or by registered mail to:

- a) the Applicant or Licensee at the address shown on the application, or last on file with the Clerk; or
- b) the counsel or agent of the Applicant or Licensee, if any, at the address as stated to the Review Tribunal.

564.6.21 Licence - continued until expired

If the decision rendered is to reject the Clerk's decision, the licence shall be issued or in the case of a notice to suspend or revoke the licence shall continue in force.

564.6.22 Licence - suspended or revoked – authority

If the decision is to confirm the Clerk's decision to suspend or revoke the licence, the Licensee shall within twenty-four hours of service of notice by registered mail, or immediately if the notice is personally served, return the licence to the Clerk and the Clerk shall have access to any premises or other property of the Licensee for the purpose of receiving or taking the same.

564.6.23 Conditions - imposed - acceptance confirmed

If the decision is to confirm the Clerk's decision to impose conditions on the licence, the Licensee shall within twenty-four hours of service of notice by registered mail or immediately if the notice is personally served, advise the Clerk as to his or her acceptance of the conditions.

564.6.24 Service of notice - by registered mail

Service of a notice by registered mail is effective on the fifth day after the document is mailed.

Article 7 - Exemptions

564.7.1 Home occupations – registration

All home occupations in operation prior to the enactment of this by-law shall register with the City prior to May 31, 2014.

564.7.2 Exemption – home occupations – fee

All home occupations, who have registered their business with the City Clerk prior to May 31st 2014, shall not be required to pay the licence fee or to be licenced.

564.7.3 Exemption – business in operation prior to enactment

Subject to 7.4, a Business in operation prior to the enactment of this by-law shall not require a licence.

564.7.4 Premise change – ownership change – fail to register

The exemptions in 7.2 and 7.3 do not apply where:

- a) the premises from which the Business operates has changed;
- b) the ownership of the Business has changed; or,
- c) the Business is a home occupation that did not register with the City prior to May 31st, 2014.

Article 8 - Enforcement

564.8.1 Fine – for contravention

Every person and every director or officer of a corporation who contravenes any of the provisions of this Chapter is guilty of an offence and upon conviction is liable to a fine or penalty up to \$10,000 for each day or part of a day that the offence continues as provided in the *Municipal Act, 2001*.

564.8.2 Separate offence – daily

Each day or part of a day that a violation of this Chapter continues shall constitute a separate and distinct offence under this Chapter.

Article 9 - Enactment

564.9.1 Effective date

The by-law upon which this Chapter is founded comes into force and takes effect on 1st day of January 2014.