

**DISTRICT OF ELKFORD  
BYLAW NO. 688**

**A Bylaw Respecting the Granting of Licences and the  
Regulating of Businesses within the District of Elford**

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**WHEREAS** the *Community Charter SBC* Chapter 26 provides that Council may, by bylaw, regulate in relation to business;

**AND WHEREAS** the *Community Charter SBC* Chapter 26 provides that Council may in regulating under the Act establish a system of licences, permits or approvals;

**AND WHEREAS** Council considers it in the public interest to regulate and licence businesses within the Municipality;

**AND WHEREAS** the *Community Charter SBC* Chapter 26 provides that Council may, by bylaw, delegate its powers, duties and functions to an officer or employee of the District, which delegation may include the authority to suspend or cancel a business licence;

**AND WHEREAS** in accordance with *Community Charter SBC* Chapter 26 Council has given notice of its intention to adopt this bylaw by placing advertisements in the local newspaper, the District newsletter, and on the District's bulletin boards, and has provided an opportunity for persons who consider they are affected to make representations to Council;

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

**Citation**

- 1.1 This bylaw may be cited for all purposes as "Business Licence and Regulation Bylaw, No. 688, 2007".

**Definitions**

- 2.1 For the purposes of this Bylaw, the following definitions shall apply:

**Business** means carrying on a commercial or industrial undertaking of any kind or nature or the providing of professional, personal, or other services or the letting for rent more than two residential suites or units in any one building, for the purpose of gain or profit.

**Bylaw Enforcement Officer** means any person appointed from time to time by **District Council**

**Carnival** means an itinerant exhibition, show or production temporarily located in the **District**, which offers to the public amusement rides, circus performances, games of skill or chance, or other similar entertainment.

**Contractor** means a person who carries on the **business** of performing construction, alteration or repair work upon a building, structure or other improvement.

**District** means the District of Elkford.

**Fire Inspector** means every member of the Elkford Fire Rescue Service whose duties include fire prevention, fire suppression, and emergency response, and who is authorized by the Director, Fire Protection and Emergency Services to carry out fire inspections in the **District**.

**Home-Based Business** means a **business** carried on in a residential dwelling only by a resident of that dwelling.

**Licence** means a valid and subsisting business licence issued pursuant to this Bylaw.

**Licensee** means the person who holds a **licence**.

**Licence Inspector** means the Chief Administrative Officer, or the person designated by the Chief Administrative Officer as the person responsible for **business licensing**.

**Mobile Vendor** means a person who, either on his own account or as an officer, servant, or agent of another, sells or offers for sale goods from a mobile truck or other vehicle, or from another temporary structure.

**Non-Resident Business** means a **business**, other than a **Resident Business** or a **Home-Based Business**, carried on in the **District** or with respect to which any work, sales, or service is performed in the **District**.

**Premise(s)** means a building, portion of a building or an area of land where a **business** is carried on.

**Resident Business** means a **business** carried on, in or from premises within the **District**, other than a **Home-Based Business**.

## DIVISION 1 – BUSINESS LICENSING

### Licence Requirements

- 3.1 For the purposes of this bylaw, any person who conducts any **business** within the **District** shall be deemed to be operating or carrying on a **business** and shall require a **licence**.
- 3.2 Except as exempted by this bylaw, no person shall operate or carry on a **business** within the **District** without holding a current **licence** issued under this bylaw to that person for that **business**.
- 3.3 Every person who operates a **business** from more than one **premise** in the **District** must apply for and maintain a separate **licence** in respect of each **premise**.
- 3.4 Every person who operates more than one **business** at one **premise** must apply for and maintain a separate **licence** in respect of each **business**. For certainty, if the same person in a single **premise** operates two or more **businesses**, a separate **licence** is required for each **business**.

3.5 A **licence** is not required for:

- i) a performance, concert, exhibition or entertainment, the entire proceeds of which, above actual expenses, are devoted to a charitable purpose in Elkford;
- ii) a performance, concert, exhibition, entertainment or concession which is held in a **licensed** theatre or other **licensed** place;
- iii) Elkford residents selling home-made arts and crafts they created, at a craft fair hosted by the District of Elkford, the Chamber of Commerce, or a local non-profit organization.
- iv) a non-profit organization from Elkford or the Elk Valley whose revenues are used solely for charitable or benevolent purposes in support of Elkford residents.

### Licence Application

- 3.6 An application for a **licence** shall be made on the prescribed application form for **Resident Business, Non-Resident Business, or Home-Based Business**.
- 3.7 Every **licence** application for a **Resident Business** shall be accompanied by a fire safety inspection report, completed by a **Fire Inspector**. A satisfactory inspection for fire safety is required as a condition of the issuance of any **licence** to carry on a **business** that will occupy real property in the **District**. It is the responsibility of the applicant to obtain the satisfactory inspection report.
- 3.8 Every **licence** application for a **Resident Business** shall be accompanied by confirmation of approvals from other regulatory agencies that provide approvals for the **business**, such as the Health Inspector or the Liquor Licensing Board.
- 3.9 Every **licence** application for a **Home-Based Business** which provides a service on the residential property, where the public accesses the property to obtain the service, must obtain a fire safety inspection report, completed by a **Fire Inspector**. It is the responsibility of the applicant to obtain the satisfactory inspection report.
- 3.10 The **licence** application form shall be delivered to the **District** Office and shall be accompanied by the fee prescribed in Schedule "A" to this bylaw.

### Licence Fee

- 3.11 No reduction or refund of the annual **licence** fee paid pursuant to this bylaw shall be made by the **District** to any **Licensee** ceasing to own or operate the **business** for which the **licence** was issued, nor will there be any refund in the event a business licence is cancelled or suspended.

### Licence Issuance

- 3.12 The **Licence Inspector** may grant a **licence** hereunder when satisfied that the **business** has complied with all building, zoning, health, sanitation and business licensing requirements of the **District** and other agencies.

- 3.13 A **licence** authorizes only the person named in the **licence**, or his employees, to carry on only the business described in the **licence**, and only at the **premises** or locations described in the **licence**.
- 3.14 Issuance of a **licence** is not a representation or warranty that the licensed **business** or the **business** premises complies with the bylaws of the **District** or with any other regulations or standards.

### Refusal of a Licence

- 3.15 An application may be refused by the **Licence Inspector** in any specific case, provided that:
- (a) the application may not be unreasonably refused; and
  - (b) the **Licence Inspector** must give written reasons for the refusal.
- 3.16 If the **Licence Inspector** refuses to grant a **licence**, the applicant who is subject to the decision is entitled to have **Council** reconsider the matter within thirty days.

### Terms and Conditions of a Licence

- 3.17 The **Licence Inspector** or **Council** may impose terms and conditions with respect to a **licence** granted under this bylaw. The terms and conditions imposed on a **licence** may include any one or more of the following:
- (a) a requirement that the **Licensee** comply with a particular provision of a Municipal bylaw or any other Provincial or Federal enactment within a specified period of time; and
  - (b) a requirement that the **Licensee** provide to the **Licence Inspector** within a specified period of time evidence satisfactory to the **Licence Inspector** of compliance with a particular provision of a Municipal bylaw or any other Provincial or Federal enactment with respect to that Business.

### Suspension or Cancellation of a Licence

- 3.18 **Council** hereby delegates authority to the **Licence Inspector** the power to suspend or cancel a **business licence**.
- 3.19 A **licence** may be suspended or cancelled by the **Licence Inspector** for reasonable cause.
- 3.20 Without limiting what constitutes reasonable cause, any one or more of the following circumstances may constitute reasonable cause:
- (a) the **Licensee** fails to comply with this bylaw or a term or condition of the **licence**.
  - (b) the **Licensee** is convicted of an indictable offence in Canada, which offence is, in the opinion of the **Licence Inspector**, directly related to the **business**;
  - (c) the **Licensee** is convicted of an offence under any Municipal bylaw or Provincial or Federal enactment in respect of the **business** for which the **Licensee** is licensed or with respect to the **premises** for which the **licence** was issued; or

- (d) the **Licensee** has ceased to meet the lawful requirements to carry on the **business** for which the **Licensee** is licensed or with respect to the **premises** for which the **licence** was issued.

3.21 When the **Licence Inspector** suspends or cancels a **licence**, the **Licensee** must be given notice of the suspension or cancellation and be given an opportunity to appear before **Council** within 30 days if the **Licensee** would like to ask that **Council** reconsider the suspension or cancellation, but such notice and opportunity to be heard are not required in respect of the **Licensee** who cannot be found despite reasonable efforts made by the **Licence Inspector**.

### Licence Period

3.22 Annual **licences** issued in 2007 are deemed to expire December 31, 2007. **Licences** issued after December 31, 2007 will be issued for a period of not greater than one calendar year and shall commence on the 1st day of January and expire on the 31st day of December of each year, unless otherwise indicated on the **licence**.

3.23 One-day temporary **licences** may be granted for a **mobile vendor** or **carnival** in accordance with the fees specified in Schedule "A".

### Licence Renewal

3.24 Each person who holds a valid annual **licence** for an active **business** in the **District** shall renew such **licence** at the conclusion of the valid annual **licence** period and pay the fees specified by January 31 of each year.

3.25 An early payment discount of \$25 is provided for the renewal of an annual **licence** for a **licensed** operating **business** if the payment is received on or before January 15 of each year. The early payment discount is not applicable to new **businesses**, or temporary **licences**.

### Licence Changes

3.26 Every **Licensee** shall notify the **Licence Inspector** in writing within thirty (30) days of termination of operation of the **business**.

3.27 No **Licensee** shall make a change to a **business** including but not limited to:

- (a) a change in location of the **business premises**,
- (b) a change to the **business** name,
- (c) a change to the controlling ownership interest,
- (d) a change to the type of **business**,
- (e) a change to any term or condition on which the **licence** was issued, or
- (f) a change that would increase the **licence** fee prescribed for the **business** in Schedule "A"

without first applying to the **Licence Inspector** to have the **licence** changed, on a form prescribed by the **District**. The powers, conditions, requirements and procedures relating to the granting or refusal of a **licence** shall apply to all such applications for a **licence** change.

- 3.28 A person applying for a **licence** change must, at the time of making the application, pay to the **District** the amount by which the **licence** fee under Schedule "A" will increase.
- 3.29 In addition to the fee set out in section 3.28, a **Licensee** applying for a change of **business** as identified in clause 3.27, must pay to the **District** a change fee as prescribed in Schedule "A".
- 3.30 An application to relocate an existing **Resident Business** or **Home-Based Business** to a new location may require a fire inspection report as per clause 3.7 or clause 3.9.

### Licence Posting

- 3.31 Every **Resident Business** or **Home-Based Business** must post the **licence** in a conspicuous place to which the public has access at the **premises** for which the **licence** is issued.
- 3.32 Where the **Non-Resident Business Licensee** has no permanent business premises in the **District**, the **licence** shall be carried upon the **Licensee's** person at all times when the **Licensee** is engaged within the **District** in the **business** for which the **licence** was issued.

### Inspection

- 3.33 Every **Licensee** shall permit reasonable access by the **Licence Inspector** or **Bylaw Enforcement Officer** to any **premises** for which a **licence** is sought or has been granted, and shall provide such information with respect to the **business** as the **Licence Inspector** reasonably requests for the purpose of ensuring that the requirements of this bylaw are being fulfilled.

### Insurance

- 3.34 Before a **licence** may be issued in respect of a **carnival** when held elsewhere than in a **licensed** theatre or other **licensed** place, the applicant must provide written proof of five million dollars (\$5,000,000) comprehensive public liability insurance and property damage insurance, in a form acceptable to the **Licence Inspector** and if the location of the **carnival** is on property owned by a public body, the said public body must be named on the insurance policy as a named insured.
- 3.35 Before a **licence** may be issued to a business that applies pesticides or herbicides, the applicant must provide written proof of two million dollars (\$2,000,000) comprehensive public liability insurance and property damage insurance, in a form acceptable to the **Licence Inspector**.

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## DIVISION 2 – BUSINESS REGULATION

### Street Address

- 4.1 Every **Licensee** who operates from **premises** located in the **District** shall prominently display, in figures not less than 100 mm in height, the street address assigned by the **District** to such **premises**.

### Vending Machine Licence

- 4.2 Every holder of a **licence** to carry on the **business** of owning, operating, or maintaining one or more vending machines shall keep a notice affixed to each machine stating the **Licensee's** name, address and telephone number.

### Mobile Vendor Business

- 4.3 Every person carrying on a **business** as a **mobile vendor**:
- (a) shall locate their vehicle or temporary structure on private property and shall not allow their vehicle or temporary structure to stand on any highway in the **District** to conduct their **business**, unless authorized in writing by the **Licence Inspector** to locate on a highway in the **District**; and
  - (b) shall provide to the **Licence Inspector** upon request, written permission from the owner of the property on which the **mobile vendor's** vehicle or temporary structure is located, indicating that the **mobile vendor** has permission to use the property and that the owner, operator and employees of the **mobile vendor** may access the washroom facilities on that property; and
  - (c) shall have the **business** name and permanent address displayed, satisfactory to the **Licence Inspector**:
    - in a conspicuous place on every vehicle used for conducting the **business**,
    - in a conspicuous place on a temporary structure used for conducting the **business**; and
  - (d) shall provide on site receptacles for garbage, and dispose of the garbage in an appropriate manner; and
  - (e) shall not operate between the hours of 9:00 p.m. and 8:00 a.m., unless authorized in writing by the **Licence Inspector**; and,
  - (f) shall not be or become a nuisance by generating excessive odours, music, light, or noise.

### Door-to-Door Salesman

- 4.4 No person, other than a volunteer from a non-profit organization from Elkford or the Elk Valley as exempted in clause 3.5 iv), shall carry on **business** through unsolicited visits to any residential premises in the **District**.

## Contractors

- 4.5 Every person **licensed**, as a **contractor** shall provide to the **Licence Inspector**, upon request, a list of all sub-trades engaged on each specific job, on a form prescribed by the **Licence Inspector**. Failure, neglect or refusal to submit such list within two weeks of delivery of such request shall be an infraction of this Bylaw and render such **contractor** liable to the penalties hereby imposed.

## Special Event Business

- 4.6 A **carnival** shall only be located in an area designated as a park or school in the District of Elkford Official Community Plan, as amended, unless authorized by the **Licence Inspector** to be located in another area. Before a **licence** may be issued, the applicant must provide written proof of authorization to use the park or school property in a form acceptable to the **Licence Inspector**.

## Home-Based Business

- 4.7 A **Home-Based Business** must be operated in a manner that is accessory and subordinate to the residential use and does not alter the residential appearance or character of the building in which it is located.

## DIVISION 3 – GENERAL REGULATIONS

### Classification

- 5.1 For the purposes of this bylaw, **businesses** are classified in accordance with Schedule "A" to this bylaw and as permitted under the current District of Elkford Zoning Bylaw and any amendments thereto.

### Offences and Penalties

- 5.2 Every person who:
- (a) owns, operates or carries on a **business** for which a **licence** is required pursuant to this bylaw without holding a current **licence** for that **business**;
  - (b) fails to display a current **licence** as required pursuant to this bylaw;
  - (c) fails to provide any information or documentation as required pursuant to this bylaw;
  - (d) carries on or remains open for **business** after receiving notice that a **licence** has been suspended or cancelled or after the **licence** has expired;
  - (e) fails to comply with the terms and conditions of a **licence** issued to that person under this bylaw;
  - (f) violates any provision of this bylaw;
  - (g) suffers or permits any act or thing to be done in contravention or violation of any of the provisions of this bylaw; or

(h) neglects to do or refrains from doing anything required to be done by this bylaw shall be deemed to have committed an offence under this bylaw and shall be liable to the penalties hereby imposed.

5.3 Every person who commits an offence against this bylaw is punishable on summary conviction by a fine or a penalty of not more than the maximum provided by the *Offence Act*.

5.4 Each day that a violation continues is a separate offence against this bylaw.

### **Severability**

5.5 If any provision of this bylaw is held to be invalid, the invalid portion shall be severed from the bylaw and that invalidity shall not affect the remainder of the bylaw.

### **Repeal**

5.6 This bylaw shall come into effect on the date of its final adoption.

5.7 The District of Elkford Business Licence Bylaw No. 230, 1983 and all its amendments thereto are hereby repealed.

Read a first time this 10<sup>th</sup> day of December 2007.

Read a second time this 10<sup>th</sup> day of December 2007.

Read a third time this 10<sup>th</sup> day of December 2007.

Adopted this 18<sup>th</sup> day of December 2007.

Original signed

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Mayor McKerracher

original signed

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N. Everett, Director, Corporate Services

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**District of Elkford Business Licence and Regulation Bylaw**

**Schedule "A"  
Bylaw No. 688**

**Effective January 1, 2008**

**A. Annual Business Licence**

Initial Application \$ 100.00

**Renewal:**

Without prompt payment discount \$ 100.00

With prompt payment discount (prior to Jan 15) \$ 75.00

**B. Temporary Business Licence**

One Day Licence \$ 25.00 for each day

**C. Business Licence Change Fee**

Change Fee \$ 25.00