

THE MUNICIPALITY OF CLANWILLIAM-ERICKSON

BY-LAW NO. 25/15

BEING A BY-LAW OF THE MUNICIPALITY OF CLANWILLIAM-ERICKSON TO PROVIDE FOR THE LICENSING AND REGULATING OF BUSINESSES WITHIN THE MUNICIPALITY OF CLANWILLIAM-ERICKSON

WHEREAS subsection 1(1) of The Municipal Act S.M. 1996, c. 58 defines “business” as

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

Whether or not carried on continuously or on an intermittent or one time basis and whether or not for profit, and however organized or formed, and includes a co-operative and an association of persons;

AND WHEREAS subsection 232(1) of the Act, provides that:

“A Council may pass by-laws for municipal purposes respecting the following matters:

- (n) businesses, business activities and persons engaged in business.”

AND WHEREAS subsection 232(2) of the Act, states that:

“Without limiting the generality of subsection (1), a council may in a by-law passed under this Division

- (a) Regulate or prohibit;
- (b) Adopt by reference in whole or in part, with any changes the council considers necessary or advisable, a code or standard made or recommended by the Government of Canada or a province or a recognized technical or professional organization, and require compliance with the code or standard;
- (c) deal with any development, activity, industry, business, or thing in different ways, or divide any of them into classes and deal with each class in different ways;
- (d) establish fees or other charges for services, activities or things provided or done by the municipality or for the use of property under the ownership, direction, management or control of the municipality;
- (e) subject to the regulations, provide for a system of licences, permits or approvals, including any or all of the following:
 - (i) establishing fees, and terms for payment of fees, for inspections, licences, permits and approvals, including fees related to recovering the costs of regulation,
 - (ii) establishing fees for licences, permits and approvals that are higher for persons or businesses who do not reside or maintain a place of business in the municipality,
 - (iii) prohibiting a development, activity, industry, business or thing until a licence, permit or approval is granted,
 - (iv) providing that terms and conditions may be imposed on any licence, permit or approval, and providing for the nature of the terms and conditions and who may impose them,

- (v) providing for the duration of licences, permits and approvals and their suspension or cancellation or any other remedy, including undertaking remedial action, and charging and collecting the costs of such action, for failure to pay a fee or to comply with a term or condition or with the by-law or for any other reason specified in the by-law, and
- (vi) providing for the posting of a bond or other security to ensure compliance with a term or condition;
- (f) except where a right of appeal is already provided in this or any other Act, provide for an appeal and the body that is to decide the appeal, and related matters;
- (g) require persons who do not reside or have a place of business in the municipality to report to the municipal office before conducting business in the municipality; and
- (h) require pawnbrokers to report all transactions by pawn or purchase to the head of council or to the police.”

AND WHEREAS Section 237 of the Act, states that:

“Despite clause 232(2)(e) (by-laws respecting licenses, permits, approvals), a municipality may not require that a license, permit or approval be obtained to sell produce grown in Manitoba if the sale is by the individual who produced it or an immediate family member or employee of the individual.”

AND WHEREAS the Fees, Discounts and Penalties Regulation 50/97 registered March 4, 1997 provides that the maximum fee that the Council of a municipality may establish for a business license for a calendar year under sub-clause 232(2)(e)(i) and (ii) of the Act, for a rural municipality is \$200.00;

AND WHEREAS Subsection 249(1) of the Act, states that:

“A person who contravenes a by-law of a municipality is guilty of an offence and, if the by-law imposes no other penalty, is liable on summary conviction to a fine of not more than \$500.00 or to imprisonment for a term of not more than three months, or both.”

AND WHEREAS Subsection 249(2) of the Act, states that:

“Where a contravention continues for more than one day, the person is guilty of a separate offence for each day it continues.”

AND WHEREAS the issuance of a license by The Municipality of Clanwilliam-Erickson under this by-law does not in any way guarantee warranty effectiveness or efficiency of any product sold or service provided by any party having obtained such a license;

NOW THEREFORE the Council of The Municipality of Clanwilliam-Erickson, in meeting duly assembled, enacts as follows:

1. This By-Law shall be referred to as “The Municipality of Clanwilliam-Erickson Business Licensing By-Law”.
2. DEFINITIONS: Wherever used in this By-Law unless the context otherwise requires:
 - a. “Person” shall mean and include any individual, corporation, firm, partnership, club, or association;
 - b. “Municipality” shall mean The Municipality of Clanwilliam-Erickson;
 - c. “Salesperson” shall mean any person who sells or offers to sell any goods or services, or effects of any kind, on the behalf of his or her self or that of any other person, outside a principle place of business or market stall. A home based business is not considered a principle place of business;

- d. “Tradesperson” shall mean any person skilled in a trade who supplies or offers to supply services of any kind in the Municipality.
- e. “Market Stall” shall mean an immobile temporary structure erected by a person to display, shelter, and sell goods and/or services.

3. PERSONS SUBJECT TO LICENSE

- a. No person shall carry on any business as a Salesperson or a Tradesperson without having a license from the Municipality to do so, nor shall any such business for which a license has been issued be carried on after such license has lapsed or been cancelled, unless and until a new license is issued therefor.
- b. No license pursuant to this By-Law shall be transferable.

4. EXEMPTIONS FROM LICENSES

Subject to, and except where prevented by any other Act, Statute, Regulation, or By-Law, no license is required in the Municipality for:

- a. Hawking, peddling, or selling any goods from a vehicle or other conveyance solely to the Commercial, Retail, or Industrial sectors;
- b. Persons or Businesses that are operating in a Commercial, Industrial, or Agricultural Zone in accordance with the applicable Zoning By-Law.
- c. Hawking, peddling, or selling Canadian farm produce or value-added products.

5. RESPONSIBLE AUTHORITY

The Chief Administrative Officer and Designated Officer shall be responsible for the enforcement of this By-Law.

6. LICENSE DURATION

Except as otherwise provided for in this By-Law, a license shall cover the period from the date of issue to 11:59 p.m. Central Standard Time on December 31 of that calendar year.

7. ISSUE OF LICENSES

The Responsible Authority shall issue all licensees authorized herein at the prescribed, non-refundable fee on a serially numbered certificate setting forth:

- a. The name, address, and occupation of the applicant; and
- b. The purpose for which the license is required; and
- c. The date of issue and the expiry date of the license; and
- d. Such other particulars as the Responsible Authority may deem fit.

8. HOURS OF OPERATION

No salesperson shall solicit orders for the purchase or future delivery of goods or services of any kind between the hours of 7:00 p.m. and 9:00 a.m.

9. REGULATION AND CONTROL

If, in the opinion of the Responsible Authority, an applicant is not a fit and proper person to be licensed, he or she may reject the application and refuse to issue a license. Furthermore, the Responsible Authority may suspend or revoke a license on valid grounds including:

- a. When said license is obtained by fraud or deceit, or used or exercised contrary to the provisions thereof;
- b. Commission of any illegal act by the licensee exposing him or her as an unfit and improper person to be licensed for the purposes herein;
- c. Disorderly conduct in the Municipality;
- d. Deliberate misrepresentation by the licensee of goods or services offered for sale by him or her in the Municipality.

10. FEES

All license fees shall be \$50.00 per year.

11. FAILURE TO OBTAIN LICENSE

- a. Any person who carries on a business without having acquired the necessary business license shall be subject to a penalty not exceeding twice the amount of the applicable license fee. Said penalty shall be payable directly to the Municipality of Clanwilliam-Erickson and such penalty shall be in addition to the appropriate business license fee which the person must obtain prior to continuing business activities in the Municipality. Noncompliance will result in the license and any applicable fees being added to the property taxes.
- b. The Development Officer may issue a “Stop Work” order on building construction job sites if the contractor, sub-contractor, or any tradesperson fails to obtain a business license or meet the provisions of this By-Law.

12. PENALTIES

Any person found guilty of any breach of any of the provisions of this By-Law shall be liable upon conviction to a fine not exceeding \$500.00 in addition to costs.

13. APPEAL

Any person aggrieved by any decision, request, or order of the Responsible Authority as to the issuance, refusal, or revoking of a business license, or any other event falling within the scope of this By-Law, may within fifteen (15) days appeal to Council by submitting such appeal in writing, and addressed to the Chief Administrative Officer of the Municipality of Clanwilliam-Erickson.

The Council shall hear the appeal.

Upon the hearing of an appeal, the Council may:

- a. Uphold, rescind, suspend, or modify any decision given by the Responsible Authority; or
- b. Make such other decision or order as in the circumstances of each case it deems just.

The decision or order of the Council upon being communicated to the appellant, shall stand in place of the decision or order against which appeal is made, and any failure to comply with the decision or order is an offence.

14. REPEAL

Village of Erickson By-Law No. 359/86 is hereby repealed.

15. EFFECTIVE

THAT this By-Law come into full force and effect as of January 1, 2016.

DONE AND PASSED AS A BY-LAW OF THE MUNICIPALITY OF CLANWILLIAM-ERICKSON, IN COUNCIL DULY ASSEMBLED, AT ERICKSON, IN THE PROVINCE OF MANITOBA, THIS 28TH DAY OF OCTOBER, A.D. 2015.

THE MUNICIPALITY OF CLANWILLIAM-ERICKSON

Elgin Hall
Mayor

Quinn Stelmaschuk
Chief Administrative Officer

Read a first time this 14th day of October, A.D., 2015.
Read a second time this 14th day of October A.D., 2015.
Read a third time this 28th day of October, A.D., 2015.