

VILLAGE OF BERWYN

BYLAW 695

Being a bylaw relating to the licensing and regulation of businesses in
the VILLAGE OF BERWYN

Title

1. This Bylaw may be cited as the “Business License Bylaw”.

Definitions

2. In this Bylaw:
 - (a) “Business” includes any business, occupation, activity, amusement, entertainment, trade employment, profession or calling and the provision of a service of any kind that is conducted for the purpose of earning income, whether or not it is conducted for the purpose of earning a profit;
 - (b) “Business License” means a license to operate a Business, as issued in accordance with this Bylaw;
 - (c) “Cannabis” means cannabis plant, fresh cannabis, dried cannabis, cannabis oil and cannabis plant seeds and any other substance defined as cannabis in the *Cannabis Act* (Canada) and its regulations;
 - (d) “Cannabis Accessory” means a thing, including rolling papers or wraps, holders, pipes, water pipes, bongs, vaporizers, that is represented to be used in the consumption of cannabis or a thing that is represented to be used in the production of cannabis;
 - (d.1) “Chief Administrative Officer” or “CAO” means the individual appointed by Council to the position of Chief Administrative Officer under section 205 of the *Municipal Government Act* and pursuant to the Chief Administrative Officer Bylaw;
 - (e) “VILLAGE” means the VILLAGE OF BERWYN;

- (f) “License Holder” means the Person to whom the applicable Business License has been issued;
- (g) “License Inspector” means the Person appointed under Section 3;
- (h) “Not For Profit Organization” means a non-profit organization as defined in the *Municipal Government Act*, R.S.A. 2000, cM-26;
- (i) **“Registered Society” means is an independent legal entity, a corporate 'person' that exists separate and apart from its members.**
- (j) “Person” includes an individual, sole proprietorship, corporation, partnership, joint venture, co-operative or society;
- (k) “Public Nuisance” means any of the following:
- (i) the production of any generally offensive odours; or
 - (ii) the generation of unreasonably loud, raucous or unusual noise which annoys, disturbs, or detracts from the comfort, repose or peace of any other person of ordinary sensitivity;
- (l) “Regulated Business” means a business that is identified in a Schedule to this Bylaw, excluding Schedule “A”, in relation to which Council may adopt regulations in addition to those set out in the body of this Bylaw;
- (m) “Restricted Product” means any of the following:
- (i) Cannabis, as defined in subsection (c); or
 - (ii) Cannabis Accessory, as defined in subsection (d)
- (n) “Special Event” means a trade show, craft fair, farmers’ market, or any event permitted as such by the CAO;
- (o) “BERWYN” means the geographic area of the VILLAGE;
- (p) “this Bylaw” includes any schedule to this Bylaw;
- (q) “Transfer” includes a sale or gift.

The License Inspector

3. (1) The CAO must appoint a License Inspector.
- (2) If the CAO does not appoint a License Inspector, the CAO is the License Inspector.
- (3) The License Inspector may delegate any duty or responsibility of the License Inspector to an employee or agent of the VILLAGE.

Powers and Responsibilities of the License Inspector

4. The powers and responsibilities of the License Inspector are:
 - (a) to receive and consider applications for Business Licenses, including the power to consult with, obtain information from and verify information with other employees or agents of the VILLAGE, other governments, government agencies or Persons;
 - (b) to issue Business Licenses, impose conditions on Business Licenses and refuse to issue Business Licenses;
 - (c) to revoke and suspend Business Licenses;
 - (d) to keep a record of all Business Licenses issued and any particulars of those licenses;
 - (e) to maintain a register of Business Licenses that is available to all departments of the VILLAGE to access for the purpose of administering and enforcing this Bylaw, any other bylaw of the VILLAGE or enactment of Alberta or Canada;
 - (f) to undertake any inspections of lands or buildings and make any inquiries necessary to ensure compliance with this Bylaw;
 - (g) to be responsible for the administration and enforcement of this Bylaw, and
 - (h) to exercise any other power, responsibility or discretion provided under this Bylaw.

Directory

5. (1) The License Inspector may publish or authorize the publication of a publicly available directory of Businesses in the VILLAGE.

- (2) Unless subsection (3) applies, the directory may contain any information provided by an applicant or License Holder under this Bylaw.
- (3) At the time information is provided under this Bylaw, an applicant or License Holder may require that information not be included in a directory that may be published under subsection (1).
- (4) When an applicant or License Holder provides information under this Bylaw, the applicant or License Holder must be given an opportunity to exercise the right under subsection (3).
- (5) The License Inspector may establish terms and conditions under which a directory is published or information included in it.
- (6) The License Inspector may also include information in the directory in relation to a person who is not required to hold a Business License under this Bylaw:
 - (a) on the request of that person, and
 - (b) on terms and conditions established by the License Inspector, including payment of a fee for inclusion.

Requirement for a Business License

6. (1) A Person that carries on or operates a Business in BERWYN must hold a valid Business License issued under this Bylaw.
- (2) Subsection (1) applies to whether a person carries on or operates a Business as a principal or as an agent.

Exclusions from the Requirement for a Business License

7. (1) The following persons may carry on or operate a Business in BERWYN without a Business License:
 - (a) the Crown in right of Alberta;
 - (b) the Crown in right of Canada;
 - (c) a Crown corporation;
 - (d) the VILLAGE,

- (e) a Person whose Business is carried on as part of a Special Event,
 - (f) a Person whose Business is expressly exempted from the requirement of a Business License by a statute of the Legislature of Alberta or Parliament of Canada.
- (2) If only part of a Business is covered by an exemption under subsection (1), the person who carries on or operates the Business must comply with this Bylaw in respect of any part of the Business that is not exempted.

Application for a Business License

8. (1) A person must submit an application for a Business License to the License Inspector.
- (2) The application must be in the form required by the License Inspector and include the following:
- (a) the applicant's name;
 - (b) the name of the Business and any trade names under which the Business is to be conducted;
 - (c) the phone number of the Business;
 - (d) the operating address of the Business;
 - (e) the mailing address of the Business;
 - (f) the proper name of the owner of the business, including the corporate access number if any;
 - (g) the address of the owner of the Business;
 - (h) the phone number of the owner of the Business;
 - (i) the name and phone number of an emergency contact for the Business;
 - (j) a description of the nature of the business that includes, the type of business, the number of employees and whether the Business will use or store hazardous materials;
 - (k) the signature of the applicant or the applicant's agent;

- (l) any other information that the License Inspector may reasonably require for the purpose of the administration of this Bylaw, and
 - (m) the Business License fee specified under Schedule A, unless that Business is exempt under Section 9.
- (3) In addition to the information required in subsection (2), an applicant for a Business License for a Regulated Business must also provide the information and documents required by the Schedule applicable to that Business.
- (4) If there is any change to the information provided to the License Inspector in the application for a Business License during the term of a Business License, the License Holder must immediately advise the License Inspector in writing of the change.

Exemption from Fees

9. (1) A Not For Profit Organization and Registered Societies may apply to the License Inspector for an exemption from the Business License fee required under Schedule A.
- (2) An application under subsection (1) must be in the form required by the License Inspector and must include:
- (a) the name of the Not For Profit Organization and Societies;
 - (b) information regarding the corporate structure of the Not For Profit organization or Registered Societies, including a BN, registered charity number, or other governmental authorization;
 - (c) the nature of the business engaged in by the Not For Profit Organization or Registered Society;
 - (d) a description of how the proceeds from the Business are or will be used to advance the objectives of the Not For Profit Corporation or Registered Society, and
 - (e) a description of the Not For Profit Organization's or Registered Societies activities in BERWYN and elsewhere.
- (3) After receipt of an application under subsection (2), the License Inspector may waive the Business License fee in whole or in part if

the License Inspector considers that such a waiver is in the best interests of the VILLAGE and its inhabitants.

- (4) The License Inspector may establish policies that guide the circumstances under which the License Inspector will waive a Business License fee.
- (5) A waiver under subsection (3) does not relieve the Not For Profit Organization from otherwise complying with the terms of this Bylaw.

Considering the Application

10. (1) The License Inspector must consider each complete application.
- (2) Subject to subsection (3), the License Inspector must grant a Business License to the applicant if the applicant meets the requirements of this Bylaw.
- (3) The License Inspector may refuse to issue a Business License or impose conditions on a Business License if the License Inspector:
 - (a) has revoked or suspended a Business License of the applicant for the same or a similar Business within the past 12 months, or
 - (b) has reasonable grounds for believing that the applicant does not or will not comply with this Bylaw, another bylaw of the VILLAGE, or enactment of Alberta or Canada in relation to the carrying on or operation of the Business.
 - (c) has reasonable grounds for believing that issuing a Business License with respect to the proposed Business is not in the public interest.
- (4) At any relevant time the License Inspector may impose, in addition to the conditions referenced under subsection (3), conditions on a

new or existing Business License in relation to the establishment or operation of the applicable Business.

- (5) The License Inspector must specify on the Business License:
- (a) the name of the License Holder and each name under which the Business is to be conducted;
 - (b) a description of the type of Business for which the license is issued;
 - (c) the Schedule, if any, applicable to a Regulated Business;
 - (d) the location where the Business is to be conducted;
 - (e) any conditions on the Business License, and
 - (f) the expiry date of the Business License.

Business License Fee

11. (1) If the Business License fee for a Business License is not paid, the Business License is not valid.
- (2) Once the License Inspector has issued a Business License, the Business License fee is not refundable.

Effect of and Limitations on a Business License

12. (1) Subject to subsection (4), a Business License allows the License Holder to operate or carry on the Business described in the Business License and a Business License for a Regulated Business allows the License Holder to operate or carry on the Regulated Business described in the Business License provided that the License Holder complies with the specific regulations adopted by Council for that Regulated Business.
- (2) A separate Business License is required for each location in the VILLAGE where that business is carried on.
- (3) A Business License remains the property of the VILLAGE.
- (4) A Business License does not relieve the License Holder from the obligation to obtain any other permit, license or other approval that

maybe required under another bylaw of the VILLAGE or any other governmental authority.

- (5) If a License Holder Transfers a Business to another Person, the License Holder or the new transferee may apply to the License Inspector to Transfer the Business License to that Person.
- (6) An application under subsection (5) must:
 - (a) be made within five business days of the Transfer of the Business;
 - (b) be in the form required by the License Inspector;
 - (c) be signed by the License Holder, and the Person to whom the Business is Transferred, and
 - (d) include all or any of the information required under Section 8 that the License Inspector requires.
- (7) If an application for a Transfer is not made within the time specified under subsection (6)(a), the Business License is revoked on the 6th business day following the Transfer of the Business.

Term of Business License

13. A Business License issued under this Bylaw expires on December 31 of the year for which it was issued, unless it is revoked earlier under Section 12 of this Bylaw.

Obligations of Business License Holder

14. (1) A License Holder must ensure that the Business conducted under a Business License complies with:
 - (a) this Bylaw, including additional requirements of any Schedule appended to and forming a part of this Bylaw;
 - (b) any conditions imposed on the Business License; and
 - (c) in the event that, in the opinion of the License Inspector, the sale and/or display of Restricted Products has caused a Public Nuisance to the immediate area surrounding the premises from which Restricted Products are sold, the License Inspector may impose the following conditions on

the related Business License in addition to any other conditions that may be imposed under this Bylaw;

- (i) A requirement that no sales of Restricted Products can occur between the hours of 10:00PM and 10:00AM; and
- (ii) A requirement that all Cannabis must be held in sealed containers or sealed packaging while it is stored, displayed, or otherwise kept at the premises from which it is sold.

(2) A License Holder must:

- (a) post the Business License in a conspicuous place in the premises where the Business under the license is carried on or operated, and
- (b) produce the Business License to the License Inspector or Bylaw Officer if requested to do so.

(3) A License Holder must give access to the premises specified in the Business License to the License Inspector or a Bylaw Officer.

14.1 (1) No person may sell a Restricted Product to a minor.

(2) No person shall display a Restricted Product at a place of business such that the Restricted Product is visible from outside the place of Business.

(3) The restrictions of this section 14.1 do not apply in the context of a licensed or regulated pharmacy as contemplated by the *Pharmacy and Drug Act* RSA 2000 c. P-13, or a licensed Business within which such licensed or regulated pharmacy is operated.

(BL 9/2012)

Cancellation of Business License by a License Holder

15. (1) A License Holder may cancel a Business License by providing a written notice to the License Inspector.

(2) If a license is cancelled under subsection (1), the Business License fee is not refundable.

Revocation or Suspension of Business License by License Inspector

16. (1) If the Business carried on or operated under a Business License does not comply with:
- (a) this Bylaw;
 - (b) any condition imposed on the license, or
 - (c) any other bylaw or enactment of Alberta or Canada applicable to the business or the premises where the Business is located,

the License Inspector may revoke the Business License or suspend the Business License for a period that the License Inspector considers appropriate.

- (2) If an applicant for a Business License provides inaccurate or misleading information in an application for a Business License, the License Inspector may revoke the Business License or suspend the Business License for a period that the License Inspector considers appropriate.

- (2.1) The License Inspector, upon the reasonable belief that it is within the public interest to do so, may revoke the Business License or suspend the Business License for a period that the License Inspector considers appropriate.

- (3) The License Inspector must give written notice of the revocation or suspension, setting out in general terms the reason for the revocation or suspension and in the case of a suspension the period of the suspension.

- (4) The revocation or suspension of a Business License under subsection (1) is effective:
- (a) 24 hours after delivery if the written notice is delivered personally to the License Holder or the registered office of a corporate License Holder;
 - (b) 72 hours after posting if the written notice is posted in a conspicuous place at the premises specified in the license where the Business is to be conducted or operated, or
 - (c) seven days after mailing if the written notice is mailed by ordinary mail to the mailing address provided in the

application for a Business License or the address subsequently provided in writing under Section 8(4), whichever is earliest.

- (5) In the notice suspending or revoking a license, the License Inspector may increase the time before which a revocation or suspension is effective from that established under subsection (4).
- (6) If the License Inspector increases the amount of time under subsection (5), the License Inspector may impose conditions on the Business License that the License Inspector considers reasonable to ensure the protection of the public and the integrity of the administration of this Bylaw.
- (7) A License Holder must cease carrying on or operating a Business immediately once a suspension or revocation is effective.
- (8) The License Inspector may act under subsection (1) in addition to or instead of prosecuting an offence under this Bylaw or the *Provincial Offenses Procedure Act*, or both.

Appeals

17. (1) If the License Inspector:
 - (a) refuses to issue a Business License;
 - (b) revokes or suspends a Business License;
 - (c) identifies a Business subject to a Schedule;
 - (d) imposes a condition on a Business License, or
 - (e) refuses to waive a fee for a Not For Profit Organization,the applicant or License Holder may appeal the decision to the Appeal Committee.
- (2) An appeal must be:
 - (a) in writing, setting out the reasons for the appeal;
 - (b) accompanied by the appeal fee required by Schedule A, and

- (c) delivered to the office of the CAO within seven days of the date that the License Holder is first notified of the decision of the License Inspector under Section 16(4).
- (3) On the filing of an appeal in accordance with subsection (2), a decision to revoke or suspend a Business License is stayed for 30 business days or until the date the appeal hearing is scheduled, whichever occurs first.
 - (4) As soon as reasonably possible after the filing of an appeal in accordance with subsection (2), the CAO must appoint an Appeal Committee for the purpose of hearing the appeal unless the CAO is the License Inspector under Section 3.
 - (5) If the CAO is the License Inspector under Section 3, the Council must appoint an Appeal Committee.
 - (6) An Appeal Committee must comprise three residents of BERWYN, but must not include the CAO, License Inspector or an employee of the VILLAGE who works under the direction of the License Inspector.
 - (7) The Appeal Committee must schedule the hearing of the appeal within 30 days of the filing of the notice of appeal.
 - (8) Subject to the requirements of this Bylaw, the Appeal Committee may establish the procedure for the hearing of the appeal, grant adjournments and stay a decision to revoke or suspend a Business License subject to conditions.
 - (9) The Appeal Committee must issue its decision with reasons, in writing, within seven business days of the conclusion of the hearing.
 - (10) The Appeal Committee may:
 - (a) uphold the decision of the License Inspector;
 - (b) vary the decision of the License Inspector or substitute its own decision, or
 - (c) overturn the decision of the License Inspector.
 - (11) The decision of the Appeal Committee is final.

Inspection of Lands and Buildings

18. If there are reasonable grounds for believing that a person is carrying on or operating a Business without a Business License, the License Inspector or Bylaw Officer may inspect lands or a building to determine whether a person is carrying on or operating a business without a Business License.

A business License is not a Representation of Compliance with other Bylaws

19. A Business License issued under this Bylaw is not a representation to the License Holder that the Business complies with the requirements of any other bylaw or enactment, and the License Holder is responsible to ensure that the License Holder complies with all applicable bylaws and enactments.

Offence

20. (1) A Person is guilty of an offence if that Person:
- (a) carries on or operates a Business in BERWYN without a Business License as required under this Bylaw, unless an exclusion under Section 7 applies;
 - (b) carries on or operates a Business in BERWYN in breach of a condition imposed on a Business License; or
 - (c) is in breach of any provision of this Bylaw.
- (2) When a corporation commits an offence under this Bylaw, every principal, director, manager, employee or agent of the corporation who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence whether or not the corporation has been prosecuted for the offence.
- (3) If a partner in a partnership is guilty of an offence under this Bylaw, each partner in that partnership who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence.
- (4) In the case of an offence that is of a continuing nature, a contravention of a provision of this Bylaw constitutes a separate

offence with respect to each day, or part of a day, during which the contravention continues, and a Person guilty of such an offence is liable to a fine in an amount not less than that established by this Bylaw for each such separate offence.

(BL 9/2012)

Fines and Penalties

21. A Person who is guilty of an offence under this Bylaw is liable
- (a) to a fine in the amount of up to \$500.00; or

Municipal Violation Tag

22. (1) A Bylaw Officer may issue, with respect to an offence under this Bylaw, a Municipal Violation Tag specifying the fine amount (including any Early Payment fine amount) as may be established by this Bylaw.
- (2) Where a Municipal Violation Tag is issued, the fine amount indicated thereon may be paid as directed in lieu of prosecution.

Violation Ticket

23. (1) A Bylaw Officer may issue, with respect to an offence under this Bylaw, a Violation Ticket:
- (a) specifying the fine amount established by this Bylaw; or
 - (b) requiring an appearance in court without the option of making a voluntary payment.
- (2) Where a Violation Ticket specifies a fine amount, a voluntary payment equal to the specified fine amount may be made as directed.

SCHEDULE "A"
TO BUSINESS LICENSE BYLAW 43/2000
 Effective January 1, 2022
 GST EXEMPT

1. The fees for licenses are:			
Business	2023		
	Column 1	Column 2	Column 3
	Business License to which neither Column 2 nor Column 3 apply	Business License issued on or after May 1 for business that was not carried on or operated before May 1	Business License issued on or after September 1 for business that was not carried on or operated before September 1
In Town Business	25	15	10
In Town Business Payments made after January 31 for businesses in operation prior to January 1.	50		
Cannabis Retail Store	75.00	50	25
Cannabis Retail Store payments made after January 31 for businesses in operation prior to January 1.	150.00		
2. The appeal fee is \$30 for each decision appealed	30.00	30.00	30.00

- 1) For the purpose of this schedule:
- a) "In Town Business" means a Person who
 - i) resides in BERWYN and carries on or operates a Business in BERWYN, or
 - ii) carries on or operates a Business from premises in BERWYN which the Person owns or rents.

- b) "Out of Town Business" means any Person, other than an In Town Business, who carries on or operates a Business in BERWYN.
- c) "Cannabis Retail Store" means any Person who carries on or operates a Business from premises in BERWYN that displays or offers for sale Cannabis.
 - i. "Premises" means land, buildings or both.

First Reading given on the 28th day of July, 2022.

Cindy Hockley, Mayor

Matthew Norburn, Chief Administrative Officer

Second Reading given on the _____ day of _____, 2022.

Cindy Hockley, Mayor

Matthew Norburn, Chief Administrative Officer

Third and Final Reading given on this _____ day of _____, 2022.

Cindy Hockley

Matthew Norburn, Chief Administrative Officer