

BY-LAW 17-96
OF
THE RURAL MUNICIPALITY OF ST. CLEMENTS

Being a By-Law of the Rural Municipality of St. Clements providing for the licensing and regulating of business within the Municipality.

WHEREAS subsection 713(2) of The Municipal Act (R.S.M., 1988 c.M225) provides as follows:

The council of a municipality may by by-law licence and regulate any business carried on within the municipality.

NOW THEREFORE Council of the Municipality duly assembled enacts as follows:

SHORT TITLE

1. This By-Law may be referred to as "The Rural Municipality of St. Clements Licensing By-Law".

DEFINITIONS

2. The following terms shall have the meanings ascribed to them wherever used in this By-Law:

- (a) Amusement Device includes any machine, billiard, pool or bagatelle table, musical instrument, or other device, or any pinball machine, electronic video machines, skill ball machines or other mechanical or electrical amusement device;
- (b) Business has the same meaning as in The Municipal Act, namely business includes any trade, occupation or calling whether or not it is carried on continuously or on an intermittent or one time basis and whether or not the person carrying on the business has an established place of business within the Municipality;
- (c) Itinerant Salesman means:
 - (i) a person who as vendor or agent for the vendor, such vendor not having his or her principal place of business in the Municipality, goes about from place to place within the Municipality selling goods or offering the same for sale directly to the consumer, or soliciting orders from the consumer for goods; or
 - (ii) a person who goes about from place to place within the Municipality taking orders from the consumer for goods to be made, grown, or

completed, in whole or in part, outside the Municipality by any person not having a principal place of business in the Municipality;

- (d) Licence Inspector means the enforcement officer appointed by the Municipality from time to time;
- (e) Licensed Premises means the premises in which the Business referred to in the context is carried on;
- (f) Licensee means the holder of a licence issued pursuant to this By-Law and includes all servants, agents, subcontractors and employees of the licence holder;
- (g) Mobile Food Vendor means a person who travels to a particular location to park, prepare and sell food to the public but does not include a person who makes stops of less than five minutes to sell pre-packaged food items;
- (h) Transient Trader means any person who goes from place to place, or from door to door, by any means bearing or drawing goods, wares or merchandise.

LICENCES - GENERAL

3. No person other than a person to whom section 8 applies, shall carry on any Business in the Municipality without having a licence from the Municipality so to do, nor shall any person carry on a Business for which a licence has been issued after the licence has lapsed or been cancelled, unless and until a new licence is issued therefore and every person so licensed shall be subject to the provisions of this By-Law. Any person carrying on any Business in the Municipality contrary to the provisions herein shall be guilty of a breach of this By-Law and upon receiving notice from the Licence Inspector shall immediately cease carrying on the said Business until issued with a licence by the Licence Inspector.

4. A Licence shall be issued to a person to carry on a particular Business, either:

- (a) in the Municipality; or
- (b) in specified premises or at specified locations in the Municipality.

5. Where:

- (a) a Business subject to licensing is carried on or intended to be carried on in more than one premise, a licence shall be required in respect of each premise as though the Business carried on in each were separate Businesses;
- (b) a Mobile Food Vendor utilizes more than one vehicle or more than one location,

a licence shall be required in respect of each vehicle and in respect of each location as though the Business carried on from each vehicle and from each location were separate Businesses.

6. The Licence Inspector shall not be required to issue or transfer a licence pertaining to any licensed premise or vehicle until:

- (a) he or she has received confirmation from the appropriate health authorities that the vehicle, place, or premises to which the licence pertains is in compliance with the Provincial Health Regulations for the intended purpose;
- (b) he or she has received confirmation from the Selkirk and District Planning Area Board that the intended use of the premises complies with the zoning requirements of the Municipality;
- (c) the applicant for a licence under this by-law has produced a proper licence issued under The Consumer Protection Act if the applicant is required by law to obtain such a licence.

7. Before a license is issued:

- (a) where the applicant does not pay real property tax to the Municipality on a business location, the applicant shall pay to the Licence Inspector a licence fee of \$250.00 per Business, Business location or vehicle.
- (b) where the applicant does pay real property tax to the Municipality on a business location, the applicant shall pay to the Licence Inspector a licence fee of \$50.00 per Business or business location.

EXEMPTIONS

8. No licence is required to hold a concert, recital, show or other entertainment in any part of a church or like regular meeting place for the holding of religious services, under the auspices of the persons in charge of the church or meeting place when all the artists or other performers are amateurs and the money charged or collected for or in connection with admission is to be used for the benefit of the church or meeting place.

9. No licence is required to hold a garage sale on the private premises of a person who is selling used household items owned by that person or his or her family.

10. No licence is required for hawking peddling or selling the growth or produce of the province if it is being hawked, peddled or sold by the producer thereof, a member of his or her immediate family, or his or her bona fide servants or employees.
11. No licence is required by tradespersons hired by an individual who is acting as the general contractor with respect to the construction of his or her private residence.
12. Every applicant for a licence shall apply in writing to the Licence Inspector.
13. This By-Law shall be administered by the Licence Inspector who shall act under the general supervision of the Manager.
14. The Licence Inspector shall:
 - (i) ensure that the requirements referred to in paragraph 6 have been complied with;
 - (ii) upon satisfying him or herself that all conditions have been complied with sign the licence and forward the licence, along with supporting documentation, to the Manager;
 - (iii) enforce the provisions of this By-Law; and
 - (iv) carry out such other duties as assigned by council of the Municipality.
15. Upon receipt of the signed licence and supporting documentation from the Licence Inspector, the Manager shall satisfy himself that all requirements for the licence have been met and, upon doing so, shall sign the licence and forward it to administrative staff of the Municipality.
16. Administrative staff of the Municipality shall collect all licence fees, provide the applicant with the completed licence and keep a register containing full particulars of all licences issued.

TRANSFER OF LICENCES

17. The Licence Inspector may transfer any licence issued pursuant to paragraph 7(a) from one person to another upon payment of the transfer fee of \$20.00. The Licence Inspector may transfer any licence issued pursuant to paragraph 7(b) from one person to another or from one premise to another upon payment of the transfer fee of \$5.00.

ISSUANCE DATE

18. All licences issued under this By-Law shall take effect from the date of issue and shall remain in full force and effect until the 31st day of December next succeeding the date of issue, unless they are expressed to be granted for a shorter period or unless same shall become sooner

forfeited.

19. A licence may be issued in advance for any licence year during the two months next preceding the commencement thereof.

20. every licence shall bear on its face the date on which it was issued and the date on which it will expire.

REFUND OF LICENCE FEE

21. Except as provided herein no refund of licence fee or part thereof is allowed in respect of the revocation of a licence, or for any reason.

22. The Municipality may by resolution authorize a refund of all or part of a licence fee where the premises occupied by the Licensee have been destroyed by fire or other cause and the Licensee desires to surrender his or her licence for the balance of the licence year.

DUTIES OF THE LICENSEE

23. Every Licensee shall comply with all by-laws of the Municipality and all appropriate federal and provincial legislation.

24. Whenever a Licensee changes his or her address from that shown on the licence, the Licensee shall forthwith notify the Licence Inspector of the new address.

25. Every licence hereunder shall be produced by the Licensee or his or her agent, employee or anyone acting on the Licensee's behalf at all reasonable times upon the request of the Licence Inspector or upon the request of any individual conducting Business with the Licensee, his or her agent, employee or other person acting on his or her behalf. Failure to produce the licence within a reasonable period of time of any such request shall constitute a breach of this By-Law.

26. The Licensee shall permit the Licence Inspector, his or her assistants or any other person duly authorized by the Licence Inspector to enter upon and inspect the Licensed Premises from time to time.

27. Every Licensee who holds a licence under this By-Law which applies to particular premises shall, so long as the licence is in force, keep it, or a duly authorized copy thereof, posted up in some conspicuous place on the Licensed Premises.

REVOCATION OF LICENCES

28. Council of the Municipality shall be entitled to revoke any licence issued under this By-Law upon the happening of any of the following events:

- (a) Upon the Licensee being convicted of an offense pursuant to the provisions of this By-Law;
- (b) Upon premises or vehicles within which the Licensee carries on Business being in breach of the appropriate zoning or health regulations affecting same following the Licensee being given two weeks notice to rectify any such deficiency by the Licence Inspector;
- (c) Upon the Licensee refusing or neglecting to pay the appropriate licence fee or portion thereof owing therefore, following the expiration of seven days notice by the Licence Inspector to the Licensee of the intended revocation.

DISCRIMINATION

29. Every Licence issued pursuant to this By-Law is subject to the condition that the Licensee shall not discriminate on the basis of any of the applicable characteristics enumerated in clause 9(2) of The Human Rights Code against any member of the public who seeks admission to, or applies to be served on, the premises in respect of which the licence is issued. Any Licensee who does discriminate, contrary to this section shall be in breach of this By-Law, provided always however, that this section shall not apply to organizations of a fraternal, religious or educational nature doing Business only with their members or associates.

AMUSEMENT HALLS

30. No Licensee, keeper or possessor of any Amusement Device that is kept or operated from any premises shall admit to the premises in which such Amusement Devices are kept or operated a minor under the age of 14 years or allow him or her to remain therein without the consent in writing of his or her parent or guardian and the onus of proof that such consent has been given shall be upon such Licensee, keeper or possessor.

31. No Licensee, keeper or possessor of any billiard, pool or bagatelle table shall keep open his or her room or premises in which such billiard, pool or bagatelle table between hours that may be prescribed by the Municipality from time to time.

SHOWMEN

32. No proprietor of a carnival shall cause or permit any riding device or amusement device to be operated between the hours of 12:00 midnight and 9:00 a.m. of the following day.

DRIVE-IN RESTAURANTS

33. The Licensee shall provide the drive-in restaurant with a sufficient number of adequate refuse containers and shall keep the premises free from waste materials.
34. The parking area of the premises of any drive-in restaurant shall be adequately illuminated by electric lights, but such illumination shall be so arranged by the Licensee as to reflect away from any adjoining residential property.

TRANSIENT TRADERS AND ITINERANT SALESMEN

No Transient Trader or Itinerant Salesman shall:

- (a) permit any vehicles used by him or her to remain standing in any street except while he or she is actually engaged in making a sale to a customer;
 - (b) permit any vehicle he or she is using while carrying on his or her trade to stand elsewhere than upon a public highway;
 - (c) carry on his or her trade after 9:00 p.m. or one-half hour before sunset, whichever comes sooner, or before 9:00 a.m.
35. Every Transient Trader or Itinerant Salesman shall cause his or her name and address to be legibly and conspicuously displayed on each side of every vehicle used in the carrying on of his or her trade.
36. Every person who engages an employee or agent to carry on the Business of a Transient Trader or Itinerant Salesman shall thereupon and forthwith furnish to the Licence Inspector the name and address of the employee or agent.
37. Any Transient Trader or Itinerant Salesman or agents, employees or anyone acting on their behalf, shall prominently display on their persons in legible writing a badge or card displaying the name of the individual bearing the badge or card, and the name, telephone number, address and business number of the Licensee.
38. No person shall solicit orders for the purchase and future delivery of goods, wares or merchandise of any kind while on any street within the Municipality.

MOBILE FOOD VENDORS

39. Mobile Food Vendors shall only be permitted to operate from private property, with the permission of the owner in areas zoned for commercial use.
40. Prior to obtaining a Licence or Licences, a Mobile Food Vendor must:

- (a) identify, in writing, the location or locations at which he or she intends to operate the Business;
- (b) provide evidence, in writing, from the owner of the location or locations that he or she consents to the use of that location or those locations by the applicant; and
- (c) provide evidence, in writing, from the owner of the location or locations that he or she consents to the use of his or her washroom facilities by customers of the Mobile Food Vendor.

No Licence shall be issued to a Mobile Food Vendor unless these requirements have been met.

41. Every Mobile Food Vendor shall provide waste disposal facilities and ensure the area surrounding the mobile food unit is clean and free from litter and rubbish and that no unsanitary condition exists.

PENALTIES

42. Every person who:

- (a) carries on Business within the Municipality;
- (b) uses premises or places in carrying on a Business; or
- (c) uses a machine, device, vehicle or other personal property in carrying on a Business; or
- (d) employs or engages persons in carrying on a Business;

other than exempt Businesses, without having obtained the appropriate licence is liable to pay a fine:

- (i) in an amount equal to twice the applicable licence fee. Any funds paid in full or partial satisfaction of any fine levied pursuant to this section shall be firstly applied in payment of the fine and secondly in payment of an outstanding licence fee.

43. The Municipality reserves the right to limit hours of operation.

44. This By-Law shall come into force and effect on and from the day it receives third reading.

45. By-Law No. 2349 of the Municipality is repealed on the date this By-Law receives third reading.

DONE AND PASSED by the Council of the Rural Municipality of St. Clements, in regular session assembled, in East Selkirk, Manitoba, this 9th day of July 1996.

RURAL MUNICIPALITY OF ST. CLEMENTS

Per:

Ken Thomas

Reeve

[Signature]

Manager

Read a First time this 11th day of June, 1996.

Read a Second time this 9th day of July, 1996.

Read a Third time this 9th day of July, 1996.