

DISTRICT OF BARRIERE
BYLAW NO. 0041
AMENDED BY BYLAW NO. 0059, NO. 73 and No. 130

A Bylaw to Regulate and License Businesses

Complied for convenience purposes only

WHEREAS the Community Charter permits a Council to provide for a system of licenses, permits or approvals;

AND WHEREAS Council of the District of Barriere deems it necessary to authorize and regulate the issuance of and the levying and collecting of license fees in respect to the trades, occupations, professions and businesses hereinafter set forth;

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

1. This bylaw may be cited as “District of Barriere Business License Bylaw No. 0041, 2009.”
2. This Bylaw applies to the whole of the area within the boundaries of the District of Barriere as may be amended from time to time.
3. This Bylaw comes into force and takes effect on the day of its final adoption by the Council of the District of Barriere.
4. This Bylaw is divided into the following parts:

PART 1 - DEFINITIONS

PART 2 - LICENSE REGULATIONS

PART 3 - LICENSE SUSPENSION AND APPEALS

PART 4 - BUSINESS REGULATIONS

PART 5 - ENFORCEMENT

PART 1 – DEFINITIONS

“ACCESSORY RESTAURANT” means a restaurant which is subordinate or accessory to and is located in the same premises as the principal business.

“APPLICANT” means any person who makes application for a business license pursuant to this bylaw.

“ARCADE” means premises into which the public is invited for the purposes of using amusement machines, but does not include a premises containing six (6) or less amusement machines.

“BEER AND WINE STORE” means a retail trade store that primarily sells beer and wine products for consumption off the premises.

“BUILDING INSPECTOR” means the Building Inspector for the District of Barriere or a duly authorized representative.

“BUSINESS” means the carrying on of a commercial or industrial undertaking of any kind or the providing of professional, personal or other services for the purpose of receiving income or revenue, but does not include an activity carried on by a Municipal, Provincial or Federal Government, or Crown Corporation.

“CABARET AND NIGHTCLUB” means an establishment where a full range of liquor products are sold for consumption on the premises and where a dance floor and entertainment is provided.

“CORPORATE OFFICER” means the person appointed by District Council from time to time.

“COUNCIL” means the Council of the District of Barriere.

“FAMILY DAY CARE” means a facility which provides day care services to not more than seven (7) children, and which is licensed by the Community Care Facility Act for family day care facilities.

“FIRE CHIEF” means any person appointed from time to time as Fire Chief for the District and includes any person acting lawfully in that capacity.

“FLOOR AREA” means that area within a building that is used for display purposes or to service customers, but shall not include those areas set aside exclusively for the storage of supplies or for the use of the employees of the business.

“GROUND AREA” means the total ground area used for the carrying on of the business. Where more than one business is carried on from a single lot or ground area, the ground area for each business shall be as determined by the License Inspector.

“HOME BASED BUSINESS” means an occupation or profession carried on by an occupant of a residence, for consideration, which is clearly incidental and accessory to the use of the property for residential purposes.

“HOTEL PUB” means an establishment located within a hotel, where liquor products are sold for consumption on the premises and where entertainment may be provided.

“LICENSE INSPECTOR” means the person appointed from time to time by the Council as License Inspector of the District of Barriere and includes any person lawfully acting in that capacity including the Chief Administrative Officer (CAO) and the Financial Officer.

“LICENSE” means a license issued under this Bylaw.

“LOUNGE” means an establishment where liquor products are sold for consumption on the premises and where entertainment except a dance floor may be provided.

“NEIGHBOURHOOD PUB” means an establishment where liquor products are sold for consumption on the premises only.

“NON-RESIDENT BUSINESS” means a business, other than a resident business, carried on within the Municipality or with respect to which any work or service is performed within the Municipality.

“PERSON” means a natural person, his heirs, executors, administrators or assigns and shall also include a firm or corporation.

“RESIDENT BUSINESS” means a business carried on, in, or from premises within the Municipality.

PART 2 – LICENSE REGULATIONS

2.1 LICENSE REQUIRED

No person shall carry on a business within the District without having obtained a valid business license.

2.2 FORM OF LICENSE

Every license granted pursuant to this Bylaw shall state that the holder is licensed to carry on the business stipulated therein in a lawful manner for the period specified at the place therein stated.

2.3 DISPLAY OF LICENSE

Licenses shall be permanently displayed at all times in the business area of the premises to which the public has access.

2.4 TERM OF LICENSE

- a) Except as otherwise provided, every license issued pursuant to this Bylaw shall terminate on the 31st day of December of the year in which it was issued.
- b) The license fees for new businesses starting after the first quarter (March 1st), second (June 1st) and third (September 1st) quarter periods of the licensing year may be prorated accordingly with a minimum fee of Fifty (\$50.00) Dollars. Prorating shall not apply to

existing businesses which obtain temporary licenses pursuant to Section 2.8(a), nor shall it apply to businesses for which a license was required within three (3) years previous to the new application.

- c) Subject to Section 2.4(b) no proportionate reduction shall be made on account of any person commencing or ceasing to do business at a particular time, in any one year.
- d) The period for a license in respect of a theatre, concert-hall, amusement park, or other place of amusement, entertainment, or exhibition may be one year, six months, three months one month or one day.

2.5 LICENSE FEES

- a) No license shall be issued until the fee therefore as set out in *Fees & Charges Bylaw No. 73* as amended.
- b) Except as otherwise provided, the minimum fee prescribed under this Bylaw shall be Seventy-five (\$75.00) Dollars.
- c) The maximum fee prescribed under this Bylaw shall not exceed One Thousand (\$1,000.00) Dollars.

2.6 APPLICATION

- a) Every person applying for a license or a transfer of license shall complete an application form obtained from the District. Applications may be signed by the owner or his duly authorized representative.
- b) Any person making an application for a license shall give true and correct details for the business that the license is being applied for, on the application form supplied by the License Inspector. Any false declaration or concealment of material facts shall be deemed an infraction of this Bylaw and shall be liable to the penalties set forth in Section 5.3.

2.7 SEPARATE LICENSE

- a) Where a business is carried on in or from more than one premises in the District, the business carried on in or from each premises shall be deemed to be a separate business and shall require a separate license except as provided in Section 2.8(a)
- b) Where there is more than one separate and distinct business category located within the same premises, each business category shall have a separate license.

2.8 TEMPORARY LICENSES

- a) Where an existing business is carried on from a fixed commercial premises in the District and the business wishes to carry on for a temporary period of time from a separate fixed commercial premises, the following fee schedule shall apply:
 - 7 consecutive days - \$50.00
 - 15 consecutive days - \$85.00
- b) Where a resident business is not carried on continuously in the District for at least six months, the business shall pay twice the fee normally required for businesses of the same classification.

2.9 CHANGE OF LOCATION, NAME OR OWNERSHIP

Business licenses are not transferrable and no change of location, name or ownership shall be allowed without the licensee completing a new application for a business license, submitting an administrative fee in the amount of Thirty-five (\$35.00) Dollars and being issued a new business license.

2.10 LOCATION OF BUSINESS

All premises upon or in which the applicant for license proposes to carry on or conduct any business shall, before any such license is granted, first be approved by the License Inspector who may, in his discretion, also require such premises to be approved by the Medical-Health Inspector, the Commissioner's Inspector, the Building Inspector or any other official of a Provincial or Municipal Department involved or all of the above. Where any Federal/Provincial Act or Regulation or any other District Bylaw applies to any matter covered by this Bylaw, the issuance of a business license under the provisions of this Bylaw shall not relieve the licensee from complying with the provisions of such other enactments.

2.11 NOTIFICATION OF BUSINESS CHANGE

Every holder of a license shall notify the License Inspector of any change in the mailing and/or the business address, the business practice, the floor area of the premises, the number of people, rental units, games machines or vehicles used in the operation of the business, or any alteration to the premises in which the business is carried out.

Upon the termination of the business by the license holder, the licensee shall notify the License Inspector that the license is no longer required and shall surrender the license to the License Inspector.

PART 3 – LICENSE SUSPENSION AND APPEALS

3.1 AUTHORITY TO SUSPEND

The License Inspector may suspend any license for such period as he may determine if the holder of the license:

- a) is convicted of an offence indictable in Canada;
- b) is convicted of any offence under any Municipal Bylaw or Statute of the Province of British Columbia in respect of the business for which he is licensed or with respect to the premises named in his license;
- c) has, in the opinion of the License Inspector, been guilty of such gross misconduct in respect of the business or in or with respect to the premises named in his license as to warrant the suspension of his license;
- d) has ceased to meet the lawful requirements to carry on the business for which he is licensed or with respect to the premises named in his license; and
- e) has, in the opinion of the License Inspector, conducted his business in a manner, performed a service in a manner, or sold, offered for sale, displayed for sale or distributed to a person actually or apparently under the age of 16 years anything, that may be harmful or dangerous to the health or safety of a person actually or apparently under the age of 16 years.

3.2 NOTICE OF SUSPENSION

- a) Where a license has been suspended pursuant to the Municipal Act, a "Notice of Suspension" shall be issued to the licensee by the License Inspector, in writing, outlining the reasons for the suspension and shall be served on the licensee or delivered to the licensee by registered mail to the address of the business shown on the business license application.
- b) A "Notice of Suspension" of a license may be posted by the License Inspector upon the premises for which the license was issued and such notice shall not be removed until the license is reinstated, the former licensee ceases to occupy the premises or a new business other than the one carried on by the licensee is started in the premises.

3.3 RIGHT TO APPEAL SUSPENSION

Any person whose license has been suspended, or who has been refused a license, or who wishes to appeal the classification as given by the License Inspector, may appeal to Council by giving written notice to the Corporate Administrator of their intention to appeal. Such appeal shall state the grounds upon which the appeal is made. Council shall appoint a time and a place for the hearing of the appeal and may confirm or set

aside such decisions made by the License Inspector as it may deem appropriate.

3.4 REVOCATION

- a) Council may revoke a license pursuant to the Municipal Act for “reasonable cause” after giving notice to the licensee and after giving the licensee an opportunity to be heard.
- b) The notice and opportunity to be heard referred to in sub-section a) of this section is not required in respect to the licensee who by reasonable efforts cannot be found.
- c) A “Notice of Revocation” may be posted by the License Inspector upon the premises for which the license was issued and such notice shall not be removed until the license is reinstated, the former licensee ceases to occupy the premises, or a new business other than the one carried on by the licensee is started in the premises.

3.5 NOTICE OF HEARING

A Notice of Hearing to revoke a license under Section 3.4 or after a refusal by the License Inspector to issue a license or to consider the granting of a license shall be made in writing, outlining the time, date, and place of the hearing and the reasons for Council’s consideration of a request to revoke or refuse the license and served on the licensee(s) or delivered to the licensee(s) by registered mail to the address shown on the application for the license.

PART 4 – BUSINESS REGULATIONS

4.1 HOME-BASED BUSINESS

- a) Every person operating a Home-Based Business that is not included in the Handicrafts and Arts classification of Schedule “A” hereto, shall be licensed under the classification which reflects the nature of the business.

4.2 MOBILE VENDORS/SOLICITATION

- a) No person shall carry on any business from or on any street or sidewalk in the District, except in accordance with the Regulation and Control of Sidewalk Vendors Bylaw.
- b) Businesses classified as “Mobile Vendor” shall be permitted to offer the sale of goods and food products from private property only with permission of the owner, at a location where such use is permitted under the District of Barriere Zoning Bylaw.
- c) Every person who sells from a vehicle shall provide vehicle registration for the vehicle and personal identification in the form of a driver’s license.

d) The soliciting of sales of any article, commodity or thing, or any agreement for the provision of any service shall require a business license issued under the provisions of this Bylaw.

4.3 CONSTRUCTION CONTRACTORS

Every person licensed as a General Contractor shall, on the request of the License Inspector, provide a list of all subtrades engaged on each specific project as well as proof of mandatory trade qualification certificates for the following subtrades:

- a) Plumbing, steam fitting, pipe fitting
- b) Refrigeration
- c) Electrical
- d) Gas fitting

4.4 INSURANCE AND SAFETY STANDARDS

a) A person applying for a license to hold a carnival may be required by the License Inspector to obtain and maintain comprehensive general liability insurance of an amount not less than Three Million (\$3,000,000.00) Dollars.

The District shall be included as an additional insured.

The Licensees shall hold the District harmless against claims, actions for injury, damage, loss or death arising out of or resulting from the operation of the business. The licensees' insurer must recognize the existence of the hold harmless clause.

Proof of such insurance to the satisfaction of the District shall be submitted to the License Inspector prior to the issuance of a license.

b) Proof that all machines, rides and equipment to be used by the public at any carnival conform to the safety standards of the provincial authority having jurisdiction may be required by the License Inspector before a license is issued, or at any time during the term of the license.

4.5 SECONDHAND SALES

Persons carrying on the business of retail sales of secondhand goods shall comply with provisions of District of Barriere Bylaw to Regulate Persons Dealing in Secondhand Goods. (This does not apply to auto wreckers or sale of scrap metal).

4.6 SECURITY AND PATROL SERVICE

a) Every person carrying on the business of watching, guarding or patrolling for the protection of persons or property, or as a private detective shall be required to hold a license as set forth in the Private Investigators Act of the Province of British Columbia.

b) All applications for security and patrol service shall be forwarded by the License Inspector for approval by the local detachment of the Royal Canadian Mounted Police prior to issuance of the business license.

PART 5 – ENFORCEMENT

5.1 AUTHORITY TO ENFORCE

a) The Council may by Resolution, appoint a person to be the License Inspector, whose duty it shall be to carry out and administer the provisions of this Bylaw and other licensing Bylaws as may be enacted from time to time.

b) The Council may by Resolution, from time to time, appoint a person or persons as Assistant License Inspector or Inspectors with like duties and powers as delegated to the License Inspector by the provisions of this Bylaw.

c) It shall be the duty of the License Inspector, and he/she is hereby authorized and empowered to inspect, compel and require that all regulations and provisions prescribed in this Bylaw and other licensing Bylaws as may be enacted from time to time, shall be carried out.

d) The License Inspector shall make rules and regulations for the internal management of his department.

e) The License Inspector shall maintain and keep records of all licenses issued.

f) All such records shall be considered public records and shall be open for inspection at reasonable times to any person having business with the License Inspector. No person shall be entitled to inspect more than one License Application at any one time without paying a search fee of \$25. for each additional license application viewed.

5.2 OFFENSES

Any person who:

a) fails to comply with the provisions of this Bylaw, or

- b) tenders a cheque or other negotiable instrument, in full or partial payment of any fee payable hereunder, which is not honoured by the financial institution or bank against which it is issued, or
- c) provides false information with regard to size, location, ownership or legal conformity of the business, or
- d) carries on the business after receiving notice of suspension or after the business license has been revoked, or
- e) carries on business without a Business License,

commits an offence, and each day's continuance of an offence constitutes a new and distinct offence.

5.4 PAYMENT OF FINES

5.4.1 Any person guilty of an infraction of Sections 5.2(a) or 5.2(e) may voluntarily:

- a) within seven (7) days of issuance of the Business License Violation Notice, pay to the District of Barriere the sum of Fifty (\$50.00) Dollars as full satisfaction for each violation;
- b) after a charge has been preferred and before a court appearance date has been set, settle this matter by payment of a voluntary penalty of one Hundred (\$100.00) Dollars to the Clerk of the Provincial Court.

5.4.2 Any person guilty of an infraction of Sections 5.2(b) or 5.2(c) may voluntarily:

- a) within seven (7) days of issuance of the Business License Violation Notice, pay to the District of Barriere the sum of Twenty-Five (\$25.00) Dollars as full satisfaction for each violation;
- b) after a charge has been preferred and before a court appearance date has been set, settle this matter by payment of a voluntary penalty of Fifty (\$50.00) Dollars to the Clerk of the Provincial Court.

5.4.3 Any person guilty of an infraction of Section 5.2(d) may voluntarily:

- a) within seven (7) days of issuance of the of the Business License Violation Notice, pay to the District of Barriere the sum of Seventy-Five (\$75.00) Dollars as full satisfaction for each violation;

- b) after a charge has been preferred and before a court appearance date has been set, settle this matter by payment of a voluntary penalty on One Hundred and Fifty (\$150.00) Dollars to the Clerk of the Provincial Court.

5.4.4 Any person guilty of an infraction not mentioned in Sections 5.4.1, 5.4.2 or 5.4.3 shall be liable on summary conviction to a fine not less than Fifty (\$50.00) Dollars as full satisfaction for each violation.

Any person may voluntarily:

- (a) within seven (7) days of the issuance of the Business License Violation Notice, pay to the District of Barriere the sum of Thirty-Five (\$35.00) Dollars as full satisfaction for each violation;
- (b) after a charge has been preferred and before a court appearance date has been set, settle this matter by payment of a voluntary penalty of Fifty (\$50.00) Dollars to the Clerk of the Provincial Court.

5.4.5 Where a Business License Violation Notice has been issued pursuant to this Bylaw and that person has not paid the voluntary fine, the cost of service of the summons shall be added to the amount of the voluntary fine.

5.5 SEVERABILITY

If any provision of this Bylaw is found invalid, such provision is severable and shall not affect the validity of the Bylaw as a whole.

Read a First Time this 16th day of November, 2009
 Read a second time this 16th day of November, 2009
 Read a third time this 16th day of November, 2009

Adopted this 30TH day of November, 2009

ORIGINAL SIGNED BY

 Mayor Mike Fennell

ORIGINAL SIGNED BY

Wayne Vollrath, CAO