

THE CORPORATION OF THE MUNICIPALITY OF RED LAKE

BY-LAW NO. 1783-13

Being a By-Law to Licence, Regulate and Govern Certain Businesses and Events in the Municipality of Red Lake

WHEREAS Section 10(2)6 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a single-tier municipality may pass by-laws respecting the health, safety and well-being of persons; and

WHEREAS Section 10(2)8 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a single-tier municipality may pass by-laws respecting the protection of persons, and property, including consumer protection; and

WHEREAS Section 10(2)11 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a single-tier municipality may pass a by-law respecting business licensing; and

WHEREAS Part IV of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality may provide for a system of licences with respect to a business.

NOW THEREFORE the Council of The Corporation of the Municipality of Red Lake hereby **ENACTS AS FOLLOWS:**

1. Definitions

- 1.1 Act – means the Municipal Act, S.O. 2001, c.25, as amended from time to time, or any successor thereof;
- 1.2 Appeal Committee – means the council of the Municipality.
- 1.3 Applicant – means any person or person(s) whose names appear on any business licence application filed with the Municipality.
- 1.4 Building – means any building as defined in the Building Code Act, or any structure but does not include a vehicle.
- 1.5 Building Code Act – means the Ontario Building Code Act, S.O. 1992, c. 23, and all regulations thereto, as amended from time to time, or any successor thereof.
- 1.6 Business – includes, without limitation, any trade, occupation or business carried on or engaged in wholly or partly within the Municipality.
- 1.7 Business Licence – means current, valid, business licence issued by the Municipality pursuant to this by-law.
- 1.8 By-Law – means this by-law and all schedules forming part of this by-law, and includes any amendments thereto.
- 1.9 By-Law Enforcement Officer – means the By-Law Enforcement Officer for the Municipality.
- 1.10 Clerk – means the Clerk of the Municipality or his or her designate.
- 1.11 Council – means the Council of the Municipality.

1. Definitions – Continued

- 1.12 Fire Chief – means the Fire Chief of the Municipality or his or her designate.
- 1.13 Fire Protection and Prevention Act – means the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, and all regulations thereto, as amended from time to time, or any successor thereof.
- 1.14 Health Protection and Promotion Act – means the Health Protection and Promotion Act R.S.O. 1990, c. 7, and all regulations thereto as amended from time to time, or any successor thereof.
- 1.15 Highway – shall have the same meaning as set out in the Highway Traffic Act, R.S.O. 1990, c. 8, as amended from time to time or any successor thereof.
- 1.16 Identification – means a current, valid government-issued drivers licence issued within North America, Canadian passport, Canadian citizenship card, and provincial health card.
- 1.17 Inspection – includes physical visit to the premises, where applicable, or a document review or search.
- 1.18 Licensee – means a person to whom a business licence has been issued.
- 1.19 Medical Officer of Health – means the Medical Officer of Health for the Northwestern Health Unit or his or her designate.
- 1.20 Officer – means any person authorized by the Municipality to enforce this By-Law or to carry out inspection in relation to this By-Law and includes a police officer, by-law enforcement officer, chief building official, planning administrator, and medical officer of health.
- 1.21 Person – includes an individual, a sole proprietorship, a partnership, an unincorporated association, a trust, a corporation, and a natural person.
- 1.22 Premises – includes any land, including a building, structure or installation and also includes any vehicle, vessel or conveyance used in the operation of the business.
- 1.23 Provide – when used in relation to goods – means to rent, sell, lease offer to rent, lease, sell or display for rent, lease or sale by retail or otherwise and “provides”, “providing”, and “provided” shall have the corresponding meanings.
- 1.24 Provide – when used in relation to services – includes to furnish, offer or perform any services, and includes the holding out that any services are performed, offered or provided, and “providing”, “provided”, and “provision of” shall have the corresponding meanings.
- 1.25 Property Standards By-Law – means the Municipality of Red Lake Property Standards By-Law, as amended from time to time, or any successor thereof.

1. Definitions – Continued

- 1.26 Register – means a written record containing entries of items or details.
- 1.27 Rent – means the exchange of a sum of money or other financial consideration for the temporary use of good, and “rental” has the corresponding meaning.
- 1.28 Sale – means the exchange of a sum of money or other financial consideration for goods, and sell has the corresponding meaning.
- 1.29 Secretary to the Appeals Committee – means the Clerk of the Municipality or his or her designate.
- 1.30 Service – includes any activity, facility, performance, exhibition, viewing and encounters, but does not include the exhibition of film approved under the Theatres Act, R.S.O. 1990, c. T6, as amended from time to time or any successor thereof, when such film is displayed in a theatre as defined under the Theatres Act.
- 1.31 Zoning By-Law – means the Municipality Zoning By-Law, as amended from time to time, or any successor thereof.
- 1.32 Well Being – means a peaceful, healthy, prosperous and beneficial state.

2. Business Licence Required

- 2.1 No person shall carry on any business, set out in Schedule “A” of this By-Law, without a business licence.
- 2.2 For purposes of this By-Law, a person is deemed to be carrying on a business if engaged in the business directly or if employing a person, directly or indirectly, to carry on or engage in the business.
- 2.3 No business licence is required for an employee of a licensee where such employee, acting on behalf of the licensee, carries out the selling of goods, or provides services on behalf of the licensee.
- 2.4 Where more than one business is operated at one premise, all applicable business licences are required, and all applicable fees must be paid in full, unless otherwise provided by this By-Law.
- 2.5 This By-Law shall not apply to any activities carried on by or on behalf of the Municipality of Red Lake.

3. Obtaining a Business Licence

- 3.1 Any person seeking to obtain a new business licence shall submit to the By-Law Enforcement Officer a licence application in accordance with this By-Law.
- 3.2 The By-Law Enforcement Officer shall not accept a licence application if any of the applicants are under the age of eighteen (18) years of age.

3. Obtaining a Business Licence - Continued

- 3.3 The By-Law Enforcement Officer shall not accept any licence application or a renewal application until all requirements relating to the application , as set out in this By-Law, have been met.
- 3.4 In addition to and without limiting subsection 3.3, the By-Law Enforcement Officer shall not accept any licence application or renewal application unless all fines against the applicant pursuant to this By-Law or its predecessors have either been paid in full or are the subject of a Court approved payment schedule.

4. Application for Licence

- 4.1 Every application for a licence shall be made in writing upon a form approved by the By-Law Enforcement Officer and shall include:
- i) the fully and correctly completed application form;
 - ii) the applicable fee, as set out in the User Fees and Charges By-Law;
 - iii) proof of contractual or proprietary interest in the premises stated on the application; and
 - iv) any other information requested pursuant to this By-Law.
- 4.2 It is the responsibility of the applicant to ensure that all inspections required pursuant to Schedule "B" of this By-Law are completed.

5. Application for Renewal

- 5.1 Every application for renewal of a licence under this By-Law, shall be made in a form satisfactory to the By-Law Enforcement Officer and shall include:
- i) the fully and correctly completed renewal application form, if applicable;
 - ii) the applicable renewal fee, as set out in the User Fees and Charges By-Law;
 - iii) any other information required in the applicable schedule to this By-Law.
- 5.2 It is the responsibility of the applicant to ensure that all inspections required for renewal pursuant to Schedule "B" of this By-Law are completed no later than the expiry date of the current licence.
- 5.3 Notwithstanding section 5.2, the By-Law Enforcement Officer may, prior to the expiry of the licence, upon request by the applicant in writing;
- i) grant an extension of up to thirty (30) calendar days to the application for renewal, if the applicant demonstrates to the satisfaction of the By-Law Enforcement Officer that completion of work required to pass the inspection(s) is in progress; or
 - ii) grant an extension for such additional period of time as determined by the By-Law Enforcement officer to be appropriate, where due to extenuating circumstances, for reasons outside the control of the applicant, the inspecting authorities have not carried out the inspections required by Schedule "B" of the By-Law.

5. Application for Renewal - Continued

- 5.4 Notwithstanding subsection 5.2 and 5.6, the By-Law Enforcement Officer may, at any time, grant an extension to the time for the application for renewal and the expiry date of the current business licence for such additional period of time as is determined by the By-Law Enforcement Officer to be appropriate, to provide for a period of transition or an additional period of transition in the event of new or amended provisions of this By-Law affecting the process or requirements for renewing a licence.
- 5.5 In the case of an extension granted pursuant to subsection 5.3(i) and 5.3(ii) or 5.4, the expiry date of the current licence will be extended accordingly.
- 5.6 A licence that is not renewed by the expiry date or any extension of that date under this By-Law is no longer valid.

6. Additional Application Criteria

- 6.1 If an agent is applying on behalf of an applicant a signed letter from the applicant designating the agent to act on their behalf is required.
- 6.2 The submission of an application for a licence or an application for a renewal, including the related fee, does not entitle the applicant to carry on or engage in an action under this By-Law. The applicant is only entitled to do so once the application required by this By-Law has been issued for the said action.

7. Partnerships and Corporations

- 7.1 In addition to all other requirements of this By-Law, if an application for a licence is made by a partnership the application shall be accompanied by a written declaration, signed by all partners, stating:
- i) the full name of every partner and the address of his or her ordinary residence;
 - ii) the name or names under which he or she intends to place on the licence;
 - iii) that the persons therein named are the only members of the partnership; and
 - iv) the complete mailing address for the partnership, if applicable, and for each partner.
- 7.2 In addition to the requirements of section 3 and 4, if an application for a licence is made by a corporation, the application shall be accompanied by appropriate documentation and a written declaration signed by the authorized signing officer of the corporation stating:
- i) the full name of every director and officer of the corporation and the address of his or her ordinary residence;
 - ii) the name or names under which the corporation intends to place on the licence;
 - iii) that the persons therein named are the only officers of the corporation; and
 - iv) the complete mailing address for the corporation.

8. Issue of Business Licence

- 8.1 The By-Law Enforcement Officer is authorized to issue and renew licences in accordance with this By-Law.
- 8.2 Without limiting subsection 8.1, the By-Law Enforcement Officer may:
- i) impose special conditions on a licence in a class that have not been imposed on all of the licences in that class in order to obtain, continue to hold or renew a licence.
 - ii) impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence, upon the grounds that the conduct of the applicant or licensee, or any officer, director, employee or agent of the applicant or licensee, affords reasonable cause to believe that the applicant or licensee will not carry on or engage in the action in accordance with the law or with honesty and integrity.
- 8.3 No person shall fail to comply with conditions imposed on a licence by the By-Law Enforcement Officer.
- 8.4 All licences issued and renewed shall be signed by the By-Law Enforcement Officer.
- 8.5 All licences will be issued to the applicant and bear the name of the applicant.
- 8.6 Where two or more persons carry on or engage in partnership in any action set forth in Schedule "A" of this By-Law, the required licence(s) shall be issued to and bear the name of all partners, who will be jointly and severally responsible for complying with the requirements of this By-Law, including, without limitation, complying with the conditions of any licence issued hereunder.
- 8.7 The issuer of licences may revise the licence where the licence contains an error.

9. Changes in Information

- 9.1 Where, at any time, there is any change in, or relating to, any of the information or documents required to be filed with the Municipality under this By-Law, the applicant or licensee, as the case may be, shall report the change in writing to the By-Law Enforcement Officer no later than fifteen (15) calendar days following the change.

10. Requests from Applicants or Licensees

- 10.1 Where the applicant or licensee is more than one person, any requests regarding any application or licence shall be made by all such persons.

11. Term of Licence

- 11.1 Unless otherwise provided in accordance with section 11.5, or revoked pursuant to section 21, every licence shall be in effect from the date of issue, as shown on the licence:
- i) for the whole of the calendar year to which it applies, expiring on December 31st of said calendar year; or
 - ii) where the application for a business licence is received after January 1st and prior to the 2nd Monday in November of any calendar year, for the remainder of such calendar year, expiring on December 31st of said calendar year; or
 - iii) where the application for a business licence is received on or after the 2nd Monday in November but prior to December 31st in any calendar year, for the whole of the following calendar year, expiring on December 31st of that calendar year.
- 11.2 Except as otherwise indicated in this By-Law, every application for licence shall be subject to the full fee for such licence.
- 11.3 Every licence shall be renewed no later than its date of expiry. Any licence which is not so renewed shall become null and void.
- 11.4 Any person who has not renewed their licence prior to the date of its expiry will be required to apply for a new licence in accordance with sections 3 and 4 of this by-law, and the request shall be processed as a new application.
- 11.5 Notwithstanding section 11.1, the By-Law Enforcement Officer has the authority to stagger the renewal dates for licences. In such cases, the said licence shall be in effect from the date of issue to the date of expiry, as set out on the licence.

12. Duplicate Business Licence

- 12.1 In the event that a licence issued in accordance with this By-Law is lost or destroyed, the By-Law Enforcement Officer upon request by the licensee and upon satisfactory proof of such loss or destruction, and payment of a replacement fee set out in the User Fees and Charges By-Law, shall issue a duplicate of the original licence to the licensee, upon which shall be stamped or marked "duplicate".
- 12.2 Issuance of a duplicate licence in accordance with this section shall not affect the expiry date of the licence.

13. Transferability, Change of Ownership, Change of Location

- 13.1 Every licence issued under this By-Law shall be personal to the licensee(s) indicated on the licence, and to the location as indicated on the licence, and shall not be transferable from person to person.
- 13.2 A licence shall be deemed to be void immediately upon change of ownership.

14. Display of Business Licence

- 14.1 Every licensee shall ensure that the licence, or duplicate licence issued by the Municipality is posted within the premises.
- 14.2 Notwithstanding section 14.1, every licensee shall ensure that, where the licence does not apply to a premise, that the licence is in the licensee's possession at all times while engaged in the action for which the licence was issued.
- 14.3 Such person referred to in section 14.2, shall produce such business licence immediately to the By-Law Enforcement Officer or any other officers, upon request.
- 14.4 Every licensee shall ensure that the licence is not posted or displayed, or held out as valid, when the licence has expired, or has been revoked or suspended pursuant to this By-Law.

15. Alterations Prohibited

- 15.1 No person shall alter or deface a licence in any way.
- 15.2 Every licensee shall ensure that the licence is not altered or defaced in any way.

16. Compliance with other Laws Required

- 16.1 The issuance of a licence under this By-Law does not permit or condone the violation of any By-Law, statute, order, or regulation in effect in the Municipality, the Province of Ontario, or the Dominion of Canada and it shall be the responsibility of the licensee to ensure that such applicable legislation is complied with at all times.

17. Inspections

- 17.1 Subject to the provisions of the Municipal Act, an officer, accompanied by any person under his or her direction, may, at any reasonable time, enter onto or into any premises for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
 - i) any provision of this By-Law;
 - ii) a direction or order of an officer or of the municipality made under this By-Law or made under the Municipal Act in relation to the subject-matter of this By-Law;
 - iii) a condition of a licence issued under this By-Law; and
 - iv) an order made under section 431 of the Municipal Act in relation to the subject-matter of this By-Law.

17. Inspections - Continued

17.2 For purposes of an inspection under section 17.1, an officer may:

- i) require the production for inspection of documents or things relevant to the inspection;
- ii) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- iii) require information from any person concerning a matter related to the inspection; and
- iv) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take test, samples or photographs necessary for the purposes of the inspection.

17.3 In addition to and without limiting section 17.1, it shall be a condition of every licence issued under this By-Law that the licensee shall allow an officer, and any person under his or her direction, to carry out such inspections as are authorized pursuant to this By-Law, including without limitation any inspection pursuant to an order made under section 438 of the Municipal Act, as described in section 17.7 of this By-Law, an inspection to determine compliance with this By-Law, or with a direction or order of an officer or of the municipality made under this By-Law or made under the Municipal Act in relation to the subject-matter of this By-Law, an inspection to determine compliance with a condition of a licence issued under this By-Law, or an inspection to determine compliance with an order under section 431 of the Municipal Act.

17.4 No person shall obstruct or attempt to obstruct any person, including an officer, having authority for the enforcement or administration of this By-Law.

For purposes of this clause, "obstruct" means to hinder, mislead, provide false information or make a false claim or statement, or to prevent or attempt to prevent the execution of a power or duty, and without limiting the foregoing, includes:

- i) providing false or misleading information;
- ii) failing to identify oneself in accordance with sections 17.6.
- iii) preventing, barring or delaying or attempting to prevent, bar or delay entry or inspection by an officer, or any person under his or her direction, as provided for by this By-Law, including but not limited to the removal of documents or things relevant to the inspection, or the taking of any tests, samples or photographs necessary for the purposes of the inspection;
- iv) preventing, barring or delaying or attempting to prevent, bar or delay any person, including an officer, from carrying out his or her duties or exercising his or her powers under this By-Law;
- v) preventing, barring or delaying or attempting to prevent, bar or delay an officer, or any person under his or her direction, from exercising his or her authority pursuant to an order issued by a provincial judge or justice of the peace under section 438 of the Municipal Act, as described in Section 17.7 of this By-Law;

17. Inspections – Continued

- vi) failing to provide, upon request by an officer, any information, documents or things relevant to an inspection, including without limitation, any documents specifically required to be kept or provided by this By-Law; and
- vii) failing to surrender a licence, upon request by an officer, as required by section 17.5.

17.5 Every person who:

- i) is required to obtain a licence under this By-Law;
- ii) is a licensee under this By-Law; or
- iii) is in possession of a licence issued under this By-Law;

shall identify themselves verbally by giving their correct name and address, or with identification as defined in this By-Law, to an officer upon request, while such officer is executing his or her duties in relation to this By-Law.

17.6 In addition to any other provision of this By-Law, and subject to the provisions of the Municipal Act, a provincial judge or justice of the peace may issue an order made under section 438 of the Municipal Act, authorizing an officer and any person under his or her direction, to enter onto or into any premises, including a room or premises actually being used as a dwelling, for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- i) any provision of this By-Law;
- ii) a direction or order of an officer or of the municipality made under this By-Law or made under the Municipal Act in relation to the subject-matter of this By-Law;
- iii) a condition of a licence issued under this By-Law; and
- iv) an order made under section 431 of the Municipal Act in relation to the subject-matter of this By-Law;

and to exercise powers described in section 17.2 of this By-Law, where the provincial judge or justice of the peace is satisfied by evidence under oath that the inspection is reasonably necessary and the officer has been prevented or is likely to be prevented from doing anything set out in section 17.1 and 17.2 of this By-Law.

17.7 An officer named in an order described in section 17.7, and any person under his or her direction named therein, may, in accordance with the order, enter onto or into the premises described therein, including any room or premises actually being used as a dwelling, which is described therein, to undertake said inspection, and may, for that purpose, exercise any power set out in the order.

18. Orders and Remedial Actions

18.1 If an officer is satisfied that a contravention of this By-Law has occurred, the officer may make an order requiring the person who contravened the By-Law to discontinue the contravening activity.

18. Orders and Remedial Actions – Continued

18.2 An order under section 18.1 shall set out:

- i) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
- ii) the date by which there must be compliance with the order.

18.3 No person shall fail to comply, in whole or in part, with an order issued under section 18.1.

18.4 If an officer is satisfied that a contravention of this By-Law has occurred, the officer may make an order requiring the person who contravened the By-Law to do work to correct the contravention.

18.5 An order under section 18.4 shall set out:

- i) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
- ii) the work to be done and the date by which the work must be done.

18.6 An order under subsection 18.4 may require work to be done even though the facts which constitute the contravention of the By-Law were present before this By-Law making them a contravention came into force.

18.7 No person shall fail to comply, in whole or in part, with an order issued under section 18.4.

19. Refusal to issue or Renew a Licence

19.1 The By-Law Enforcement Officer may refuse to issue or renew a licence:

- i) If all inspections required pursuant to this By-Law have not been completed and passed;
- ii) where the conduct of the applicant or licensee, including the conduct of any officer, director, employee or agent of an applicant or licensee affords reasonable cause to believe that the applicant or licensee will not carry on or engage in the action in accordance with the law or with honesty and integrity;
- iii) where the issuance of the licence, or renewal of the licence, would be contrary to the health, safety or wellbeing of people in the Municipality of Red Lake.
- iv) where the applicant or licensee has past convictions under this By-Law, or any other By-Law, statute or regulation relating to the licence;
- v) where the applicant or licensee is carrying on an activity in relation to the licence that is, or will be, if the applicant is licensed, in contravention of this By-Law or any other By-Law, statute or regulation;

19. Refusal to issue or Renew a Licence - Continued

- vi) where it is determined that the licence does not comply with applicable legislation such as but not limited to the Building Code and Building Code Act, Fire Protection and Prevention Act, Health Protection and Promotion Act, Property Standards By-Law, and Zoning By-Law;
- vii) where there is a Court order, or any federal or provincial order ceasing the activity of the licence;
- viii) upon such other grounds as are set out in the By-Law.

20. Refund of Fee on Refusal to Issue or Renew a Licence

- 20.1 Where the By-Law Enforcement Officer decision to refuse to issue or renew a licence is not appealed in accordance with this By-Law, or is confirmed by Council, the fee paid in relation to the application for licence or application for renewal, shall be refunded to the applicant.

21. Revoking or Suspending a Licence

- 21.1 The By-Law Enforcement Officer may recommend that a licence be suspended or revoked:

- i) where the conduct of the licensee, including the conduct of any officer, director, employee or agent of a licensee affords reasonable cause to believe that the applicant or licensee will not carry on or engage in the action in accordance with the law or with honesty and integrity;
- ii) where the continuation of the licence would be contrary to the health, safety or wellbeing of people in the Municipality;
- iii) where the licensee is convicted of an offence or has convictions under any provision of this By-Law, or any other By-Law, statute or regulation relating to the business;
- iv) where the licensee is carrying on an activity in relation to an action that is in contravention of this By-Law, or any other By-Law, statute or regulation;
- v) where it is determined that the action does not comply with the applicable legislation such as but not limited to the Zoning By-Law, Building Code and Building Code Act, Fire Protection and Prevention Act, Health Protection and Promotion Act, Property Standards By-Law, and the Yard Maintenance By-Law;
- vi) where the business licence was issued in error based on incorrect or incomplete information provided by the applicant; or
- vii) where the licensee would be disentitled to a licence for any other reason set out in this By-Law.

- 21.2 A business licence issued under this By-Law shall remain in effect until a decision to revoke or suspend the licence has been made by Council.

22. Refund of Fee on Revocation of Licence

22.1 When Council's decision is to revoke or suspend a business licence, no portion of the inspection fee or licence application fee is refundable.

23. Appeal Procedure

23.1 Where the By-Law Enforcement Officer refuses to issue or renew a licence, or recommends the suspension or revocation of a licence:

- i) the By-Law Enforcement Officer shall send written notice advising the applicant or licensee of the refusal, or of the recommendation to suspend or revoke the licence;
- ii) the written notice of the By-Law Enforcement Officer shall be sent to the applicant or licensee at the address of the applicant or licensee provided on the application, or where a change of information has been provided by the applicant or licensee regarding address, at the address reflecting that change of information;
- iii) the written notice shall:
 - a. set out the grounds for the refusal or recommendation;
 - b. give reasonable particulars of the grounds;
 - c. be signed by the By-Law Enforcement Office; and
 - d. indicate the final date and time by which the applicant or licensee may appeal the decision to refuse to issue or renew the licence, or request a hearing before the Appeals Committee regarding the recommendation for suspension or revocation, and the method for doing so, as set out in section 23.1(iv); and
- iv) The applicant or licensee may appeal the decision to refuse to issue or renew licence, or request a hearing before the Appeals Committee regarding the recommendation of the By-Law Enforcement Officer to suspend or revoke a licence, by filing a written request with the Secretary of the Appeals Committee at the Office of the Clerk, which request must set out the grounds or basis for the request, and must be received in the Office of the Clerk no later than 4:00 p.m. on the fourteenth (14th) calendar day from the date on the notice described in section 23.1(iii).

23.2 If no written request for an appeal or hearing is received from the applicant(s) or licensee(s) before the deadline as set out in section 23.1(iv) regarding the By-Law Enforcement Officer decision to refuse or recommend to suspend or revoke a licence:

- (i) no extension of the time to request an appeal or hearing will be granted;
- (ii) in the case of a refusal, the decision of the By-Law Enforcement Officer will be final; and
- (iii) in the case of a recommendation to suspend or revoke a licence, the By-Law Enforcement Officer recommendation that a licence be suspended or revoked will be forwarded to Council with notice to the applicant or licensee.

24. Hearing of Appeals

24.1 Upon receipt of a written request for a hearing from the applicant or licensee, in accordance with section 23.1(iv) the Secretary to the Appeals Committee shall:

- i) fix a date and time for such matter to be heard by the Appeals Committee within 30 days of receipt of the appeal; and
- ii) send by registered mail or hand delivery the notice of hearing, which shall include the date, time and location of the hearing, at least fifteen (15) calendar days prior to the date and time fixed for such hearing, to the applicant or licensee, the By-Law Enforcement Officer, as determined by the Secretary of the Appeals Committee, or any other person who has requested such notification in writing from the Secretary of the Appeals Committee.

25. Service of Written Notice

25.1 Written correspondence relating to the Appeals and Hearing procedure referred to in this By-Law is sufficiently served if hand delivered or sent by registered mail addressed to the applicant or licensee at the address provided on the application or most recent address provided by the applicant or licensee, as the case may be, according to the By-law Enforcement Officer.

25.2 When service is made by registered mail, the service shall be deemed to be received on the fifth working day after the day of mailing, and where served by hand delivery shall be deemed to be received immediately.

26. Hearing Procedure

26.1 The following procedure shall be followed for hearings relating to the refusing, suspending or revoking of any licence under this By-law:

- i) The Secretary of the Appeals Committee shall circulate copies of all reports from the By-law Enforcement Officer and any officers, inspectors, investigators, employees of the corporation or other municipal, provincial, or federal agencies, police officers or Medical Officers of Health, who may be involved in the matter, to the applicant, licensee or any other person to whom notice of the hearing has been given;
- ii) The applicant or licensee, either personally or through an agent or solicitor, shall be afforded an opportunity to present such material and evidence relevant to the issue before the Appeals Committee, and may ask question of any person presenting evidence, relating to the evidence presented, or of any author of a report to Council relevant to the said issue;
- iii) The Appeals Committee may afford any other person who appears to have an interest in the matters under discussion, an opportunity to present material and evidence relevant to the issue before the Appeals Committee;

26. Hearing Procedure - Continued

- iv) The provisions of the Statutory Powers Procedure Act, R.S.O. 1990, c.S.22, except sections 17.1, 18 and 19, as amended from time to time, or any successor thereof, shall apply to all hearings conducted by the Appeals Committee under this By-Law; and
 - v) Any person presenting evidence relevant to the hearing must be present to answer questions in relation to that evidence.
- 26.2 If the applicant or licensee who has been sent notice of the hearing does not appear at the appointed time and place of the hearing, the Appeals Committee may proceed with the hearing in the absence of the applicant or licensee and if so, the applicant or licensee shall not be entitled to any further proceeding or any further notice of the proceedings; but shall be sent a copy of the Appeals Committee's recommendation.
- 26.3 The Appeals Committee shall, after having heard all of the evidence and submissions made at the hearing, make a recommendation to Council, in writing, as soon as practicable;
- i) that a licence be granted, refused, suspended or revoked with or without conditions, relevant to the subject of the hearing, or as agreed to by the applicant; and
 - ii) in the case of a recommendation to suspend a licence, that the suspension of a licence be for such length of time as deemed appropriate by the Appeals Committee.
- 26.4 "The Recommendation" of the Appeals Committee shall be determined by a vote of the Appeals Committee, and shall be forwarded to Council in the form of a report.
- 26.5 The Secretary to the Appeals Committee shall:
- i) within five (5) days of the hearing of the Appeals Committee, send a copy of the recommendation by the Appeals Committee to be made to Council to the applicant or licensee, By-Law Enforcement Officer and any other persons affected by the Appeals Committee's recommendation, at least fifteen (15) days prior to the date and time fixed for Council's consideration of the recommendation; and
 - ii) where the Appeal Committee has received a request from any person who appeared before the Appeals Committee send a copy of the recommendation to such person, at least fifteen (15) days prior to the date and time fixed for Council's consideration of the recommendation.

26. Hearing Procedure – Continued

26.6 “The Recommendation” shall:

- i) include the date, time and location of the Council meeting at which the recommendation of the Appeals Committee will be considered by Council;
- ii) summarize the evidence and the arguments presented at the hearing;
- iii) set out the Appeal Committee’s findings of fact;
- iv) set out the recommendation(s) of the Appeals Committee; and
- v) state the grounds or basis for the Appeal Committee’s recommendation(s).

27. Council After the Hearing

- 27.1 Council may grant, refuse, suspend or revoke the licence with or without conditions, and may impose conditions recommended by the Appeals Committee or any other conditions relevant to the subject of the hearing, or as agreed to by the applicant; or do any act, or make any decision that it might have done had it conducted the hearing itself.
- 27.2 The applicant or licensee may request to appear before Council as a delegation in accordance with the Municipality’s Procedural By-Law, but shall not be entitled to any further formal hearing conducted at the Council meeting.
- 27.3 The decision of Council to grant, refuse, suspend or revoke a licence shall be final.
- 27.4 Notwithstanding any other provision of this By-law, the Council may, if satisfied that the continuation of a business poses an immediate danger to the health or safety of any person or to any property, for the time and on such conditions as it considers appropriate, without a hearing, suspend a licence for a period not to exceed 14 days.
- 27.5 Before Council considers suspending a licence under clause 27.1, the Clerk shall provide the licensee with the recommended reasons for the suspension, in writing, and an opportunity to respond to them in writing prior to the Council meeting, and orally at the Council meeting. The notice shall be hand delivered, or confirmed faxed or received by courier at least 48 hours prior to Council’s consideration of the suspension.

28. Returning Business Licences

- 28.1 The Clerk shall send written notice to the applicant or licensee or any other person requesting to be notified of the decision of Council respecting the hearing and such notice shall be sent within three days of the decision of Council.

28. Returning Business Licences - Continued

- 28.2 When a licence has been revoked or suspended; the holder of the licence shall return the licence to the By-law Enforcement Officer within two business days of service of the written notice of the decision of Council.

29. Offences

- 29.1 Every person who contravenes any provision of the By-Law, including any Schedule hereto, is guilty of an offence.
- 29.2 Every director or officer of a corporation who knowingly concurs in the contravention by the corporation of any provision of this By-Law, including any Schedule hereto, is guilty of an offence.
- 29.3 Every offence under this By-Law is designated as a counting offence.

30. Penalties

- 30.1 Except as otherwise provided in this By-Law, every person who is convicted of an offence under any provision of this By-Law shall be liable to a fine not to exceed \$10,000 per day or each part of a day that the offence continues.
- 30.2 The penalty set out in this section shall be in addition to any other penalties available at law.

31. Schedules

- 31.1 Unless otherwise stated, the requirements of the Schedules shall be in addition to all other requirements of this By-Law.

32. Validity

- 32.1 It is hereby declared that notwithstanding that any section of this By-Law, or parts thereof, may be found by any Court of law to be invalid or beyond the power of the Council to enact, such Section or Sections or parts thereof shall be deemed to be severable and that all other Sections or parts of this By-Law are separate and independent therefrom and enacted as such.
- 32.2 When any requirement of this By-Law is at variance with any other By-Law in effect in the Municipality of Red Lake or with any applicable Provincial or Federal statute or regulation, the more restrictive requirement shall apply unless otherwise stated in such regulation.

33. Short Title

This By-Law may be cited as the Municipality of Red Lake "Licencing By-Law".


34. Enactment

34.1 By-Law No. 566-05 is hereby repealed.

34.2 This By-Law shall come into force and effect on the date the Ministry of the Attorney General approves the Set Fines under By-Law No. 1783-13.


READ a FRIST AND SECOND TIME this 17th day of June, 2013


Phil T. Vinet, Mayor


Shelly L. Kocis, Clerk

READ a THIRD TIME and FINALLY PASSED this 17th day of June, 2013.


Phil T. Vinet, Mayor


Shelly L. Kocis, Clerk

BY-LAW INDEX

PAGE B5
NAME Licensing/Regulating
CODE _____
RD RG 566-05
CROSS _____

cc: by-law^y, clerk^y/dep clerk^y

Schedule "A"
To By-Law No. 1783-13

Types of Licences

Schedule	Business
"C"	Home-Based Business
"D"	Itinerant Salesperson
"E"	Special Event

Schedule "B"
To By-Law No. 1783-13

Required Inspections
Initial Applications and Renewals

Schedule	Business	Application	Renewal
"C"	Home-Based Business	By-Law, Zoning, Fire, Building	By-Law
"D"	Itinerant Salesperson	By-Law, Zoning, Fire, Building	By-Law
"E"	Special Event	By-Law, Zoning, Fire, Building	By-Law

Schedule "C"
To By-Law No. 1783-13

Home-Based Business

Page 1 of 2

The provisions of this Schedule shall apply in respect of Home-Based Businesses.

1. Interpretation

1.1 In addition to the terms defined in Section 1 of this By-Law, the following term shall have the corresponding meaning:

i) Home-Based Business – shall mean every person who:

- a) operates a business out of their home;
- b) has resided in the Municipality for three (3) consecutive months or more;
- c) whose property has not been entered on the assessment roll in respect of commercial assessment for the current year; and
- d) offers goods and services within the Municipality.
- e) Complies with the Municipal Zoning By-Law and Official Plan.

2. Conditions

2.1 The By-Law Enforcement Officer shall issue the license subject to any conditions requested by the Chief Building Official, the Fire Chief, the Northwestern Health Unit, the Planning Administrator, or their designates.

2.2 The By-Law Enforcement Officer may at any time review a licence and may, rather than refuse or revoke the licence, attach to the licence conditions. Where conditions to a licence are attached under this section, failure to comply with the conditions shall result in automatic suspension of the licence.

3. Grounds Maintenance

3.1 It is an offence for the owner or the operator of a home-based business to fail to maintain the grounds of the business, including: keeping all grass and hedges cut and trimmed; keeping all buildings repaired and in a clean and sanitary condition; keeping the furnishings, equipment, washroom facilities, lighting fixtures and appliances in a state of good repair and in a clean and sanitary condition.

4. Nuisance Prevention

4.1 It is an offence for the owner or operator of a home-based business to fail to take all necessary steps to prevent nuisance by way of noise, debris, parking, trespassing, wandering animals, etc. on or around highways and properties adjacent to the business.

Home-Based Business

Page 2 of 2

5. Exemptions

5.1 The Municipal Act states the following are exempt from this By-Law:

- a) Courier business in which parcels and documents are conveyed in vehicles, other than buses and cabs, that are used for hire;
- b) Business of trading in real estate;
- c) Electricians, master electricians or electrical contractors;

6. Onus of Proof of Qualification for Exemption

6.1 Any Home-Based Business who claims an exemption under Section 6 of this Schedule must provide to the By-Law Enforcement Officer, upon request, the appropriate evidence in support of the claim for the exemption. In a prosecution for breach of this By-Law, the onus of proving an exemption from requirement for a Home-Based Business Licence is upon the person claiming the exemption.

7. Circulation Requirements

7.1 For the purposes of this By-Law, applications may be circulated to the Chief Building Official, Planning Administrator, Fire Chief, Northwestern Health Unit, and the Clerk.

Schedule "D"
To By-Law No. 1783-13

Itinerant Salesperson

Page 1 of 2

The provisions of this Schedule shall apply in respect of Itinerant Salesperson.

1. Interpretation

1.1 In addition to the terms defined in Section 1 of this By-Law, the following term shall have the corresponding meaning:

- i) Itinerant Salesperson – shall mean a person who:
 - a) has not resided in the Municipality for three (3) consecutive months or more;
 - b) goes from place to place, or to a particular place with goods, wares or merchandise for sale; or
 - c) who carries and exposes samples, patterns or specimens of any goods, wares or merchandise that are to be delivered in the Municipality afterwards.
 - d) Complies with the Municipal Zoning By-Law and Official Plan.

Without limiting the generality of the foregoing, the terms "peddler" or "hawker" have identical meaning.

2. Application Requirements

2.1 An applicant for an Itinerant Salesperson's licence shall clearly indicate in the application whether the Itinerant Salesperson will sell from place to place or whether they will sell from one location only. The license issued shall clearly specify whether the licensee is authorized to sell from place to place or from a specified location.

3. Zoning and Occupancy Requirements

3.1 Itinerant Salesperson Licences shall not be issued for particular locations unless:

- a) the applicant has provided written proof, satisfactory to the By-Law Enforcement Officer that he or she is the property owner of the land at the location; or
- b) the applicant has the authority of the property owner and/or manager to vend from the site.

4. Conditions

4.1 The By-Law Enforcement Officer shall issue the license subject to any conditions requested by the Chief Building Official, the Fire Chief, the Northwestern Health Unit, the Planning Administrator, or their designates.

4.2 The By-Law Enforcement Officer may at any time review a licence and may, rather than refuse or revoke the licence, attach to the licence conditions. Where conditions to a licence are attached under this section, failure to comply with the conditions shall result in automatic suspension of the licence.

Itinerant Salesperson

Page 2 of 2

5. Exemptions

- 5.1 An Itinerant Salesperson's Licence is not required by the following persons:
- a) Persons peddling goods, wares, or merchandise to wholesale or retail dealers in similar goods, wares or merchandise;
 - b) Growers, producers, or manufacturers (or their authorized agents or employees) who reside in the Municipality of Red Lake and are peddling goods, wares or merchandise which are grown, produced or manufactured in Ontario;
 - c) A farmer resident in Ontario peddling only goods, wares merchandise or produce from his or her own farms;
 - d) Persons who lease or own realty within the Municipality of Red Lake upon which they operate a business selling the same wares that are proposed to be peddled;
 - e) Persons who sell milk or cream or fluid milk products either by wholesale or retail; or
 - f) Persons who are agents or employees of non-profit or charitable organizations, who are vending for the benefit of the charitable organization.

6. Onus of Proof of Qualification for Exemption

- 6.1 Any Itinerant Salesperson who claims an exemption under section 4 of this Schedule must provide to the By-Law Enforcement Officer, upon request, the appropriate evidence in support of the claim for the exemption. Similarly, in a prosecution for breach of this By-Law, the onus of proving an exemption from requirement for a Itinerant Salesperson's Licence is upon the person claiming the exemption.

7. Nuisance Prevention

- 7.1 It is an offence for an Itinerant Salesperson to fail to take all necessary steps to prevent nuisance by way of noise, debris, parking, trespassing, etc. on or around highways and properties adjacent to them.

8. Circulation Requirements

- 8.1 For the purposes of this By-Law, applications may be circulated to the Chief Building Official, Planning Administrator, Fire Chief, Northwestern Health Unit, and the Clerk.

Schedule "E"
To By-Law No. 1783-13

Special Event

Page 1 of 2

The provisions of this Schedule shall apply in respect of Special Events.

1. Interpretation

1.1 In addition to the terms defined in Section 1 of this By-law, the following term shall have the corresponding meaning:

- i) Special Event – shall mean:
 - a) An event which is operated by a local entity which is not a charity or a non-profit association or corporation;
 - b) An event that the financial proceeds to which are not donated to a charity or a non-profit association or corporation;
 - c) The event is intended to gather large numbers of people in a single place for a specific occurrence or performance.

The term includes: Exhibitions, circuses, craft shows, trade shows or home shows, outdoor party or picnic-style events, fireworks or lighting displays, music festivals and jamborees, outdoor/indoor theatres for the presentation of drama, recreational spot or athletic competitions, gatherings involving mechanical or other (such as inflatable) amusement devices. The term expressly excludes non-commercial gatherings such as weddings or other similar social events.

2. Application Requirement

- 2.1 Every applicant for a licence to hold a special event, as part of the application for the licence, furnish a statement in writing containing a full list of the businesses or organizations that have rented booths, description of the goods, wares or merchandise that will be for sale under the licence.
- 2.2 All persons intending to organize or host a Special Event must apply to the licensing officer for a licence at least one month in advance of the date that the Special Event will occur.

3. Conditions

- 3.1 The By-Law Enforcement Officer shall issue the license subject to any conditions requested by the Chief Building Official, the Fire Chief, the Northwestern Health Unit, the Planning Administrator, or their designates.
- 3.2 The By-Law Enforcement Officer may at any time review a licence and may, rather than refuse or revoke the licence, attach to the licence conditions. Where conditions to a licence are attached under this section, failure to comply with the conditions shall result in automatic suspension of the licence.

Schedule "E"
To By-Law No. 1783-13

Special Event

Page 2 of 2

4. License Term

- 4.1 Every Special Event licence issued within the Municipality is valid for the time period stated on the licence.

5. Nuisance Prevention

- 5.1 It is an offence for the operator of a Special Event to fail to take all necessary steps to prevent nuisance by way of noise, debris, parking, trespassing, wandering animals, etc. on or around highways and properties adjacent to the business.

6. Exemptions

- 6.1 The following are exempted from purchasing a special event license:
- a) Charities and non-profit organizations;
 - b) Municipally organized special events.

7. Books and Records

- 7.1 Where a person claims that an event does not meet the definition of "Special Event" so as to be regulated by this Schedule to this By-Law, he or she shall make available to the By-Law Enforcement Officer at any reasonable time all books and records associated with the event in order to demonstrate that the event was operated by a charity or a non-profit corporation, or that all of the financial proceeds were donated to a charity or non-profit corporation. Failure to provide the books and records pursuant to this section is an offence.

8. Circulation Requirements

- 8.1 For the purposes of this By-Law, applications may be circulated to the Chief Building Official, Planning Administrator, Fire Chief, Northwestern Health Unit, and the Clerk.

Schedule "F"
To By-Law No. 1783-13

Set Fines

"Part 1 Provincial Offences Act"

THE CORPORATION OF THE MUNICIPALITY OF RED LAKE

Municipality of Red Lake		By-Law No. <u>1783-13</u>		Title: Licensing By-Law	
Item #	Column 1 (Short Form Wording)		Column 2 (Provision Creating or Defining Offence)		Column 3 (Set Fines)
1.	Operating a business without a license.	Sec.	2.1		\$250.00
2.	Fail to comply with specified conditions.	Sec.	8.3		\$250.00
3.	Fail to post a business license.	Sec.	14.1		\$50.00
4.	Fail to produce a business license.	Sec.	14.3		\$50.00
5.	Alter or deface a licence.	Sec.	15.1		\$50.00
6.	Obstruct or attempt to obstruct any person, including an officer.	Sec.	17.4		\$250.00
7.	Fail to comply with an order issued under section 18.1.	Sec.	18.3		\$250.00
8.	Fail to comply with an order issued under section 18.4.	Sec.	18.7		\$250.00

"Note: The general penalty provision for the offences listed above is Section 30 of By-Law No. 1783-13, a certified copy of which has been filed and Section 61 of the Provincial Offences Act, R.S.O. 1990, c. P.33".