

## TOWN OF NIVERVILLE

### BY-LAW No. 855-23

Being a by-law of the Town of Niverville for the purpose of licensing Temporary for-profit Businesses.

**WHEREAS** Subsection 232(1) of The Municipal Act, C.C.S.M., Cap. M225 (the "Act") states in part that:

"A Council may pass by-laws for municipal purposes respecting the following matters...

(b) people, activities and things in, on or near a public place or a place open to the public, including parks, municipal roads, recreation centres, restaurants, facilities, retail stores, malls, and private clubs and facilities that are exempt from taxation.....

(n) businesses, business activities and persons engaged in business"

**AND WHEREAS** it is deemed expedient and in the best interests of the Town of Niverville (Town) to provide for the issuance of licenses and regulation of persons and firms doing business in the Town.

#### 1) DEFINITIONS

- a. **"Administrator"** means the Administrator for the Town;
- b. **"Applicant"** means any person or firm carrying on a business or intending to carry on a business in the Town including any Transient Trader;
- c. **"Business"** means, subject to the terms of the Bylaw, any trade, auction, occupation or vocation whether or not it is carried on continuously or on an intermittent or one-time basis, and whether or not the person has an established place of business within the Town, and shall include the business of being a Transient Trader, but excludes Mobile Food Service Units which sell consumable goods.
- d. **"Bylaw Enforcement Officer"** means a person duly appointed to enforce this Bylaw.
- e. **"Council"** means the Council of the Town;
- f. **"License"** means a license issued under this Bylaw;
- g. **"Licensee"** means the holder of a current license issued under this Bylaw;
- h. **"Location(s)"** means the location(s) approved by the Town;
- i. **"Town"** means the Town of Niverville;
- j. **"Transient Trader"** means a peddler and other persons who go from place to place, or from door to door, by any means bearing or drawing any goods, wares, services or merchandise for sale;

- k. **"Vendor"** means any person who has received a License from the Town to offer a product or service from a Vending Unit at an approved Location(s) or as a Transient Trader;
- l. **"Vending Unit"** means the mobile unit or structure, such as a vehicle or cart, irrespective of the type of power required to move the vehicle or device from one point to another, or a shelter or tent type of structure from which a product or service is offered to the public with or without charge;
- m. **"Wholesaler"** means any business whose service is to supply other businesses goods for the purpose of resale;

## 2) LICENSES

- a. No person or firm shall carry on any business within the limits of the Town unless and until such time as the person or firm has procured a license to do so from the Town and has paid the applicable license fee to the Town as set out in attached Schedule "A", which may be duly amended by resolution of Council. Every person and firm so licensed shall be subject to the provisions of this Bylaw.
- b. A separate License is required for each Business and the particulars of each License applied for shall be included on a separate application form for each License and the corresponding License fee shall be provided to the Town.
- c. Any license issued under this Bylaw shall cover the period from January 1 to December 31 of each year and shall terminate on December 31 of each year except as provided in Schedule "A" of this Bylaw.
- d. No person or firm to whom a License has been issued shall carry on business before a license has been issued, or after the License has lapsed or been cancelled by the Town unless a new License is issued by the Town.
- e. A License shall not be transferrable to any other person or business and shall be valid only for the date(s), operating time(s) and location(s) as approved by the Town.
- f. If after an investigation the Town concludes that a Licensee is carrying on a Business in an improper manner, the Bylaw Enforcement Officer shall be entitled to suspend such License immediately. Licensee will be notified by registered mail of their right to appeal within fourteen (14) days of service. The decision of Council on appeal shall be final and binding.
- g. Upon revocation of a License, there will be no refund of any portion of the License fee paid by the Licensee.
- h. Every License issued hereunder shall be produced by the Licensee at any time or times upon demand by the Bylaw Enforcement Officer, administrator, any member of Council, or any other person duly authorized by Council to demand production of the License.



- i. The Vendor shall indemnify and save the Town harmless from and against all costs, losses, claims, actions or causes of action arising from the Vendor's activities under the License.
- j. The Town reserves the right to impose blackout dates at its sole discretion, and blackout dates may be changed on an annual basis. Application forms will include blackout dates for the current year.

### 3) APPLICATION

- a. Applicants must complete and submit an application form during regular business hours to the Niverville Town Office to request a License. Applications will be processed on a first come, first served basis.
- b. Applications must be complete in order to be considered, including:
  - i. A completed and signed application form;
  - ii. Identifying the type of Business that the applicant is applying for permission to use within the Town;
  - iii. Specify the proposed days and hours of operation;
  - iv. Identify the proposed location(s) for the operation of the Business; and
  - v. Any other information which may be deemed necessary and requested by the Town and shall be accompanied by the appropriate fee listed on Schedule "A" of this Bylaw.
- c. An applicant may only submit a maximum of 2 applications per season.
- d. License fees paid hereunder shall not be refundable.
- e. Any person proposing to obtain a transfer of a License with respect to a change of location(s) shall make application to the Town, and the powers, conditions, requirements and procedures relating to the initial License application shall apply, except as to fees.
- f. Any person proposing to obtain a transfer of a License shall pay for a License transfer fee at the time of application, as listed on Schedule "A" of this Bylaw.
- g. A License authorizes only the person or business named in the License to carry on only the business described in the License, and only at the location or locations described, and date(s) and operating times described and approved by the License.
- h. No Licensee shall change any condition upon which the License fee is based without first making an application for a change, paying the change fee and additional License fee payable under this bylaw as a result of the changes, and obtaining a revised License.

### 4) LOCATION(S)

- a. Proposed location(s) will be reviewed and either amended or approved as outlined in the application.
- b. Transient Traders must indicate area that they will be canvassing.

- c. Location(s) are subject to a 200-metre setback from businesses in the adjacent area selling the same product or service, as determined in the sole opinion of the Town.

#### 5) ACKNOWLEDGEMENT

- a. All applicants must sign an acknowledgement outlining that they understand the terms and conditions of their License.
- b. The Town has the right to revoke a License in the event that the Vendor has not complied with the terms and conditions outlined in their License.

#### 6) SITE OPERATIONS

- a. The Licensee must strictly adhere to the approved prescribed Location(s). The Town reserves the right to limit amount of space that the Business occupies in its approved location(s).
- b. It is the responsibility of the Vendor to:
  - i. Maintain the Location(s) and equipment in a clean and orderly condition;
  - ii. Provide waste receptacles outside the Vending Units for public use, if the product or service offered produces waste materials;
  - iii. Ensure waste receptacles are removed from Town property during non-operating hours and that the site is properly cleaned (free of debris) prior to closing hours;
  - iv. Where applicable, place traffic cones to restrict customer parking in non-designed areas;
  - v. Remove Vending Units from the site after closing hours; and
  - vi. Comply with all rules, bylaws and policies of the Town.
- c. All power and energy associated with street vending must be provided by the Licensees. Utilization of municipal energy sources, outlets, standards, etc. at any of the Location(s) is prohibited unless prior permission has been granted in writing by the Town.
- d. The License must be located on the site of the Vending Unit, prominently displayed at all times and must be viewable by the public during hours of operation.

#### 7) SAFETY AND TRAFFIC IMPLICATIONS

- a. The Town reserves the right to relocate or remove a site:
  - i. Should there be safety concerns and other logistical problems with a site from a safety and traffic perspective; and
  - ii. In order to accommodate repairs or maintenance of any pavement, parking lot, walk, streetlight, signal light or underground facility.
- b. The Vendor shall not conduct business in such a way as to impede pedestrian or vehicular traffic flow.
- c. No Vending Unit shall be left unattended during operation.
- d. No Vending Unit shall be parked in an approved location(s) in excess of 14 hours.



- e. All advertising must be attached to the Vending Unit and shall advertise only products or services offered by the Business on-site. Advertising signs shall not extend beyond the overall width or height of the Vending Unit.

#### 8) RESTRICTIONS

- a. No Licensee shall carry on a business during the hours of quiet as stipulated in Town Bylaw No. 655-07 or any amendments thereto; and
- b. No Licensee shall operate or permit the operation of a Vending Unit in an unapproved Location(s), during unapproved days or unapproved operating hours.

#### 9) EXEMPTION

- a. Any exemption to this Bylaw shall only be made by resolution of Council from time to time conducted during a duly called open Council business meeting.
- b. Any Business against which a commercial mill rate tax levy is assessed on the property within Niverville primarily from which the business operates shall be exempt from the License fee but must still obtain a License and operate in an approved location(s) and according to the terms and conditions in the License.
- c. Any contractor or trades person who is required to purchase a building permit for the performance of a service is exempt for work performed on the site covered by the permit.
- d. Any Wholesaler is exempt.

#### 10) REVOCATION, SUSPENSION

- a. The Town may revoke or suspend any vending License if the Business has:
  - i. Knowingly made any false, misleading or fraudulent statement of the material fact in its application for a vending permit;
  - ii. Violated any of the terms and conditions set forth in the By-law;
  - iii. Failed to comply with any order to cease and desist from any violation; and
  - iv. In any other way endangers the public health, safety and welfare in the conduct of vending activities.

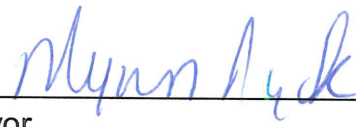
#### 11) ENFORCEMENT AND PENALTY


- a. This Bylaw shall be administered by a Bylaw Enforcement Officer, or other individual duly appointed by Council, and such person shall act under the general supervision of the Administrator.
- b. The Town is authorized to enforce this bylaw as per Bylaw 778-17; including charging penalties, and revoking Licenses as required.
- c. Every person who contravenes or refuses, neglects, omits or fails to obey or observe any provision of the Bylaw is guilty of an offence and is liable, upon summary conviction, to a fine as per Bylaw 778-17, for each offence so convicted.

- d. Each offense is to be considered as separate and apart from any previous subsequent offense.

12) THAT By-law No. 793-18 is hereby repealed.

**DONE AND PASSED** by Council of the Town of Niverville duly assembled on the 6<sup>th</sup> day of June, 2023.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Chief Administrative Officer

Read a first time this 16th day of May, 2023  
Read a second time this 6<sup>th</sup> day of June, 2023  
Read a third time this 6<sup>th</sup> day of June, 2023

## **SCHEDULE "A"**

Town of Niverville

By-law No. 855-23

The following fees\* shall be paid to the Town to obtain a Temporary for-profit Business License:

1. Temporary For-Profit Business License
  - a. Weekly Rate - \$250 for 7 consecutive days
  - b. Monthly Rate - \$750 for 30 consecutive days
  - c. Annual Rate - \$1,500 for 365 consecutive days
  - d. License Transfer Fee - \$50.00
  - e. Condition Change Fee - \$50.00

\*Minimum fee for license is the weekly rate.

There will be no credit given for a permit that has already been issued, should a Business want an extension.

For example: Business has paid for 1 month and now wants to extend the permit for the season – they will be required to pay the seasonal rate.