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CONSOLIDATION DATE APRIL 16, 2024**

**TOWN OF SWAN RIVER
BY-LAW NO. 20/2022**

BEING A BY-LAW OF THE TOWN OF SWAN RIVER FOR THE LICENSING AND REGULATION OF BUSINESSES CARRIED ON WITHIN THE MUNICIPALITY.

WHEREAS subsection 1(1) of the Municipal Act S.M. 1996, c. 58 defines "business" as

- (a) a commercial, merchandising or industrial activity or undertaking,
- (b) a profession, trade, occupation, calling or employment, or
- (c) an activity providing goods or services,

whether or not it is carried on continuously or on an intermittent or one time basis, and whether or not for profit, and however organized or formed, and includes a cooperative and an association of persons;

AND WHEREAS paragraph 232(1)(n) of the Act provides that a council may pass by-laws for municipal purposes respecting businesses, business activities and persons engaged in business;

AND WHEREAS paragraph 232(1)(o) of the Act provides that a council may pass by-laws for municipal purposes respecting the enforcement of by-laws;

AND WHEREAS subsection 232(2) of the Act provides that a council may in a by-law passed under subsection 232(1)

- (a) regulate or prohibit;
- (c) deal with any development, activity, industry, business, or thing in different ways, or divide any of them into classes and deal with each class in different ways.
- (e) subject to the regulations, provide for a system of licenses, permits or approvals, including any or all of the following:
 - (i) establishing fees, and terms for payment of fees, for inspections, licenses, permits and approvals, including fees related to recovering the costs of regulation,
 - (ii) establishing fees for licenses, permits and approvals that are higher for persons or businesses who do not reside or maintain a place of business in the municipality,
 - (iii) prohibiting a development, activity, industry, business or thing until a license, permit or approval is granted,
- (g) require persons who do not reside or have a place of business in the municipality to report to the municipal office before conducting business in the municipality.

AND WHEREAS Fees, Discounts and Penalties Regulation 50/97 registered March 4, 1997 provides that the maximum fee that the council of a municipality may establish for a business license for a calendar year under subclause 232(2)(e)(i) and (ii) of the Act for an urban municipality with fewer than 5,000 residents is \$200.00;

AND WHEREAS subsection 249(1) of the Act provides, in part, that a person who contravenes a by-law of a municipality is guilty of an offense;

AND WHEREAS subsection 249(2) of the Act provides that where a contravention continues for more than one day, the person is guilty of a separate offense for each day it continues;

AND WHEREAS Fees, Discounts and Penalties Regulation 50/97 registered March 4, 1997 provides that the maximum fine that a council may impose in respect of a contravention a by-law is \$1,000.00;

AND WHEREAS section 237 of the Act provides that no municipality shall require a license to sell produce grown in Manitoba if the sale is by the individual who produced it or an immediate family member or employee of the individual;

NOW THEREFORE the Council of the Town of Swan River in meeting duly assembled, enacts as follows:

1. That for the purposes of this by-law, "business" shall be defined as any commercial, merchandising or industrial activity or undertaking, profession, trade, occupation or calling whether or not it is carried on continuously or on an intermittent or one time basis however organized or formed, and whether or not the person carrying on the business has an established place of business within the municipality, and includes a cooperative and an association of persons.

2. That for the purposes of this by-law, "person" shall be defined as including an individual, proprietorship, partnership, or corporation.

3. (a) That subject to subsections (b) hereof, no person shall carry on a business of any kind within the Town of Swan River without first having obtained from the Town of Swan River a license to do so.

(b) That no license shall be required under subsection (a) for

- (i) Selling produce grown in Manitoba if the sale is by the individual who produced it or an immediate family member or employee of the individual, or
- (ii) Businesses engaged exclusively in the wholesale of goods to other businesses within the Town of Swan River.

4. (a) That all persons carrying on a business in the Town of Swan River where such business is based in the Town of Swan River shall be subject to a license fee of fifty dollars (\$50.00) per year.

(b) That all persons carrying on a business in the Town of Swan River where such business is based in any of the Municipalities of Swan Valley West, Mountain or Minitonas-Bowsman shall be subject to a license fee of one hundred dollars (\$100.00) per year.

(c) That all persons carrying on a business in the Town of Swan River where such business is based outside of the municipalities described in subsections (a) and (b) shall be subject to a license fee of two hundred dollars (\$200.00) per year.

(d) That all persons carrying on a business in the Town of Swan River where such business pays a business tax to the Town of Swan River shall have their license fee waived.

5. That for the purposes of this by-law, a business shall be deemed to be based in a municipality if it has an established place of business, or stock-in-trade, or personal property used in connection therewith assessed and set out in the latest revised assessment roll of that municipality.
6. That all transient traders, hawkers, peddlers and other persons who go from place to place, or from door to door, by any means, bearing or drawing any goods, wares or merchandise for sale, contractors, trades people, or providers of services, shall, before transacting business in a municipality, report to the Town of Swan River Office and obtain a license as required under this bylaw.
7. That every license issued under this by-law shall be effective only from the day of issue to and including the 31st day of December of the year of issuance.
8. That every license issued hereunder shall be produced by the licensee at all reasonable times upon demand of an authorized officer of the Town of Swan River or any member of the Royal Canadian Mounted Police.
9. That it is an offence to carry on a business within the Town of Swan River without having first obtained a license under this by-law.
10. Administrative penalties and appeals for the contraventions of this by-law shall be administered as set out in the most current Enforcement By-law.
Amended 04/2024
11. That By-Law No. 17/2016 be hereby repealed.

DONE AND PASSED by the Council of the Town of Swan River duly assembled this 20th day of September A.D. 2022.