

The Corporation of the City of Kenora

By-Law Number 80 - 2006

A BY-LAW TO AUTHORIZE THE ISSUANCE OF CERTAIN LICENSES, AND TO PROVIDE REGULATIONS THEREFORE, IN THE CITY OF KENORA

WHEREAS, pursuant to the provisions of Part IV of the Municipal Act, 2001 as amended, the Council of the Corporation of the City of Kenora may pass by-laws for licensing, regulating and governing businesses; and

WHEREAS Section 150 of the Municipal Act, 2001 allows a municipality to license regulate and govern any business wholly or partially carried on within the Municipality, even if the business is being carried on from a location outside the Municipality; and

WHEREAS Section 150 of the Municipal Act allows for Council to fix the fees for licenses subject to the limitations of The Act; and

WHEREAS the Council of the Corporation of the City of Kenora deems it necessary to license and regulate said trades, callings, businesses, occupations, persons, places, or things and fix fees as set out in the attached Schedules "A" and "B"; and

WHEREAS a public meeting was held 12, June, 2006 at which time a by-law relating to the licensing of the businesses was presented; and

WHEREAS pursuant to Section 150 of the Municipal Act, 2001 the Council of the Corporation of the City of Kenora is exercising its licensing powers under this Section, including imposing conditions, for the following reasons:

- (i) Health & Safety; and/or
- (ii) Nuisance Control; and/or
- (iii) Consumer Protection

AND WHEREAS pursuant to Section 150(2) of the Municipal Act, 2001 the following classes of businesses are licensed for the following reasons:

ADULT NIGHTCLUBS for the purposes of protecting the health and safety of the patrons, to ensure that the business is not a nuisance to the surrounding properties and neighbourhood, and consumers protection of those individuals who attend and partake in services in the parlour.

ADULT NOVELTY SHOPS, for the purposes of protecting the health and safety of the attendants, to ensure that the business is not a nuisance to the surrounding properties and neighbourhood, and the consumer protection of those individuals who attend and partake in services of the parlour.

ANIMAL SERVICES, for the purpose of consumer protection, and to ensure that the business is not a nuisance to the surrounding properties and neighbourhood.

AUTOMOTIVE SERVICES, for the purpose of consumer protection to ensure that the work performed by the contractor is up to the industry standards, and to ensure that the business is not a nuisance.

CONTRACTORS TRADES, for the purpose of consumer protection to ensure that the work performed by the contractor is up to the industry standards, and to ensure that the business is not a nuisance.

ELECTRICAL TRADES, for the purpose of consumer protection to ensure that work that is performed by the contractor/electrician is up to the industry standards.

ENTERTAINMENT EVENTS, for the purpose of health and safety of the people who enter a place of amusement, and to ensure that the business is not a nuisance to the surrounding landowners, and to ensure the protection of the consumer for goods and/or services purchased.

FOOD SERVICES, for the purposes of protecting the health and safety of the customers and to ensure the protection of the consumer.

HOME SERVICES, for the purpose of consumer protection.

HOSPITALITY, for the purpose of protecting the health and safety of the persons residing in the establishment by ensuring that the fire code regulations are met, the required essentials such as plumbing and water are provided, for ensuring that the establishment does not create a nuisance to the adjoining property or surrounding lands, and for the consumer protection such that the persons residing in the establishment know who to contact in the case of a problem or emergency with the building.

PERSONAL SERVICES, for the purpose of protecting the health and safety of the consumer, and to ensure that the business is not a nuisance to the surrounding properties and neighbourhood.

PLACE OF AMUSEMENT AND ENTERTAINMENT EVENTS, for the purpose of health and safety of the people who enter a place of amusement, and to ensure that the business is not a nuisance to the surrounding landowners, and to ensure the protection of the consumer for goods and/or services purchased.

PLUMBING TRADES, for the purpose of consumer protection to ensure that the work performed by the contractor is up to the industry standard.

REFRESHMENT VEHICLES, for the purposes of health and safety and ensuring that the vendor is following all required health regulations, and to ensure that the consumer does not become ill, and to ensure that the vendors are not hindering vehicles or pedestrian traffic and/or causing a hazard in any way and /or having a negative aesthetic impact on the Municipality which would fall under nuisance control.

SALES, for the purpose of health and safety and ensuring the vendor is following all required health regulations, to ensure that the consumer does not become ill, to ensure that the business is not a nuisance by hindering vehicles or pedestrian traffic and/or causing a hazard in any way and/or having a negative aesthetic impact on the Municipality, and to protect the consumer who is purchasing the products being sold.

TEMPORARY SALES, for the purpose of health and safety and ensuring the vendor is following all required health regulations, to ensure that the consumer does not become ill, to ensure that the business is not a nuisance by hindering vehicles or pedestrian traffic and/or causing a hazard in any way and/or having a negative aesthetic impact on the Municipality, and to protect the consumer who is purchasing the products being sold.

TOWING, for the purpose of consumer protection such that a consumer will know who to contact in the case that their vehicle has been towed and/or stored to allow them to retrieve the same.

VEHICLE SERVICES, for the purpose of consumer protection to ensure that the work performed by the contractor is up to the industry standards, and to ensure that the business is not a nuisance.

THEREFORE the Council of the Corporation of the City of Kenora enacts as follows:

1. CITATION

This By-Law may be cited as the "Business Licensing By-Law".

2. DEFINITIONS

Unless otherwise specifically defined in any Part of this by-law:

"Applicant" refers to a person who is applying for a license under this By-Law.

"Building Code" means the regulations made pursuant to the Ontario Building Code, as may be amended from time to time.

"Business" means any trade and occupations, exhibitions, concerts, festivals, and other organized public amusements held for profit or otherwise, the sale or hire of goods or services on an intermittent or one-time basis and the activities of a transient trader and the display of samples, patterns or specimens of goods for the purpose of sale or hire; but does not include a manufacturing or an industrial business, except to the

extent that it sells its products or raw material by retail, the sale of goods by wholesale or the generation, exploitation, extraction, harvesting, processing, renewal or transportation of natural resources and for purposes of this definition a business shall be deemed to be carried on within the City if any part of the business is carried on within the City even if the business is being carried on from a location outside the City.

“Business License Certificate” means the certificate issued to an applicant, permitting the applicant to carry on a business.

“Chief Building Official” means the person appointed by the Municipal Council pursuant to the Ontario Building Code.

“Chief of Police” means the Chief of Police of the City of Kenora or the Ontario Provincial Police or any members of the Kenora Police or Ontario Provincial Police of the City of Kenora whom the Chief of Police delegates his authority to for the purposes of this By-Law enforcement.

“City” means the City of Kenora.

“City Clerk” means the Municipal Clerk of the Corporation of the City of Kenora or a person delegated for the purposes of this By-Law.

“Corporation” means the Corporation of the City of Kenora.

“Council” means the Municipal Council of the Corporation of the City of Kenora.

“Fire Chief” means the Manager of Fire and Emergency Services of the City of Kenora or the person the Manager delegates his authority to for the purpose of this By-Law.

“Fire Code” means The Ontario Fire Code O. Reg. 388/97 as may be amended from time to time.

“Gun Show/Exhibits” means any event or occasion where firearms are displayed, offered for sale, or sold by duly qualified and licensed by persons.

“Hawkers, Peddlers and Salesmen” means persons who go from place to place or to a particular place with goods, wares, services or merchandise for sale, or who carry and expose samples, patterns or specimens of any goods, wares, services or merchandise that are to be delivered in the municipality afterwards.

“He, him and his” means and includes “She, her and her’s”

“Home Occupations” means an occupation, trade, profession or craft (not including any other category defined in this By-Law) carried on in a residence by one or more members of a family actually occupying the said residence and from which a home occupation has been approved under the provisions of the Zoning By-Law of the City of Kenora.

“Issuer of License” means the City Clerk or designate unless or until it is otherwise provided by the Council of the Corporation of the City of Kenora.

“License year” means the period of time between the date a license is issued and the anniversary date thereof (May 1 to April 30 of the following year).

“License premises” means the premises in which the business or trade referred to in the By-Law is carried on.

“Licensee” refers to a person holding a valid license under this By-Law.

“Non-Area Resident” means a person who does not operate his business or trade from a taxable business premises within the boundaries of the City of Kenora.

“Occupant” means the person in occupation or having charge, management or control of any premises, whether on his own account or as the agent of any person.

“Owner” means the person for the time being receiving the rent of the land or premises in connection with which the word is used, whether on his own account or as an agent or trustee of any other person or who would receive the same if such lands and premises were let.

“Person” except where it is otherwise employed or shown by the context, the word “person” shall include not only an individual, but also a body, corporate or politic, or party, or any firm, and the heirs, executors, administrators, successors, or other legal representatives thereof to whom the context may apply, and words implying the singular shall include more persons or things as above described or things of the same kind, than one and words implying the masculine gender shall include females as well as males.

“Premises” means and includes any land in any building, public or private in the Municipality.

“Public Health Inspector” means the person or persons appointed by the Northwestern Health Unit whose duty it shall be to make such inspections as may be required under the provisions of the Health Protection and Promotion Act.

“Refreshment” means any food or drink except alcohol beverages intended for the refreshment of the public including, but not limited to fruit, candy, peanuts, popcorn, ice cream, ice cream cones, iced milk, french fries, hotdogs, and hamburgers, etc.

“Refreshment Vehicle” means a vehicle, cart or truck, including but not limited to non-motorized or physically propelled mobile food vending equipment.

“Resident” means any person who resides within the boundaries of the City of Kenora, has so resided in the City of Kenora, for three (3) months immediately prior to the date of application and has purchased a residence in the City of Kenora, in which he resides, or has purchased premises for the purpose of carrying on a business or trade, or has leased premises for a period of not less than ninety (90) days for the purpose of carrying on a business or trade.

“Second Hand Goods” include, but is not limited to, antiques, waste paper, rags, bones, bottles, bicycles, automobiles tires, old metal and other scrap material and salvage.

“Special Events License” means any sale of goods or services or promotion of their goods or services for a one to 4 day consecutive period from one specific location that shall include the exhibiting or offering for sale who has registered with that event as a registered business. This would include a consumer show open to the public or a trade show open by invitation or registration only, by which the primary purpose of which is the display of goods, products and services and the direct sale of them, and also excludes a consumer show or trade show operating as an integral part of a convention or conference. No special events license is deemed required if the goods, wares or merchandise are being sold by an Ontario grower or producer. This applies to farmers who grow their own produce on or in an Ontario farm as well as any craft producer who create, design and manufacture their own craft or ware. This license does apply to goods or wares that have been purchased from another manufacturer for the purpose of resale.

“Transfer Business” refers to the use of motor or other vehicles used for hire, or any class or classes thereof, for the conveyance of goods, either wholly within the municipality or to any point not more than five (5) kilometers beyond its limits. There is no applicable charge for Transfer Business as the Municipal Act does not allow for licensing these types of businesses.

3. LICENSES REQUIRED

No person shall, within the limits of the City of Kenora, carry on any of the businesses listed in Schedules “A” and “B” to this By-Law unless and until they shall have first procured a license issued under the provisions of this By-Law.

4. GENERAL REGULATIONS, APPLICATION FORMS, FEES AND APPROVALS

(a) All businesses for which a license application pursuant to the provisions of this By-Law has been submitted may be required to meet such additional requirements as may be established by the Issuer of Licenses or his representative.

(b) All premises occupied by a business license pursuant to the provisions of the By-Law shall be required to satisfy the Ontario Building Code, The Official Plan, the Zoning By-Law and the Land Maintenance and/or Property Standards By-laws.

(c) If any new applications for license are received by the Issuer of Licenses after six (6) months have elapsed in the current licensing year, the Issuer of Licenses may pro-rate the license fee up to one-half (1/2) of the cost of the licensing fee.

(d) Upon submitting an application for a license to the Issuer of Licenses, the total cost of the license fee as set out in Schedules "A" and "B" shall be submitted at the same time in cash, certified cheque or credit card.

(e) The person/s applying for a license pursuant to the provisions of this By-Law shall complete and submit to the Issuer of Licenses the application form as shown in Schedule "C" to this By-Law, and shall pay the Issuer the required fee as listed in Schedules "A" and "B" to this By-Law.

(f) Prior to the granting of any license respecting any of the trades, businesses or callings referred to in Section 3, the Chief of Police shall ascertain whether in his opinion the applicant is of good character. Once this has been ascertained, and if all other provisions of this By-Law are complied with, he shall submit his finding/s to Council, who shall decide whether a license shall be issued by the Issuer of Licenses.

In addition to Section 4(f), an applicant must agree to have all representatives finger printed, if requested by the Issuer of Licenses. Finger printing will be handled by the City of Kenora Police Service or Royal Canadian Mounted Police (RCMP) forms for this purpose only, provided by the City of Kenora Police Service and the applicant agree to pay a \$25.00 fee per person to cover the cost of issue of same.

(g) An applicant is entitled to be licensed and a licensee is entitled to have his license renewed except where:

- (i) Having regard to his financial position, the applicant or licensee cannot reasonably be expected to be financially responsible in the conduct of the business which is to be licensed; or
- (ii) The past conduct of the applicant or licensee affords reasonable grounds for the belief that the applicant or licensee will not carry on the activity for which he is to be licensed or to continue to be licensed in accordance with the law and with integrity and honesty; or
- (iii) The issuance or renewal of the license would be contrary to the public interest; or
- (iv) The applicant or licensee is carrying on activities that are, or will be if the applicant is licensed, in contravention of this By-law.

5. BUILDING CODE REGULATIONS

Inspection of premises shall be made by the Chief Building Official or a person delegated by him who shall following the inspection, certify to the Issuer of Licenses, compliance or non-compliance with the Ontario Building Code.

6. PROPERTY STANDARDS REGULATION

Inspection of the property and premises may be made by a By-Law Enforcement Officer, or a person delegated who may, following the inspection, certify to the Issuer of Licenses, compliance or non-compliance with the Land Maintenance and/or Property Standards By-Law.

7. PUBLIC HEALTH REGULATIONS

In addition to requirements provided for in Sections 6 and 16, those businesses and the premises occupied which are identified in Schedules "A" and "B" to this By-Law and shall, **at the discretion of the Issuer of Licenses**, be required to allow an inspection of the premises and personnel by the Public Health Inspector.

An inspection as provided above shall be made by the Public Health Inspector or a person delegated by him who shall, following the inspection, certify to the Issuer of Licenses in writing, compliance or non-compliance with the Health Promotion and Protections Act.

8. FIRE CODE REGULATIONS

Inspection of premises may be made by the Fire Chief or a person delegated by him who may, following the inspection, certify to the Issuer of Licenses compliance or non-compliance with the Ontario Fire Code.

9. REFUSAL/REVOKE OF LICENSE

The Issuer of Licenses may refuse to issue a license unless and until compliance with the provisions of this By-Law or any other requirements referred to herein is established by the applicant, owner of the business or by the occupier of the premises for which the business license is required.

Such person whose license has been refused or revoked may apply for an appeal in accordance with the following:

- (a) Should the Issuer of Licenses refuse to issue a license or to renew a license or revokes or suspends a license, the applicant or licensee shall be advised of such decision.
- (b) The applicant or licensee is entitled to an appeal hearing before Council or its designate, if he delivers, within fifteen (15) days after the date of his refusal or suspension, a written request for such hearing and such hearing will be scheduled at a subsequent meeting of Council or its designate.
- (c) Where the applicant or licensee fails to provide written notice of a request for a hearing within the time specified, this shall result in an automatic refusal.
- (d) Where the applicant or licensee who has been given written notice which specifies a time and place for a hearing and where the applicant or licensee does not attend at the appointed time and place, the hearing may be held in his absence and the applicant or licensee shall not be entitled to any further notice in the proceedings.
- (e) The provisions of Sections 5 to 15 and 21 and 24 of The Statutory Powers Procedures Act R.S.O. 1990, c.S.22 shall apply to all Hearings conducted by Council.
- (f) Council or its designate may make any decision in deciding to grant or revoke a license and such decision shall be final.
- (g) Any contravention of this By-Law will result in a penalty not to exceed the total amount of the license due as well as up to the sum of Five Thousand Dollars (\$5,000.00).

10. GRANT OF LICENSE

All licenses granted under this By-Law, unless they shall become sooner forfeited or revoked, shall be for the year current at the time of the issue thereof and shall expire on the thirtieth (30) day of April next following the date set out in each license as issued.

11. RENEWALS

Renewals of Licenses may be granted by the Issuer of Licenses provided no change in the location or nature of the business has occurred, the applicant meets all necessary criteria for the license, and provided the necessary fees have been paid and all regulations complied herewith.

12. TRANSFER

No license issued under the authority of this By-Law is transferable.

13. SPECIAL REGULATIONS

Licenses issued for the conduct of the businesses as shown on the attached Schedule "C" are subject to the licenses complying with the provisions as set out therein, as well as the terms and conditions as set out in applicable Provincial Legislation.

14. SPECIAL ADDITIONAL REQUIREMENTS

All applicants who are applying for licenses under Section 3 including all:

- (a) Non-motorized or physically propelled mobile food vending equipment;
- (b) Ice Cream Truck Operations;
- (c) Mobile Food Truck Operators;
- (d) Persons who own or keep a place of refreshment (not being a standard hotel licensed under the Liquor Control Act); or
- (e) Dealers in fruit, produce or meat shall in addition to the requirements of Sections 3 and 4 of this By-Law be required to produce prior to the granting of a license a written letter of approval stating that their operations has been approved by the Northwestern Health Unit as set out in Section 7 of this By-Law.

15. VENDING REGULATIONS – CITY PROPERTY

- i) No person shall sell or offer for sale any goods, wares or foods on any municipal highways (which includes but is not limited to roads, street, and lanes) or on any municipal property, including sidewalks and vacant lots within the City of Kenora;
- ii) No person shall sell or offer for sale any goods, wares or foods in the following areas of the City of Kenora:-
 - a. Any public park.
 - b. The public area commonly known as the Harbourfront.
 - c. Any place within 100 feet of other vendors selling similar goods, wares or foods.
 - d. Any other place where such sales constitute a hazard to vehicular or pedestrian traffic, and specifically at no point on the Trans-Canada Highway within the City of Kenora.

Exception:

The restrictions contained above in clause i) and clause ii) a, b, and c, do not apply if at any time the selling or offering for sale of any goods, wares or foods is located within an area being used for the holding of a fair, exhibition, festival, celebration or other public gathering or special occasion authorized by the Corporation of the City of Kenora, and that prior approval has been obtained from the approved event organizers for the vendor to participate at such event(s).

This regulation includes but is not limited to refreshment vehicles, hawkers and/or peddlers, whether they are licensed or not under this or any by-law.

16. POSTING UP OF LICENSES

All licensees shall cause their license to be permanently and prominently displayed in their place of business or on their person if there are no premises associated with the business during the full term in which they carry on the said business.

17. ENFORCEMENT

The Issuer of Licenses, By-Law Enforcement Officers, Members of City of Kenora Police Service or Ontario Provincial Police (OPP) or any other person designated by Council be and hereby authorized to enforce the provisions of this By-Law.

Should any person fail to produce a municipal license at the request of a Peace Officer, the Peace Officer may take such action as is necessary to have such person comply with the provisions of this By-Law.

Any person, who contravenes any of the provisions of this By-Law, is guilty of an offence and is liable to a fine of up to Five Thousand Dollars (\$5,000.00) exclusive of costs, recoverable under the provisions of the Provincial Offences Act.

For the purposes of this By-Law, each day of a continued offence shall be deemed to be a separate offence.

18. ENACTMENT AND DURATION

This By-law shall come into force and take effect upon third and final passing thereof.

19. REPEAL

By-Law Number 170-2004 be hereby repealed.

**By-Law read a First and Second Time this 12th Day of June, 2006
By-Law read a Third and Final Time this 12th Day of June, 2006**

THE CORPORATION OF THE CITY OF KENORA:

Per: _____ D. Canfield MAYOR

Per: _____ J. McMillin CLERK