

Rural Municipality of St. Andrews

BY-LAW NO.

BEING a By-Law of the Rural Municipality of St. Andrews providing for the regulation of places of business in the Municipality.

WHEREAS the Municipal Act (Statutes Of Manitoba 1996c.58) Section 232(1) d Section 232(2) empowers a Council to Pass BY-Laws for Municipal purposes respecting the following matters:

"business, business activities and persons engaged in business"

AND WHEREAS it is deemed to be in the best interest of the Rural Municipality of St. Andrews to enact as follows:

SHORT TITLE

This By-Law may be referred to as the "Rural Municipality of St. Andrews Business Licensing By-Law".

DEFINITIONS

Wherever used in this By-Law;

"Business includes any trade, occupation or calling whether or not it is carried on continuously or in an intermittent basis.

b) "Hawker includes any person who goes from place to place bearing goods for sale.

"Itinerant Salesperson means:

a person who as vendor or agent for the vendor, such vendor not having his principal place of business in the RM. of St. Andrews, goes about from place to place within the Municipality selling goods or offering the same for sale directly to the consumer, or soliciting orders from the consumer for goods; or

(ii) a person who goes about from place to place within the Municipality taking orders from the consumer for goods to be made, grown, or completed in whole or in part, outside the Municipality by any person not having principal place of business in the district.

"Home Occupation" means a home craft or office of a professional person which is carried on for gain by the resident or residents of a dwelling unit provided the home occupation does not alter the residential character of the single family dwelling or mobile home.

Home Occupations may include professionals such as legal, surveying, engineering, architectural, planning, accounting, real estate, bookkeeping hairdressing, photography services and computer sales and services. Home Occupations also include dress making, taxidermy, molding, painting, sculpting, weaving and other small-scale arts, crafts, printing, book sales, instructional classes (limited to 4 pupils at a time) in arts, crafts, dancing, and music, home cleaning services, offices for telemarketing, and sales representatives/agents.

The use is subject to the following conditions:

the home occupation activity must be conducted entirely within the dwelling unit in Residential Zones and the "A4" Rural Zone. in the "A40" and "A80" Rural Zones, the home occupation may take place in either the dwelling unit/mobile home or accessing building;

is carried on solely by the members of the family residing at the same dwelling unit or mobile home and does not involve the employment of more than one non-resident employee. This non-resident employee is to be utilized in the capacity only, for paperwork and telephone orders relating to the home occupation;

no exterior storage of materials, and has no other exterior indication of the home occupation or variation of the residential character of the principal or accessory building;

the dwelling unit, mobile home, or accessory building shall not be used for manufacturing, welding, or any other light industrial use, and the home occupation carried on therein shall not produce noise, vibration, smoke, dust, odour, litter, heat beyond lot lines, or otherwise become offensive, or obnoxious or create a public nuisance. Home Occupations shall not include any use listed in the Commercial or Industrial Use Tables of the Zoning By-Law, except as provided for above; does not cause the generation of undue traffic and congestion in the neighborhood – off street parking to be provided; and articles sold or offered for sale are limited to those produced therein. e) "Licence Inspector" means the licence inspector or designate appointed by the R.M. of St. Andrews from time to time. f) "Licensed Premises" means the premises in which the trade referred to in the context is carried on.

GENERAL LICENCING PROVISIONS ADMINISTRATION

3. Licence Inspector: This By-Law shall be administered by a licence inspector appointed by the Municipality who shall act under the general supervision of the Finance and Licence Committee. The Licence Inspector shall enforce all provisions of this By-Law and inter alia shall collect all money payable to the Municipality under this By-Law and pay such money to the Municipal Administrator.

make out and sign all licences and keep the register containing full particulars of same.
carry out such other duties as assigned to him by the Finance and Licencing Committee of the Municipality from time to time.

c) In the absence of the Licence Inspector, the Municipality Administrator of the R.M. of St. Andrews may undertake all duties of the Licence Inspector as aforesaid.

SALE OF OWN PRODUCE

4. No licence shall be required by a person to sell produce grown in Manitoba if the sale is by the individual who produced it or by an immediate family member or employee of the individual (Municipal Act Section 237).

TRADES AND OCCUPATIONS

5. A licence pursuant to this By-Law shall be obtained by all persons carrying on business from premises which are located within the boundaries of the R.M. of St. Andrews and in addition all Hawkers and Itinerant Salespeople.

ISSUE AND TRANSFER OF LICENCES

6. Need for Licence:

No person shall carry on any business without having a licence from the R.M. of St. Andrews to do so, nor shall any person carry on a business for which a licence has been issued after the licence has lapsed or been cancelled unless and until a new licence is issued therefore and every person so licenced shall be subject to the provisions of the By-Law.

EXEMPTIONS

7. No licence is required to hold a concert, recital, show or other entertainment in any part of a church or like regular meeting place when all the artists or other performers are amateurs

and the money charged or collected for or in connection with admission is to be used for the benefit of the church or meeting place.

INDIVIDUAL LICENCE

8. An individual Licence shall be issued to a person to carry on a particular business either:
 - i) Within the Municipality; or
 - ii) In specified premises within the Municipality

EACH PREMISE TO BE LICENCED

9.
 - a) Where business subject to licencing is carried on or intended to be carried on in more than one licenced premise, a licence shall be required in respect of each licenced premise as though the business carried on in each were separate businesses.
 - b) Where the business subject to licensing utilizes more than one vehicle, a separate licence shall be required in respect of each vehicle, however, in such circumstances no separate licence shall be required for the operation of the business itself.

APPLICATION FOR LICENCE

10.
 - a) Every applicant for a licence under this By-Law shall apply for same in writing to the Licence Inspector or Municipal Administrator as the case may be as set out in Clause 3 herein and all licences so applied for may be issued by the Licence Inspector or Municipal Administrator as the case may be provided that they are satisfied that the application meets the requirements of the By-Law.
 - b) Where the Licence Inspector or the Municipal Administrator, as the case may be, refuses to issue a licence following submission of an application for a licence by an applicant, the person refusing the licence shall state the reason for such refusal to the applicant in writing and provide a copy thereof to the applicant.
 - c) Appeals: Any applicant who is refused a licence may appeal the decision of the Licence Inspector or Municipal Administrator, as the case may be, to the Council of the R.M. of St. Andrews. The appeal must be made in writing within 30 days of the refusal.
 11. Before a licence is issued, the applicant for a licence shall pay to the R.M. of St. Andrews office the licence fee of \$50.00 for a home occupation licence approved and \$ 100.00 for all other business operation approved.

HEALTH OFFICER'S CERTIFICATE

12. The Licence Inspector shall not be required to issue a licence pertaining to any licenced premise, unless the Licence Inspector has received confirmation by the appropriate health authorities that the vehicle, place or premises to which the licence pertains are in compliance with the Provincial Health Regulations for the intended purpose of the business.

SUITABILITY OF PREMISES

13. The Licence Inspector shall not be required to issue any licence pertaining to any premises until he has received confirmation from the Selkirk and District Planning Area Board that the intended use for the premises complies with the zoning requirements of the R.M. of St. Andrews for that intended purpose of the business.

CONSUMER PROTECTION ACT

14. No licence shall be issued to a person required by law to obtain a licence under the Consumer Protection Act until such person has a proper licence issued under that Act.

LICENCE YEAR

15.

- a) All licences issued under this By-Law shall take effect from the date of issue and shall remain in force and effect until the 31st day of December next succeeding the date of issue, unless they are expressed to be granted for a shorter period or unless same shall become sooner forfeited.
- b) A licence may be issued in advance for any licence year during the two months next preceding the commencement thereof.
- c) Every licence shall bear on its face the date on which it was issued and the date on which it will expire.

PRORATED LICENCES

16. For any licence issued between the 1st day of January and the 1st day of April in any year, the amount to be paid for the same shall equal the charge for the full year; for a licence issued subsequent to the 1st day of April and prior to the 1st day of July, the charge shall be equal to three quarters of the full charge for the year; and for any licence issued subsequent to the 1st day of July in any year, the charge shall be equal to one half the amount charged for the fall year.

DUTIES OF THE LICENSEE

17. Every licensee shall comply with all By-Laws of the Municipality and all appropriate federal and provincial legislation.
18. Whenever a licensee changes his address from that shown on his licence, he shall forthwith notify the Licence Inspector of the new address.
19. Every licence hereunder shall be produced by the licensee or his agent, employee or anyone acting on his behalf at all reasonable times upon the request of any individual conducting business with the licensee, his agent, employee or other person acting on his behalf. Failure to produce the licence when within a reasonable period of time of any such request shall constitute a breach of this By-Law.
20. The licensee shall permit the Licence Inspector, his assistants or any other person duly authorized by the Licence Inspector to enter upon and inspect the licenced premises from time to time.
21. Every licensee who holds a licence under this By-law which applies to particular premises shall, so long as the licence is in force, keep it, or a duly authorized copy thereof, posted up in some conspicuous place on the licenced premises.

REFUND OF LICENCE FEE

22. Except as provided herein, no refund of licence fee or part thereof shall be paid in respect of the revocation of a licence, or for any reason.
23. The R.M. of St. Andrews Council may, by resolution, authorize a refund of all or part of a licence fee where the premises occupied by the licensee have been destroyed by fire or other cause and/or the licensee desires to surrender his licence for the balance of the licence year.

REVOCAION OF LICENCES

24. Council of the R.M. of St. Andrews shall be entitled to revoke any licence issued under this By-Law upon the happening of any of the following events:
- a) Upon the licensee being convicted of an offence pursuant to the provisions of this By-Law or any other legislation relating to the operation Of the subject business.
 - b) Upon premises or vehicles within which the licensee carries on business being in breach of the appropriate zoning or health regulations affecting same following the licensee being given two (2) weeks notice to rectify any ,such deficiency by the Licence Inspector.
 - c) Upon the licensee refusing or neglecting to pay the appropriate licence fee or portion thereof owing therefore, following the expiration of seven (7) days, notice by the Licence Inspector to the licensee of the intended revocation.
 - d) Upon the Licencee refusing the Licence Inspector or Municipal Administrator as the case may be, access to the licenced premises or vehicle, as the case may be.

DISCRIMINATION

25. Every licence issued pursuant to the By-Law is subject to the condition that no discrimination on account of race, creed or colour shall be shown against any member of the public who seeks admission to or applies to be served on the premises in respect of which the licence is issued or seeks to be served by the licensee, and licensee who shall, because of race, creed or colour discriminate against any member of the public as aforesaid shall be deemed to be in breach of the By-Law, provided always however, that this section shall not apply to organizations of Fraternal, Religious or Educational nature doing business only with their members of associates.

PAWNBROKERS

26. All Pawnbrokers are required to maintain daily written record of all transactions by pawn or purchase and make same available to the Licence Inspector or Municipal Administrator as the case may be.

HAWKERS

- 27.
- a) All Hawkers or persons who intend to conduct business in the Municipality shall report to the Municipal office before conducting such business.
 - b) Every Hawker shall cause his name and address to be legibly and conspicuously displayed on each side of every vehicle used in the carrying on of his trade.

ITINERANT SALESPEOPLE

28. Every person who engages an employee or agent to carry on the business of an itinerant salesperson shall thereupon furnish to the Licence Inspector the name and address of the employee or agent.
29. Any Hawkers, Itinerant Salespeople or agents, employees or anyone acting on their behalf, shall prominently display on his person in legible writing, a badge or card displaying the name of the individual bearing the badge or card and the name, telephone number, address and business number of the licensee.

PENALTIES

30. Subject to this section, every person who contravenes any section of this By-Law is guilty of an offence and is liable on conviction to pay a fine not exceeding \$500.00 and not less than \$200.00.

31. Notwithstanding discontinuance of business operations, every person who has not paid the prescribed licence fee in accordance with Clause II of this By-Law, shall be subject to a monthly penalty, (in addition to that prescribed fee) of \$5.00 per month for each month or part month during which the business was carried on until such time that the prescribed fee and penalties are paid in full.
32. Any funds paid in full or partial satisfaction of any fine levied shall be firstly applied in payment of the fine and secondly in payment of any outstanding licence fee provided however, that the sums payable on account of any licence fee shall not be payable in the event that the said licence cannot be issued.
33. Subject to the provisions of the Municipal Act, any amounts owing to the Municipality for unpaid licence fees or fines and costs in respect of any conviction for any breach of this By-Law may be added to and collected in the same manner as taxes which are levied against or in respect of any land or personal property and may be collected or enforced in manner provided for the collection or enforcement of payment of taxes.
34. Sec. 249(2) Where a contravention continues for more than one day, the person is guilty of a separate offence for each day it continues.
35. By-Law No. 3852 and amendments are hereby rescinded upon enactment of this By-Law.

DONE, AND PASSED in Council assembled in the Council Chambers of the Rural Municipality of St. Andrews at Clandeboye, Manitoba this ___ day of ____, AD., 1997