

By-law No. PD-004: RESPECTING TEMPORARY BUSINESSES

The Council of the Municipality of Grand Bay-Westfield under authority vested in it by Sections 10 and 11 of the *Local Governance Act*, SNB 2017, c.18 and amendments thereto enacts as follows:

SHORT TITLE

1. This By-law may be cited as the Temporary Business By-law.

DEFINITIONS

2. In this By-law,
 - (a) "business" includes any marketing activity conducted for the sale of goods, merchandise, or services for a profit;
 - (b) "Chief Administrative Officer" means the Chief Administrative Officer of the Municipality;
 - (c) "Council" means the mayor and councillors of the Municipality;
 - (d) "license" means a license issued pursuant to this By-law and any renewal thereof issued pursuant to this By-law that has not expired or been revoked;
 - (e) "Municipality" means the Town of Grand Bay-Westfield;
 - (f) "permanent building" means an enclosed or partially enclosed structure on a permanent foundation;
 - (g) "person" includes a corporation, partnership, association, club, or firm;
 - (h) "temporary business" means any one or any combination of the following:
 - (i) the sale of goods, merchandise, or services sold by a business being operated or carried on in the Municipality in or out of a permanent building for a period of less than six weeks;

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- (ii) the sale of goods, merchandise, or services by a business operating or being carried on out of a vehicle, truck, or trailer; and
- (iii) the carrying from dwelling to dwelling or from place to place, and the offer for sale, of goods, merchandise, or services, including any marketing activity conducted in respect thereof; and
- (i) "temporary business operator" means a person who operates or carries on a temporary business.

TEMPORARY BUSINESS LICENSES

- 3(1). No person shall within, or partly within, the Municipality, operate or carry on a temporary business unless the person has been issued a temporary business license by the Chief Administrative Officer.
- 3(2). A temporary business license is valid only for operating or carrying on the temporary business expressly described or referred to on the face of the temporary business license.
- 3(3). This By-law does not apply to:
 - (a) persons employed by a temperance, benevolent or religious society in the Province of New Brunswick to peddle or sell temperance tracts or other moral or religious publications under the direction of such society to the exclusion of other goods and merchandise;
 - (b) resident merchants operating or carrying on an establishment fronting in the proper zoned area having sidewalk display sales not interfering with pedestrian or vehicular traffic; or
 - (c) municipally based service clubs, boy scouts, girl guides, and other like non-profit organizations.
- 3(4). A temporary business license shall expire:

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- (a) in the case of a temporary business as defined in subparagraph 2(h)(i) or 2(h)(iii), on the date specified as the expiry date on the face of the license, which expiry date shall not be more than six (6) weeks after the date specified as the effective date on the face of the license, which effective may be a date later than the date on which the license is issued; and
 - (b) in the case of a temporary business as defined in subparagraph 2(h)(ii), on the 31st day of December in the year in which it is issued.
- 3(5). Every holder of a temporary business license issued under this By-law shall comply with the conditions of the temporary business license.
- 3(6). A person who violates or fails to comply with subsection 3(5) by an act which is not itself punishable commits an offence punishable under Part 2 of the *Provincial Offences Procedure Act*, SNB 1987, c.P-22.1 as a Category B offence.
- 3(7). At the Chief Administrative Officer's direction, the issuance of a temporary business license may allow a temporary business to operate at one location within, or partly within, the Municipality for more than six (6) weeks and the license fees for special events or pilot projects to determine viability of a business may be waived.

APPLICATIONS

- 4(1). An application form provided by the Municipality for a license shall be sworn by the temporary business operator and submitted to the Chief Administrative Officer at least 24 hours before the license shall become effective.
- 4(2). The application referred to in subsection 4(1) shall contain the following information:
- (a) the name and address or headquarters of the person applying for the license;
 - (b) if the applicant is not an individual, the names and addresses of the applicant's principal officers and managers;
 - (c) the name and address of the person or persons who will be in direct charge of conducting the temporary business;

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- (d) the time within which the temporary business will be operated or carried on and the location or locations of the business in the Municipality;
 - (e) in the case of a temporary business as defined in subparagraph 2(h)(i) or 2(h)(ii), the signature of each owner of property on which the temporary business shall be located indicating such owner's consent to the operation or carrying on of the temporary business on the owner's property.
- 4(3). The Chief Administrative Officer shall examine such application filed under this By-law for a license and shall make, or cause to be made, such further investigation of the application and the applicant as the Chief Administrative Officer shall deem necessary and the license shall not be issued unless:
- (a) the Chief Administrative Officer determines, to the satisfaction of the Chief Administrative Officer, the following facts:
 - (i) the statements made in the application are true;
 - (ii) the applicant has not engaged in any fraudulent transaction or enterprise; and
 - (iii) nothing in the proposal shall violate any provision of the Zoning By-law or Municipal Plan By-law of the Town or any other law or By-law; or subject to an appeal by the applicant to Council per subsection 4(7); or
 - (b) the Chief Administrative Officer has been instructed by Council to issue or to cause to be issued such license to the temporary business operator.
- 4(4). Upon being satisfied concerning the facts required in subsection 4(2) and 4(3), the Chief Administrative Officer shall issue such license to the temporary business operator upon payment by the temporary business operator of the applicable fee listed in "Schedule A – License Fees"
- 4(5). A license issued under this By-law shall not be transferred or assigned.
- 4(6). The Council may require additional information from an applicant for a license from time to time as it deems necessary.

- 4(7). Any applicant who has been refused a license by the Chief Administrative Officer will have the right of appeal to Council within thirty (30) days after the applicant is notified of the decision to refuse the license.

RENEWALS

5. A license may be renewed and the provisions of subsections 4(1), 4(2), 4(3), and 4(4) with necessary changes apply to such a renewal.

OFFENCES

- 6(1). No person operating or carrying on a temporary business within, or partly within, the Municipality on the day this By-law comes into effect shall be prosecuted for a violation of or failure to comply with section 3 or 4 until:
- (a) the person fails to submit their application for a license to the Chief Administrative Officer in accordance with subsection 4(1); or
 - (b) the person submits their application for a license to the Chief Administrative Officer in accordance with subsection 4(1) and that application is rejected by the Chief Administrative Officer and any appeal to Council is denied or the period to appeal such rejection has expired.
- 6(2). A person who violates or fails to comply with any provision of this By-law other than in respect of a condition under which a license is issued commits an offence and is liable upon summary conviction to a fine of not less than seventy dollars (\$70.00) and a maximum of two hundred and fifty dollars (\$250.00).
- 6(3). Where, in the opinion of the Chief Administrative Officer, a temporary business operator has violated or failed to comply with this By-law or any provision of this By-law, the Chief Administrative Officer shall, upon direction of the Council, in addition to any other fine, remedy or penalty prescribed herein, by notice served upon the temporary business operator, revoke the license issued to that temporary business operator.

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- 6(4). The notice referred to in subsection 6(3) shall be sufficiently served upon the temporary business operator if it is delivered personally to the temporary business operator or if it is mailed prepaid registered postage to the last known residence or place of business of the temporary business operator.
- 6(5). Service of the notice referred to in subsection 6(3) by registered post shall be deemed to have been effected 5 days after the notice was deposited in the mail.

ADMINISTRATIVE PENALTIES

- 6(1) The Municipality may require an administrative penalty to be paid with respect to a contravention of a provision of this By-law as set out in subsection 6(2).
- 6(2) A person who contravenes a provision of this by-law may pay to the Municipality an administrative penalty in the amount of:
- (a) where the person has not previously contravened this By-law, \$100.00, and
 - (b) where the person has previously contravened this By-law, the sum of the amount paid or to be paid by the person in respect of the most recent contravention and \$100.00, provided that in no event shall a person be required to pay an administrative penalty in an amount exceeding \$1,500.00,

and, upon such payment, the person who committed the contravention is not liable to be prosecuted therefor.

- 6(3) A person who may pay to the Municipality an administrative penalty in accordance with this By-law may pay the administrative penalty in accordance with the Administrative Penalty By-law.

REPEAL

8. By-law No. 9, a By-law of the Town of Grand Bay-Westfield Respecting the Regulation and Licensing of Transient Traders and Peddlers, enacted on 23 February 1998, and amendments thereto, are hereby repealed.

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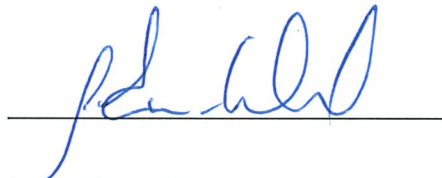
READ A FIRST TIME by summary this 13th day of March, 2023.

READ A SECOND TIME by title this 13th day of March, 2023.

READ A THIRD TIME in its entirety and ENACTED on this 24th day of April, 2023.

This By-law comes into force on the date of final passing thereof.

SIGNED AND APPROVED this 1st day of May, 2023.

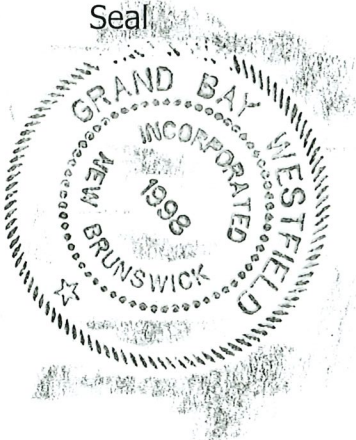


John Enns-Wind
CAO / Clerk



Brittany Merrifield
Mayor

Seal



I certify that this instrument
is registered or filed in the
Kings
County Registry Office,
New Brunswick

J'atteste que cet instrument est
enregistré ou déposé au bureau
de l'enregistrement du comté de
Kings
Nouveau-Brunswick

2023-05-09 10:57:25 43821249
date/date time/heure number/numéro
K. Matt
Registrar-Conservateur

SCHEDULE "A" – LICENSE FEES

Fee	Amount
The fee for a license, and for any renewal thereof	\$150.00