

CITY OF NIAGARA FALLS

A CONSOLIDATED BY-LAW

Being **By-law No. 2007 - 123** as amended by:
By-law No. 2009 - 89

A by-law to licence seasonal business services.

WHEREAS pursuant to Part IV, Section 150(1) of the *Municipal Act, s.o. 2001, c.25* as amended, the Council of the Corporation of the City of Niagara Falls has the authority to licence, regulate, and govern any business wholly or partly carried on within the municipality even if the business is being carried on from a location outside the municipality; and

WHEREAS the City of Niagara Falls' current business licensing by-law is By-law No. 2001-31, as amended; and

WHEREAS Schedule 26 of By-law 2001-31, as amended, is for Specific Location Daily Sales; and

WHEREAS the Specific Location Daily Sales licence is for six (6) days maximum, in keeping with the temporary nature envisioned under the licence; and

WHEREAS the Specific Location Daily Sales licence has been used in the past for vendors and visual artists outdoors in the heart of the tourist core in Niagara Falls; and

WHEREAS outdoor vendors and artisans, if properly regulated, often provide vibrancy to a tourist area with substantial pedestrian traffic; and

WHEREAS the Victoria Centre BIA has expressed support for an outdoor, seasonal business licensing scheme that may be more seasonal in nature; and

WHEREAS By-law 2001-31, as amended, does not have a such a licence; and

WHEREAS it is prudent to enact a stand alone by-law for seasonal business services in the tourist core; and

WHEREAS the seasonal business services by-law would be an interim measure until an overall review of the City of Niagara Falls' Business licensing by-law can take place.

THE COUNCIL OF THE CORPORATION OF THE CITY OF NIAGARA FALLS ENACTS AS FOLLOWS:

PART 1 DEFINITIONS

1. In this By-law:

- (1) "applicant" means a person who is required to be licensed pursuant to this By-law, or who has made application for a licence under this By-law and shall include a Licensee;
- (2) "application" means an application in the form provided by the Clerk and accompanied by the appropriate fee(s);
- (3) "artisan services" means services provided in an applied art;
- (4) "Clerk" means the Clerk of the Corporation of the City of Niagara Falls, or a person designated to act on his behalf;
- (5) "Corporate Services Committee" means a standing committee of all members of Council that traditionally meets before Council meetings to deal with more detailed reports emanating from the divisions within the City's Corporate Services Department.
- (6) "Council" means the Municipal Council of the Corporation of the City of Niagara Falls;
- (7) "highway" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;
- (8) "licence" means a City of Niagara Falls licence issued pursuant to this By-law;
- (9) "Licensee" means a person to whom a licence is issued under the provisions of this By-law;
- (10) "Municipality" means the Corporation of the City of Niagara Falls;
- (11) "public lands" means those lands and premises owned by or under the jurisdiction of the Municipality, other tier of government or hydro authority.
- (12) "seasonal business services" means temporary businesses conducted outdoors in the tourist core, on private property, over the tourist season specializing in artisan services or goods produced on the spot and does not include the sale of retail items or sale and /or production of food services;
- (13) "sidewalk" means that portion of the highway along the roadway set apart for use by pedestrians, to which the general public has access;

- (14) "tourist season" means the time period from weekend preceding Victoria Day until (Canadian) Thanksgiving Day;
- (15) "tourist core", for purpose of this By-law, means the lands found within the boundaries of the Victoria Centre and Clifton Hill Business Improvement areas;

PART 2 SEASONAL BUSINESS SERVICES LICENCE

2. Anyone wishing to conduct a business providing seasonal business services in the municipality shall obtain a licence under this by-law and pay a fee in accordance with Schedule 2 of this by-law.
3. No person conducting or wishing to conduct a seasonal business service shall do so without a valid licence issued under the provisions of this by-law.
4. Seasonal business services are conducted outdoors but shall not be conducted on public lands, sidewalks or highways but may be conducted on private lands.
5. A licence obtained under this by-law is limited to private property in the tourist core only, as outlined in Schedule 1.
6. There shall only be one (1) Seasonal Business Service licence per municipal address.
7. A Seasonal Business Service licence will not be issued for a municipal address where a valid Specific Location Daily Sales Licence(s), as per By-law No. 2001-31, already exists.
8. A licence under this by-law is for one month in duration subject to four (4) renewals during the tourist season subject to the fees set out in Schedule 2 of this by-law.
9. Seasonal Business Services are artisan services or goods produced on the spot and does not include the sale of retail items or sale and /or production of food services.
10. A Seasonal Business Service shall pose no hazard to pedestrians or eliminate any existing parking spots found on the private property where the seasonal business service is located.
11. The kiosk, stand and/or location of the seasonal business service shall be presentable, clean and tidy.

PART 3 APPLICATION PROCESS

12. Every person who wishes to carry on a Seasonal Business Service shall procure and maintain a licence the Municipality in accordance with this By-law.

13. No person shall operate a Seasonal Business Service unless he or she has a valid licence permitting him or her to do so.
14. It shall be a condition of every licence that the Licensee be in compliance with the provisions of Zoning By-law No. 79-200, any amendments thereto, and any future zoning by-laws enacted during the lifetime of the Seasonal Business Service by-law.
15. On an application for a licence, or the renewal thereof, the applicant shall provide to the Clerk:
 - (a) a completed application form(s);
 - (b) a letter of permission from the property owner(s) on whose property the Seasonal Business Service will operate.
 - © a detailed drawing, with distances and dimensions, outlining where the Seasonal Business Service will be situated and how the Service will be conducted.
 - (d) the requisite fee(s) as prescribed in Schedule 2 of this by-law.
16. Upon receipt of an application for a licence required by this By-law, the Clerk shall:
 - (a) make or cause to be made all investigations which are required;
 - (b) determine whether or not any applicant has been convicted of an offence relating to this or any other by-law; and
 - © circulate the application to the Police or Health Departments of the Regional Municipality of Niagara, the Building Division, Fire Prevention Office, By-law Services or any other division of the Municipality and the Victoria Centre and Clifton Hill Boards of Management, where applicable, for inspection, comment and report.
17. Any person duly authorized by the Municipality may, at all reasonable times, inspect a Seasonal Business Service or proposed Seasonal Business Service.
18. No person who has or is required to have a licence under this By-law shall obstruct or hinder the inspection.
19. An application for a licence under this by-law shall occur annually.

PART 4 ISSUANCE OR REFUSAL OF LICENCES

20. Upon completion of the investigations and inspections set out in the By-law, the Clerk shall issue a licence provided that:

- (a) the provisions of the particular licence applied for have been complied with;
 - (b) the applicant has not been convicted of an offence under this or any other by-law relating to licenses;
 - ©) no adverse comment is received from any of the agencies, departments or divisions to which the application has been circulated.
21. The licensee shall post the licence in a conspicuous place, if possible, or maintain the licence on their person so it could be immediately furnished upon inspection by the Clerk, a Municipal Law Enforcement Officer or a Police Officer.
 22. In the event that the Clerk does not issue the licence, the Clerk shall notify the applicant of the Clerk's decision by sending the applicant a Notice of Refusal, outlining reasons for the refusal, by ordinary mail at the address noted in the application.
 23. Where the reason(s) for refusal of the licence does not deal with non-compliance with the Municipality's Zoning By-law, the applicant may appeal the Clerk's decision to Council, within ten (10) days of the date of the Notice of Refusal.
 24. Where the applicant appeals the Notice of Refusal, the Clerk will endeavour to schedule the matter before Council at the next practical Corporate Services Committee meeting and notify the applicant of the date of the meeting.
 25. The applicant shall be allowed to make a presentation or submissions to the Corporate Services Committee either personally or through a representative.
 26. The Corporate Services Committee shall, in accordance with applicable law, hear the matter and shall make a recommendation to be ratified at Council to either:
 - (a) grant the licence to the applicant; or
 - (b) refuse to grant the licence to the applicant; or
 - ©) grant the licence and impose conditions.
 27. Council's decision is final and may be given verbally, with the Corporate Services Committee minutes serving as a record of the proceedings.

PART 5 PENALTIES

28. As per the authority granted under s. 425 of the *Municipal Act, S.O. 2001, c. 25*, person who contravenes any provision of this by-law, is guilty of an offence and upon conviction is liable to a fine of not more than \$10,000.

PART 6 SEVERABILITY

- 29. Should any provision or any part of any provision of this by-law be held by a competent authority to be invalid, or of no force and effect, it is the intent of Council in enacting this by-law that each and every other provision of this by-law, and every part of every provision authorized by law stand and be applied and enforced in accordance with its terms.

PART 7 VALIDITY

- 30. This by-law shall come into force upon its passing.

(Original By-law was)Passed this eleventh day of June, 2007.

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DEAN IORFIDA, CITY CLERK

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R.T. (TED) SALCI, MAYOR

First Reading: June 11, 2007.
Second Reading: June 11, 2007.
Third Reading: June 11, 2007.

SCHEDULE 2 TO BY-LAW 2007-

Fee Schedule

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| 1. | Seasonal Business Services Licence
(valid from Victoria Day weekend until Canadian Thanksgiving) | \$1200.00 |
| 2. | Monthly Business Services Licence
(Valid for four (4) consecutive weeks) | \$ 300.00 |
| 3. | Administrative Fee* | \$ 300.00 |

*This processing fee is due and payable at the time the application for a license is made, and is not refundable, notwithstanding that the application for a licence maybe withdrawn or refused for any reason. Should the licence be issued, the administration fee will be deducted from the seasonal or monthly fee.