

## CITY OF BROOKS

### BYLAW NO. 19/16

#### A BYLAW OF THE CITY OF BROOKS IN THE PROVINCE OF ALBERTA TO CONTROL, REGULATE AND LICENCE BUSINESSES.

**WHEREAS**, the *Municipal Government Act RSA 2000*, Chapter M-26 and amendments thereto, authorizes a Council to control Businesses, Business activities and Persons engaged in Business;

**AND WHEREAS** it is in the public's best interest to licence, monitor, regulate and inspect Businesses that operate within the City;

**NOW THEREFORE** the Council of the City of Brooks, in the Province of Alberta, hereby enacts as follows:

#### 1. Title

100. This Bylaw may be cited as the "Business Licence Bylaw".

#### 2. Definitions

200. In this Bylaw, unless the context otherwise requires,

201. "**Act**" means the *Municipal Government Act, RSA 2000 C M-26* and regulations made under the *Municipal Government Act* as amended or repealed and replaced from time to time;

202. "**Boulevard**" means that part of a Highway in an urban area that is not a roadway and is that part of the Sidewalk that is not especially adapted to the use of or ordinarily used by pedestrians;

203. "**Business**" means:

204. a commercial, merchandising or industrial activity or undertaking; or,

205. a profession, trade or occupation; or,

206. an activity providing of goods or services, however organized or formed, including a co-operative or association of Persons;

207. "**Business Licence**" means a licence issued to operate a Business as per Bylaw 19/16, as amended or replaced from time to time;

208. **“Bylaw”** means the City of Brooks Business Licence Bylaw No. 19/16 as may be amended from time to time;
209. **“Charitable or Non-Profit Organization”** means any Person, association or corporation engaged entirely in charitable activities, or engaged in the promotion of general social welfare including purposes which are of a philanthropic, benevolent, educational, health, humane, religious, cultural, artistic or recreational nature;
210. **“Chief Administrative Officer”** means the Chief Administrative Officer of the City of Brooks regardless of any subsequent title that may be conferred on that officer by Council or statute, or his or her designate;
211. **“City”** means the City of Brooks, a Municipal Corporation in the Province of Alberta, or the geographical area contained within the boundaries of the City of Brooks, as the context may require;
212. **“City Resident”** means:
213. In the case of a Person, one who has established and is living in a permanent residence in the City; or,
214. In the case of a firm or corporation, one which has established a permanent place of Business within the City.
215. **“Council”** means the Municipal Council of the City of Brooks;
216. **“County Resident”** means:
217. In the case of a Person, one who has established and is living in a permanent residence in the County of Newell including any municipalities therein; or,
218. In the case of a firm or corporation, one which has established a permanent place of Business within the boundaries of the County of Newell including any municipalities therein and conducts business within the City;
219. **“Highway”** means any thoroughfare, Highway, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestleway or other place or any part of any of them, whether publicly or privately owned, that the public is ordinarily entitled or permitted to use for the passage or parking of vehicles and includes a Sidewalk, including a Boulevard adjacent to the Sidewalk, if a ditch lies adjacent to and parallel with the roadway, the ditch, and if a Highway right of way is contained between fences or between a fence and one side of the roadway, all the land between the fences, or all the land between the fence and the edge of the roadway, as the case may be, but does not include a place declared by regulation not to be a Highway as defined in *The Traffic Safety Act, R.S.A. 2000, c. T-6*;

220. **“Licence Inspector”** means anyone appointed by Council to carry out the provisions of this Bylaw;
221. **“Licensee”** means the Person or Business holding a valid Business Licence;
222. **“Mobile Vendor”** means any Person or Business who, whether as a principal or agent, offers or exposes for sale to any other Person, processed or unprocessed foodstuffs or retail items from:
223. A push-cart, wagon or other wheeled or skidded vehicle; or,
224. Food truck; or,
225. A mobile preparation unit; or,
226. A stall, booth, table, tent or space;
227. **“Non-Resident”** means any Person, firm or corporation who is not a City Resident or County Resident as defined in this Bylaw and does not include a Peddler;
228. **“Peace Officer”** means a Bylaw Enforcement Officer appointed by the City of Brooks pursuant to Section 555 of the *Municipal Government Act* and for the purpose of enforcement of this Bylaw, also includes a Community Peace Officer or a member of the Royal Canadian Mounted Police;
229. **“Peddler”** means any Person who, whether as principal or agent, goes from house to house selling or offering for sale any merchandise or service, or both, to any Person, and who is not a Wholesaler or Retail Establishment in that merchandise or service, and not having a permanent place of Business in the City or County of Newell;
230. **“Person”** means any Person, firm, partnership, association, corporation, company or organization of any kind;
231. **“Premises”** means a store, office, warehouse, factory, building, enclosure, yard or other place occupied or capable of being occupied, by any Person for the purpose of carrying on any Business;
232. **“Retail Establishment”** means a Premises where goods, merchandise, substances, articles, and other materials, are offered for sale to the general public and includes limited on-site storage or limited seasonal outdoor sales to support that store’s operations;
233. **“Sidewalk”** means that part of a Highway especially adapted to the use of or ordinarily used by pedestrians, and includes that part of a Highway between the curb line (or the edge of the

roadway where there is no curb line) and the adjacent property line, whether or not it is paved or improved;

234. **“Violation Tag”** means a tag or similar document issued by the City pursuant to the Act;
235. **“Violation Ticket”** means a ticket issued pursuant to Part II of the *Provincial Offences Procedures Act*, RSA 2000, C P-34, as amended and any Regulations thereto;
236. **“Wholesaler”** means a Business or Person that is not a City Resident who sells or attempts to sell goods, wares, merchandise or food to any Business for the purpose of resale or to any institution, industrial or commercial consumer.

### 3. General Provisions

300. No Person shall carry on or operate any Business within the City unless he holds a valid Business Licence. Failure to do so shall result in a fine, as per Schedule “B”.
301. Operating a Business shall be defined as having one (1) Business transaction or that the Business has been advertised, as per Section 564 of the Act.
302. A Business Licence shall not be issued unless the Licence fee as set out in Schedule "A" is paid in full.
303. For the purpose of this Bylaw, where a Business operates from more than one (1) Premises, each Business shall require a separate Business Licence.
304. Notwithstanding Subsection 303, a Business which has a valid Business Licence is not required to obtain a separate Licence to operate a Business at a second Premises for a special event that does not exceed a period of forty-five (45) days.
305. For the purpose of this Bylaw, where a Person carries on more than one trade or occupation, only one Business Licence is required. If each trade or occupation is operated as a separate registered corporation, whether from the same location or not, a separate Business Licence is required for each corporation.

### 4. Fees and Refunds

400. Business Licence fees for existing Businesses are due and payable on December 31 of the prior year. If a Business does not pay its annual Business Licence fee by January 1, a late payment fee shall be added to the annual Business Licence fee, as per Schedule “A”.

401. Should an annual Business Licence be issued after June 30, in any year, the Business Licence fee shall be one-half of the appropriate annual Business Licence fee.
402. If any annual Business Licence is revoked, suspended or cancelled by the City, the Licensee is not entitled to a refund.
403. If a Business ceases operations, cancels their Business Licence and there is a penalty on the account, the penalty will remain on the account for the calendar year. If the Business reopens during that calendar year, the penalty shall be paid prior to a Business Licence being issued.
404. If a Business Licence has been cancelled for more than one (1) full year, the applicant is required to submit a new application and pay the applicable fee.

## **5. Exemptions**

500. Businesses specified in Section 5 do not require a Business Licence, provided that they adhere to the provisions of this Bylaw and all other municipal, provincial and federal regulations.
  501. The Business is specifically exempted from obtaining a municipal Business Licence by provincial or federal legislation;
  502. The Business is a Charitable or Non-Profit Organization;
  503. The Business is operated by a Person who is sixteen (16) years or younger and a resident of the City of Brooks or County of Newell;
  504. The Business is carried on during an event hosted by a local Non-Profit Organization or any other special event so deemed by the Chief Administrative Officer or a resolution of Council;
  505. The Business is selling products at the Brooks Farmers Market, which have been grown, produced, handcrafted, processed or baked by the vendor;
  506. The Business is selling meat, fruit or other farm produce that has been raised, grown, produced or caught within the City or County of Newell;
  507. The Business is a Wholesaler as defined in this Bylaw;
  508. The Business provides goods or services exclusively to the City, the Province of Alberta or the Government of Canada.

## **6. Application and Licence Provisions**

600. All applications for a Business Licence shall be made in writing on the form provided and shall be forwarded to the City giving such information and particulars as requested thereon.
601. Before being granted a Business Licence, each Business shall conform to the provisions of this Bylaw and to all applicable municipal, provincial and federal regulations.
602. A Business Licence shall be posted in a conspicuous place in the Business Premises for which it was issued. In addition, the Licence Inspector may request any Business to display any other notice that he may deem necessary to clearly indicate that the Business has a valid Business Licence.
603. Any Premises to which a Business Licence has been issued may be subject to inspections during regular Business hours by the Licence Inspector or any other Person authorized by Council to do so.
604. A Business Licence shall terminate on December 31 of the year in which it was issued unless it was expressly issued for a shorter period or the Business Licence has been sooner cancelled or revoked.
605. A Business Licence may only be transferred, upon written request of the Licensee, to the Person/entity who purchases the Business to which the Business Licence was issued.
606. Notwithstanding Section 605, if there is a name change to the Business, a new application and new Business Licence is required.

## **7. Mobile Vendors**

700. No Mobile Vendor shall be located on any Highway, Sidewalk or Boulevard, except during designated special events. Mobile Vendors are permitted to be located in City owned parking lots.
701. Where a Mobile Vendor is permitted, the owner or operator shall keep the Mobile Vendor space and surrounding area clean and clear of all waste, discarded debris and food stains.
702. Where a Mobile Vendor is located on private property, the Mobile Vendor must obtain permission from the property owner.

## **8. Licence Inspector**

800. Council shall appoint by resolution Licence Inspectors to administer this Bylaw and the Licence Inspectors are hereby authorized to:

801. Receive, consider, approve and deal with all applications for a Business Licence, cancellation and transfer thereof;
802. Record such information, with respect to Business Licences as may be considered necessary;
803. Periodically visit and inspect Business Premises;
804. Refuse to grant any Business Licence if the Business will be contravening provisions of this Bylaw or any other applicable municipal, provincial or federal regulation or for any other just and reasonable cause;
805. Issue a Business Licence, with or without conditions, upon payment of the appropriate fee, as per Schedule "A"; and,
806. Revoke, suspend or cancel a Business Licence if there is reasonable and just cause to do so.

## **9. Enforcement**

900. A Peace Officer is for the purposes of enforcement of this Bylaw, a Designated Officer of the City.
901. Fines and penalties imposed on a conviction for an offence under this Bylaw are an amount owing to the City.
902. The levying and payment of any fine or the imprisonment for any period provided in this Bylaw shall not relieve a Person from the necessity of paying any fees, charges or costs from which that Person is liable under the provisions of this Bylaw or any other Bylaw.
903. Any Person who breaches, contravenes or does not comply with any provision of the Bylaw is guilty of an offence and liable:
  904. upon the issuance of a Violation Tag to the specified penalty as listed on Schedule "A" attached to and forming part of this Bylaw; or,
  905. upon summary conviction to a fine of not less than the amount specified on Schedule "A" attached to and forming part of this Bylaw for each offence, exclusive of costs; or,
  906. to a fine of not more than \$10,000 or to imprisonment for not more than one year, or to both fine and imprisonment.
907. A Peace Officer is hereby authorized and empowered to issue a Violation Tag to any Person who has contravened any provision of this Bylaw.
908. A Violation Tag shall be deemed to be sufficiently served if:

909. served Personally on the accused; or,
910. mailed to the address of the registered owner of the property concerned or to the Person concerned; or,
911. served Personally upon the manager, secretary, receptionist or other officer or Person apparently in charge at any Premises of the accused, or by mailing a copy to such accused.
912. A Violation Tag shall state:
  913. the name of the Person or other information to adequately identify the Person;
  914. approximate location of where the offence took place;
  915. the offence;
  916. the penalty for the offence set out on Schedule "A" of the Bylaw;
  917. that the penalty shall be paid within fourteen (14) days from the issuance of the Violation Tag; and,
  918. any other information deemed necessary by the Chief Administrative Officer or by the provisions of the Act or the *Provincial Offences Procedure Act*, RSA 2000, c P-34 as amended.
919. Where a breach of this Bylaw is of a continuing nature, each day on which it continues or is repeated shall constitute a separate offense, and shall be liable to a separate penalty.
920. Where a Violation Tag has been issued for breach of any provision of this Bylaw, the Person to whom the Violation Tag is issued may, in lieu of being prosecuted for the offence, pay to the City the penalty specified on the Violation Tag.
921. Nothing in the Bylaw shall prevent a Peace Officer from immediately issuing a Violation Ticket.
922. If a Person upon whom a Violation Tag is served above fails to pay the voluntary payment within the time specified, a Peace Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to Part II of the *Provincial Offences Procedure Act*, RSA 2000, c P-34, as amended, or as repealed and replaced from time to time.
923. The Person to whom a Violation Ticket has been issued pursuant to the *Provincial Offences Procedure Act*, RSA 2000, c P-34, as amended, or as repealed from time to time, may plead guilty by making a voluntary payment in respect to the summons by delivering to the

Provincial court, on or before the initial appearance date, the Violation Ticket together with an amount equal to the specified penalty for the offence as provided for in Schedule "A" or Schedule "B" to this Bylaw.

924. Any Person who is guilty by way of summary conviction of an offense under the provisions of this Bylaw shall be liable for a fine of not less than the amount specified for that particular breach of this Bylaw, plus associated court costs pursuant to Part II of the *Provincial Offences Procedure Act*, RSA 2000, c P-34, as amended, or as repealed from time to time.

### **Remedial Orders**

925. A Peace Officer is hereby authorized and empowered to issue a remedial order to any Person whom the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
926. A remedial order written pursuant to this Bylaw may:
- 927. direct a Person to stop doing something, or to change the way in which the Person is doing it;
  - 928. direct a Person to take any action or measures necessary to remedy the contravention of this Bylaw, and, if necessary, to prevent a reoccurrence of the contravention;
  - 929. state a time within which a Person must comply with the directions; and,
  - 930. state that if the Person does not comply with the directions within a specified time, the City will take the action or measures at the expense of the Person.
931. A remedial order written pursuant to this Bylaw may be served:
- 932. in the case of an individual:
    - 933. by physically delivering it to the Person; or,
    - 934. by mail addressed to the Person at their apparent place of residence or at any address for the Person on the tax roll of the City or at the Land Titles registry. A remedial order is deemed to be received seven (7) days after it is mailed.
  - 935. in the case of a company or corporation or other such entity:
    - 936. by physically delivering it to any director or officer of the company;
    - 937. by physically delivering it to a Person apparently in charge of an office of the company at an address held out by the company to be its address; or,

938. by mail addressed to the registered office of the company. A remedial order is deemed to be received seven (7) days after it is mailed.
939. If, in the opinion of a Peace Officer, service of the remedial order cannot be reasonably affected, or if the Peace Officer believes that the owner and/or occupier of the Premises is evading service, the Peace Officer may post the remedial order in a conspicuous place on the Premises to which the remedial order relates, or on the private dwelling place of the Owner of the Premises, as registered at the Land Titles Office or on the municipal tax roll for the Premises, and the remedial order shall be deemed to be served upon the expiry of three (3) days after the remedial order is posted.
940. Every Person who fails to comply with a remedial order issued pursuant to this Bylaw within the time set out in the remedial order commits an offence.
941. If the Person to whom a remedial order has been issued fails to comply with the remedial order within the time specified therein, the City may take whatever steps are necessary to remedy the contravention of this Bylaw and the cost of doing so becomes a debt owing to the City by the Person to whom the order was issued.
942. If, in the opinion of the Chief Administrative Officer, a contravention of this Bylaw requires immediate action, the City may perform any work necessary to address the contravention of this Bylaw without prior notice or a remedial order and all costs incurred by the City will be payable by the Person alleged to have contravened this Bylaw.

#### **Notice of Entry & Inspections**

943. A Peace Officer may give a minimum twenty four (24) hour notice of entry to an owner and/or occupier of a Premises to enter into or upon any Premises within the City, pursuant to authority set out in Section 542 of the Act, to carry out an inspection, remedy, enforcement or action for the purpose of ensuring compliance with this Bylaw.
944. If a Person refuses to allow or interferes with the entry onto a Premises, inspection, enforcement or action required to ensure compliance with this Bylaw and/or refuses to produce anything to assist in the inspection, remedy, enforcement or action required to ensure compliance with this Bylaw, the City may apply to the Court of Queen's Bench where the court may issue an order to restrain a Person from preventing or interfering with the entry onto a Premises, inspection, enforcement or action or require the production of anything to assist in the inspection, remedy, enforcement or action to ensure compliance with this Bylaw.

**Notice of Appeal**

945. A Person who has received a remedial order or a decision from a Licence Inspector may request Council to review the remedial order or decision issued in accordance with this Bylaw by written notice of appeal within fourteen (14) days of the date the remedial order is received.
946. Each notice of appeal shall:
  947. state with reasonable detail, the grounds of appeal;
  948. state the name, address and interest of the appellant; and,
  949. be dated and signed by the appellant or on their behalf by their agent and, if signed by an agent shall state the name and address of the agent as well as that of the appellant.
950. When hearing an appeal Council shall:
  951. hold a hearing within thirty (30) days after receipt of the remedial order;
  952. ensure that the notice of the hearing is mailed to the appellant at least five (5) days prior to the date of the hearing;
  953. consider each appeal having due regard to the circumstances and merits of the case and to this Bylaw;
  954. not be bound by the rules of evidence applicable to courts of civil or criminal jurisdiction;
  955. afford to every Person concerned the opportunity to be heard, to submit evidence of others; and,
  956. make and keep a written record of its proceeding which shall be in the form of a summary of the evidence presented to Council at the hearing.
957. In determining an appeal, Council:
  958. may confirm, vary, substitute or cancel the remedial order; and,
  959. shall render its decision in writing to the appellant within fifteen (15) days from the date of hearing.

**10. Repeal of Bylaw**

1000. Bylaw No. 15/20 and 16/02 are hereby repealed.

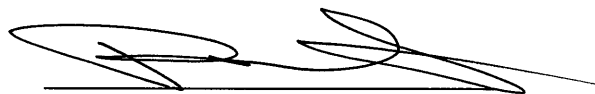
**11. Effective Date**

1100. This Bylaw shall take effect at the date of final passing thereof.

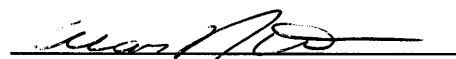
Read a first time this 3<sup>rd</sup> day of September, 2019.

Read a second time this 3<sup>rd</sup> day of September, 2019.

Read a third time and adopted this 3<sup>rd</sup> day of September, 2019.



Mayor



Chief Administrative Officer

**BYLAW NO. 19/16  
SCHEDULE "A"****BUSINESS LICENCE FEES**

City Resident Business – new application	\$150
City Resident Business – annual renewal	\$100
County Resident Business – new application	\$300
County Resident Business – annual renewal	\$250
Non-Resident Business – new application	\$550
Non-Resident Business – annual renewal	\$500
Non-Resident Business – monthly	\$200 / month
Peddler – yearly	\$1500
Peddler – monthly	\$500
Peddler – weekly	\$200 / week
Penalty for late payment	\$75

**BYLAW NO. 19/16  
SCHEDULE "B"****SPECIFIED PENALTIES**

<b>Offence</b>	<b>Penalties</b>	<b>Second or Subsequent Offence Within One Year</b>	<b>Subsection</b>
Business not having valid Business Licence	\$250.00	\$500.00	300
Failing to comply with a remedial order	\$500.00	\$1,000.00	940