

CITY OF KELOWNA

BYLAW NO. 9900

A bylaw to enter into a Mobile Business Licence Scheme

WHEREAS Okanagan-Similkameen municipalities wish to enter into an agreement with one-another to permit certain kinds of Businesses to operate across municipal jurisdictions within the Okanagan-Similkameen regions while minimizing the need to obtain a separate Municipal Business Licence in each jurisdiction;

AND WHEREAS each of the undersigned local governments (herein called singularly the Participating Municipality or as a group the "Participating Municipalities") has adopted this Bylaw;

NOW THEREFORE the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. There is hereby established an intermunicipal business licence scheme, pursuant to Section 14 of the *Community Charter* and according to the terms and conditions of this Bylaw.
2. This bylaw may be cited for all purposes as "Mobile Business Licence Bylaw No. 9900".
3. In this Bylaw:

"Business" has the meaning as defined by the *Community Charter* SCHEDULE – Definitions and Rules of Interpretation.

"Excluded Businesses" means Business types which are excluded from application for a Mobile Business Licence and includes those Businesses referred to in Schedule A.

"Mobile Business" means a Business that performs a service or activity within more than one Participating Municipality but not from or in Premises in one or more participating municipalities, and who provides the service or activity by moving from client to client.

"Mobile Business Licence" means a business licence which authorizes a Mobile Business to be carried on within the boundaries of any or all of the Participating Municipalities in accordance with this Bylaw.

"Municipal Business Licence" means a licence or permit, other than a Mobile Business Licence, issued by a Participating Municipality that authorizes a Business to be carried on within the jurisdictional boundaries of that Participating Municipality.

"Participating Municipality" means those of the following local governments that have adopted this Mobile Business Licence Bylaw:

City of Armstrong	Central Okanagan Regional District	District of Coldstream
City of Enderby	City of Kelowna	Village of Keremeos
District of Lake Country	Village of Lumby	Town of Oliver
Town of Osoyoos	District of Peachland	City of Penticton
Town of Princeton	District of Salmon Arm	District of Sicamous
Township of Spallumcheen	District of Summerland	City of Vernon

"Person" includes an individual, corporation, organization, partnership, proprietorship, firm and the personal or other legal representative of a person to whom the context may apply under this Bylaw.

"Premises" means a fixed or permanent location where the applicant ordinarily carries on Business.

"Principal Municipality" means the Participating Municipality where a Business is located or has a Premises, or where the licensee does not maintain a Premises in any of the Participating Municipalities the jurisdiction that issues the Mobile Business Licence.

4. Subject to sections 6 and 8, a Person who has obtained a Mobile Business Licence may carry on Business within a Participating Municipality for the term authorized by the Mobile Business Licence without obtaining a Municipal Business Licence in the other Participating Municipalities.
5. A Participating Municipality may issue a Mobile Business Licence to an applicant for a Mobile Business Licence provided the Business type is not an Excluded Business, and the applicant meets the requirements of this Bylaw in addition to the requirements of the Municipal Business Licence of that Participating Municipality.
6. Notwithstanding that a Person may hold a Mobile Business Licence that would make it unnecessary to obtain a Municipal Business Licence in other Participating Municipalities, the Person must still comply with all other regulations of any Municipal Business Licence bylaw or regulation in addition to any other bylaws that may apply within any jurisdiction in which the Person carries on Business.
7. A Business that operates a Mobile Business may only apply for a Mobile Business Licence from the Participating Municipality in which they maintain a Premises.
8. Neither this Bylaw nor the issuance of a Mobile Business Licence eliminates a requirement of a holder of a Mobile Business Licence to obtain a Municipal Business Licence for each Premises that is maintained within the jurisdiction of the Participating Municipality.
9. Notwithstanding Sections 5, 6 and 7, the Participating Municipalities agree that where an applicant for a Mobile Business Licence does not maintain Premises in any of the Participating Municipalities, then the applicant may apply at any one of them. The Participating Municipality's Municipal Business Licence must be purchased prior to the application for a Mobile Business Licence.
10. The fee for a Mobile Business Licence is \$150 and shall be retained by the Participating Municipality that issues the licence. The fee for a Mobile Business Licence is separate and additional to any Municipal Business Licence that may be required.

11. Every Mobile Business Licence shall be issued in a standard form to be agreed upon from time to time by the Participating Municipalities. Each Participating Municipality shall periodically provide the other Participating Municipalities with a list of Mobile Business Licences that it has issued during the calendar year.
12. A Participating Municipality may exercise the authority of the Principal Municipality and suspend a Mobile Business Licence in relation to conduct by the holder within the Participating Municipality which would give rise to the power to suspend a business licence under the *Community Charter* or the business licence or regulation bylaw of the Participating Municipality. The suspension shall be in effect throughout all of the Participating Municipalities and it shall be unlawful for the holder to carry on the Business authorized by the Mobile Business Licence in any Participating Municipality for the period of the suspension.
13. If the Council of a Participating Municipality is of the opinion that reasonable cause exists to cancel a Mobile Business Licence issued by another of the Participating Municipalities, then it may by resolution reciting the details of such reasonable cause request the Principal Municipality that issued the licence to consider whether or not the licence should be cancelled pursuant to Sections 15 or Section 60(2) of the *Community Charter* and amendments thereto.
14. Any resolution made under Section 13 shall be communicated in writing to the Principal Municipality that issued the Mobile Business Licence, together with such documentary evidence of the reasonable cause as may be available, and such Principal Municipality shall as soon thereafter as reasonably possible consider whether the Mobile Business Licence should be cancelled.
15. In making any decision as to whether to cancel a Mobile Business Licence under Section 14 or Section 60(2) of the *Community Charter* and amendments thereto, the Principal Municipality shall approach the matter as if the conduct complained of had occurred within its own boundaries.
16. The Principal Municipality will retain the authority to hear related reconsiderations or appeals of suspensions and cancellations of Mobile Business Licences.
17. Nothing in this Bylaw affects the authority of a Participating Municipality to suspend or cancel any business licence issued by that municipality or to enact regulations in respect of any class of Business under Section 15 of the *Community Charter* or amendments thereto.
18. A Participating Municipality may, by notice in writing to each of the other Participating Municipalities, withdraw from the Mobile Business Licence scheme established by this Bylaw, and notice must:
 - a. Set out the date on which the withdrawing municipality will no longer recognize the validity within its boundaries of business licences issued pursuant to this Bylaw, which date must be at least six months from the date of the notice; and
 - b. Include a certified copy of the Bylaw authorizing the withdrawal.
19. A Mobile Business Licence issued prior to the effective date of the withdrawal shall, until it expires, remain valid within the boundaries of the withdrawing Municipality.

20. The invalidity or unenforceability of any provision of this Bylaw shall not affect the validity or enforceability of any other provisions of this Bylaw and any such invalid or unenforceable provision shall be deemed to be severable.
21. In the event of an inconsistency between this Bylaw and any other bylaw relating to business licensing of a Participating Municipality, the provisions of this Bylaw shall take precedence.

Read a first, second and third time by the Municipal Council this 11th day of December, 2007.

Adopted by the Municipal Council of the City of Kelowna this day of , 2008.

Mayor

City Clerk

Schedule A

The following Business types are Excluded Businesses for the purposes of application for a Mobile Business Licence under the intermunicipal business licensing scheme set out in this Bylaw:

- Social escort services
- Vehicles for hire (for example, taxis, limousines or buses)
- Body-rub services (which includes the manipulating, touching or stimulating by any means, of a Person's body or part thereof, but does not include medical, therapeutic or cosmetic massage treatment given by a Person duly licensed or registered under any statute of the Province of British Columbia governing such activities or a therapeutic touch technique.)