
CITY OF KELOWNA

MEMORANDUM

Date: November 28, 2008
File No.: 0117-01
To: City Manager
From: Director, Corporate Services
Subject: Inter-Community Mobile Business Licence Bylaw

RECOMMENDATION:

THAT Council receive the report from the Director, Corporate Services dated November 28, 2008;

AND THAT Bylaw No. 10126, being Amendment No. 1 to Inter-Community Mobile Business Licence Bylaw No. 9900 be advanced for reading consideration.

BACKGROUND:

A Mobile Business Licence Pilot Project was proposed on September 7, 2007 to municipal representatives from 18 municipalities throughout the Okanagan and Similkameen valleys by the Minister of Small Business and Revenue, Rick Thorpe. Minister Thorpe's proposal offered an opportunity for small business to save time and reduce expenses while continuing to provide municipalities the ability to monitor business activity within their jurisdiction with no additional tax burden.

In December 2007, Council adopted Bylaw 9900 to enter into an Okanagan/Similkameen Mobile Business Licence Scheme and directed staff to report back one year after adoption of the Mobile Business Licence Bylaw regarding feasibility of a one time equalization distribution between participating Municipalities of net revenue after expenses.

In October, 2008 the Steering Committee ("Committee") met to discuss the pilot project. At this meeting the Committee recommended that all participating municipalities endorse and take the following actions:

1. That the Mobile Business Licence be made a permanent program, thereby ending the pilot project.
2. Rename the "Okanagan-Similkameen Mobile Business Licence Project" to the "Inter-Community Mobile Business Licence" and that any additional municipalities be able to join the agreement by passing the Inter-Community Mobile Business Licence bylaw;
3. That the bylaw be amended in the following ways:
 - a. That Mobile Business Licence be replaced with Inter-Community Business Licence throughout the bylaw;
 - b. Strike out Okanagan-Similkameen in the first sentence and replace with Okanagan-Similkameen "region" with "province"



The Pilot Project is now concluded with participating municipalities all reporting acceptable results. All communities saw positive growth in their business license revenue, therefore no one-time equalization distribution was necessary. The City of Kelowna issued 638 Mobile Business Licences in 2008. The revenue of this new Business Licence type was \$94,800. There was an offsetting small reduction in the number of business licenses issued, due to the number of businesses that obtained Mobile Business Licences in other jurisdictions. The net change was an increase in fees of approximately \$45,000.

INTERNAL CIRCULATION TO:

Bylaw Enforcement Supervisor
City Clerk
City Solicitor
Systems Development Manager

LEGAL/STATUTORY AUTHORITY:

Community Charter, Section 8, 14 and 60.

EXISTING POLICY:

Bylaw No. 9900

Considerations that were not applicable to this report:

LEGAL/STATUTORY PROCEDURAL REQUIREMENTS:

FINANCIAL/BUDGETARY CONSIDERATIONS:

PERSONNEL IMPLICATIONS:

TECHNICAL REQUIREMENTS:

EXTERNAL AGENCY/PUBLIC COMMENTS:

COMMUNICATIONS CONSIDERATIONS:

ALTERNATE RECOMMENDATION:



Rob Mayne, CMA
Director, Corporate Services



Approved for Inclusion:

Paul Macklem, General Manager, Corporate Sustainability

cc: City Solicitor
Systems Development Manager

Attachment:

Revised Inter-Community Mobile Business Licence Bylaw No. 9900 (with changes)

CITY OF KELOWNA

BYLAW NO. 9900

A bylaw to enter into an Inter-Community Mobile Business Licence Scheme

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

Deleted: Okanagan-Similkameen

Deleted: Okanagan-Similkameen regions

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 "Inter-Community 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 an Inter-Community 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.

"**Inter-Community 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 an Inter-Community 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 Inter-Community 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 [Inter-Community](#) Mobile Business Licence.

4. Subject to sections 6 and 8, a Person who has obtained an [Inter-Community](#) Mobile Business Licence may carry on Business within a Participating Municipality for the term authorized by the [Inter-Community](#) Mobile Business Licence without obtaining a Municipal Business Licence in the other Participating Municipalities.
5. A Participating Municipality may issue an [Inter-Community](#) Mobile Business Licence to an applicant for an [Inter-Community](#) 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 an [Inter-Community](#) 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 an [Inter-Community](#) Mobile Business Licence from the Participating Municipality in which they maintain a Premises.
8. Neither this Bylaw nor the issuance of an [Inter-Community](#) Mobile Business Licence eliminates a requirement of a holder of an [Inter-Community](#) 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 an [Inter-Community](#) 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 an [Inter-Community](#) Mobile Business Licence.

10. The fee for an Inter-Community Mobile Business Licence is \$150 and shall be retained by the Participating Municipality that issues the licence. The fee for an Inter-Community Mobile Business Licence is separate and additional to any Municipal Business Licence that may be required.
11. Every Inter-Community 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 Inter-Community 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 an Inter-Community 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 Inter-Community 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 an Inter-Community 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 Inter-Community 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 Inter-Community Mobile Business Licence should be cancelled.
15. In making any decision as to whether to cancel an Inter-Community 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 Inter-Community 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 Inter-Community 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. An Inter-Community 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 7th day of January, 2008.

Mayor

City Clerk

Schedule A

The following Business types are Excluded Businesses for the purposes of application for an [Inter-Community](#) 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.)