

## BYLAW NO. 3332/2004

### Being A Bylaw to Regulate and License Drinking Establishments in Red Deer.

WHEREAS Council has the authority to pass bylaws for municipal purposes respecting:

- (a) the safety, health and welfare of people and the protection of people and property;
- (b) people, activities and things in, on or near a public place or place that is open to the public;
- (c) the regulation of businesses, business activities and persons engaged in business; and
- (d) for the licensing of businesses.

AND WHEREAS the operation of Drinking Establishments in the City of Red Deer has resulted in a significant increase in problems associated with the use of Drinking Establishments by patrons, including disorderly conduct, violent altercations in the street, breaches of traffic and parking regulations, vandalism, littering, noise, and other disturbances of the peace;

AND WHEREAS the City of Red Deer has incurred substantial additional expense in order to deal with these problems, including increased costs relating to policing, bylaw enforcement, and street cleaning;

AND WHEREAS Council deems it advisable to enact a bylaw to provide for the licensing and regulation of Drinking Establishments so as to minimize their adverse impacts upon the community and so as to protect public safety;

NOW THEREFORE COUNCIL OF THE CITY OF RED DEER ENACTS AS FOLLOWS:

- 1 This bylaw may be referred to as the "Drinking Establishment Licensing Bylaw".

#### Definitions

- 2 In this bylaw, the following words shall have the following meanings:

- (a) "**Drinking Establishment** " means a business the primary purpose of which is the sale of alcoholic beverages for consumption on the premises in which the business is located and the secondary purposes of which may include entertainment, dancing, music, the preparation and sale of food for consumption on the premises, take-out food services, the sale of alcoholic beverages for consumption away from the premises, and entertainment. A Drinking Establishment includes any premises in respect of which a "Class A"

Liquor License has been issued by the Alberta Gaming and Liquor Commission and where the terms of the license prohibit minors.

- (b) “**Licence Inspector**” means the City employee occupying the position of License Inspector or any other person designated by the Inspections and Licensing Manager to perform the duties of that position.

### **License Required**

- 3 No person shall operate a Drinking Establishment without being in possession of a valid license issued by the City of Red Deer under this bylaw.

### **Application for License**

- 4 A person wishing to obtain a license for a Drinking Establishment may apply to the City Inspections and Licensing Department by paying the applicable license fee and by submitting an application in the form established by the Inspections and Licensing Manager from time to time and containing the following information:

- (a) the full names and addresses of the following persons:
- (i) the owner of the Drinking Establishment business (“applicant”);
  - (ii) where the owner is a corporate entity, the directors and shareholders of the corporation;
  - (iii) where the owner is a partnership, the individual partners or the individual directors and shareholders of the corporate members of the partnership, whichever is applicable;
  - (iv) the manager of the Drinking Establishment.
- (b) the name and address of the registered owner of the premises in which the Drinking Establishment is or will be located; and
- (c) a description of the usual types of events to be held at the Drinking Establishment, including the hours of operation and the method by which admission (if any) will be charged.

### **Duty to Advise of Change in Information**

- 5 A licensee must advise the City of any changes in the information required under section 4:
- (a) on an application to renew its license; and
  - (b) during the currency of any license, within 30 days of any change to such information.

### Consultation and Approvals

- 6<sup>1</sup> (a) The Inspections & Licensing Manager may consult with agencies such as the RCMP; and Alberta Gaming and Liquor Commission to determine whether they are in possession of information which, in the opinion of the Inspections & Licensing Manager, renders it inappropriate for an applicant to be issued a license.
- (b) The Inspections & Licensing Manager may determine that it is inappropriate to issue or renew a license to an applicant where the safety, health or welfare of the public may be at risk due to the issuance or renewal of a license.

### License Fee

- 7<sup>2</sup> (a) A Drinking Establishment shall pay an annual non-refundable fee as specified in Schedule "A" based on the size of the establishment. For this purpose, the size of the establishment shall be determined by the occupancy load or maximum number of persons entitled to be in the establishment at any one time as specified in the Occupancy Permit issued by the City of Red Deer for such establishment ("occupancy load").
- (b) The fees listed in Schedule "A" may be reduced by pro-rata on a monthly basis for each month or partial month from the date the License is first issued until December 31 of that year for any Licensee who has not obtained a License in the past.

### Duration of License

- 8 (a)<sup>3</sup> Every Drinking Establishment license is valid for a calendar year, or portion thereof remaining, and shall expire on December 31 of the year in which it was issued, unless sooner suspended or revoked.
- (b)<sup>4</sup> Subject to Section 6 (b), a licensee shall be entitled to renew its license from year to year, provided that the licensee completes the renewal documentation prescribed by The City, pays the license fee and otherwise complies with the requirements of this bylaw.

### Mandatory Requirements

- 9 The owner and manager of a Drinking Establishment must:

---

<sup>1</sup> 3332/B-2012

<sup>2</sup> 3332/B-2012. 3332/A-2015

<sup>3</sup> 3332/A-2015

<sup>4</sup> 3332/B-2012

- (a) adhere to the provisions of all bylaws, enactments or regulations which apply to the Drinking Establishment, including the Alberta Building Code and the Alberta Fire Code;
- (b) maintain in place a plan to the reasonable satisfaction of the Inspections and Licensing Manager which includes provisions for:
  - (i) first aid for patrons of the establishment; and
  - (ii) outside inspection and clean up in the vicinity of the Drinking Establishment during and after the hours of operation.
- (c) display the Drinking Establishment license in a prominent location;
- (d) require its manager and staff, on the request of a member of the RCMP, a license inspector or a bylaw enforcement officer, to:
  - (i) assist the member of the RCMP, license inspector or bylaw enforcement officer in carrying out an inspection of the premises, and
  - (ii) point out the location of the Drinking Establishment license so that it may be examined.

### **Conditions Attached to License**

10 Where events have occurred in connection with the operation of a Drinking Establishment that put at risk the safety, health, welfare or property of members of the public or of the patrons or employees of the Drinking Establishment, whether prior to the enactment of this bylaw, or during the currency of a license, the Inspections and Licensing Manager may include in the license for that Drinking Establishment specific conditions which are intended to deal with that risk, including conditions respecting the following matters:

- (a) the number and qualifications of security personnel who must be available at the Drinking Establishment;
- (b) the procedures required to be in place to address emergency medical and security concerns;
- (c) noise abatement measures which must be made to ensure noise outside or within the venue is minimized;
- (d) requirements that the owner and manager install and maintain a system of video camera surveillance, including specific requirements as to the number and type of cameras, their location and hours of operation, and

the procedures governing the retention of copies of video tapes or other visual surveillance recordings;

- (e) a requirement that the owner and manager install, maintain and operate an airport-style metal detecting security gate of a model and type and in a manner specified by the Inspections and Licensing Manager, for the purpose of identifying and barring entry to anyone carrying metal weapons;
- (f) a requirement that the owner enter into an agreement specifying the conditions set out herein, including such additional conditions as may be required by the Inspections and Licensing Manager pursuant to the provisions of subparagraph (g). Such agreement may, but need not, set out the terms and provisions which will give rise to a revocation or suspension of any license granted under this Bylaw; and
- (g) such additional conditions consistent with the foregoing requirements, as are, in the opinion of the Inspections and Licensing Manager, reasonably necessary to protect the safety, health, welfare, and property of the patrons and employees of the Drinking Establishment;

#### **Revocation or Suspension of License**

11 The Inspections and Licensing Manager may suspend any license granted under this bylaw where:

- (a) the applicant has been charged with an offence under or fails to comply with any bylaw of the City including this bylaw;
- (b) the applicant has provided false or misleading information in his or her application;
- (c) the applicant breaches any condition of a license granted under this bylaw;
- (d) the applicant or any of the officers, agents or employees of the Drinking Establishment denies entry to the premises of the Drinking Establishment by a member of the RCMP, a License Inspector or a bylaw enforcement officer exercising powers of inspection under section 18 of this Bylaw;
- (e)<sup>1</sup> it appears to the Inspections and Licensing Manager that the operation of the Drinking Establishment has resulted in a breach of the peace or of the Community Standards Bylaw.

12. The Inspections and Licensing Manager may suspend a license for non-compliance either with this Bylaw or with a condition of the license, until the

---

<sup>1</sup> 3332/A-2009

requirements of this bylaw or of the condition of the license have been met, or until the Inspections and Licensing Manager is reasonably satisfied that appropriate measures have been taken to prevent a recurrence of the non-compliance.

13. The Inspections and Licensing Manager may permanently revoke a license where:
- (a) in the reasonable opinion of the Inspections and Licensing Manager, the continued operation of the establishment would endanger the safety, health or welfare of the public; or
  - (b) the license has been suspended once and grounds exist under section 10 to suspend the license for a second time within a period of 24 months.
- 14 A suspension or revocation of a license shall not be effective until:
- (a) the Inspections & Licensing Manager has given 7 days written notice to the Licensee of the proposed suspension or revocation; and
  - (b) the Licensee has not appealed the proposed suspension or revocation or, having filed an appeal, until 7 days after the appeal has been dealt with as hereinafter specified and the Appeal Committee has denied such appeal.
- 15<sup>1</sup> A Licensee may appeal:
- (a) a condition of its license;
  - (b) the proposed suspension or revocation of its license; or
  - (c) a refusal to issue or renew a license
- by filing an appeal with Legislative & Administrative Services, within 14 days of the date it receives notice of the condition, the suspension or revocation or the refusal, in accordance with the relevant procedures as outlined in The City of Red Deer Committees Bylaw.
- 16<sup>2</sup> Deleted
- 17<sup>3</sup> Where the Red Deer Appeals & Review Board decides that the Inspections and Licensing Manager wrongly failed to issue or renew a license, the Inspections

---

<sup>1</sup> 3332/A-2009

<sup>2</sup> 3332/A-2009

<sup>3</sup> 3332/A-2009

and Licensing Manager shall issue or renew the license, subject to any conditions imposed pursuant to section 9.

<sup>1</sup>18<sup>2</sup> Deleted

### **Inspection of premises and facilities**

- 19 A License Inspector, bylaw enforcement officer or member of the RCMP may enter and inspect the premises of any licensed Drinking Establishment at any reasonable time, including during its hours of operation:
- (a) to determine if the facilities meet the requirements of this bylaw, other applicable bylaws of the City or any other laws or regulations which the license inspector, bylaw enforcement officer or member of the RCMP is authorized to enforce;
  - (b) to ensure that the licensee is complying with the requirements of this bylaw, the conditions attached to a license issued under this bylaw and other applicable bylaws of the City or any other laws or regulations which the license inspector, bylaw enforcement officer or member of the RCMP is authorized to enforce;
  - (c) in the case of a facility whose Drinking Establishment license has been suspended, to examine the premises to determine whether the conditions leading to the suspension of the license have been corrected.

### **Obstruction of Inspector**

- 20 No person may hinder, obstruct or impede a license inspector, bylaw enforcement officer or member of the RCMP in the performance of his or her duties or in the exercise of his or her powers of inspection under this bylaw.

### **Offences**

- 21 It is an offence for the owner or manager of a Drinking Establishment to fail to comply with or to breach any term or condition of a license granted hereunder.
- 22<sup>3</sup>
- (a) A person who contravenes or fails to comply with any provision of this bylaw is guilty of an offence and liable upon summary conviction to the specified penalty of \$500.00 for a first offence, \$1,000.00 for a second offence and \$1,500.00 for a third or subsequent offence, and in default of payment of any penalty, to imprisonment for up to 6 months.
  - (b) Where a peace officer or bylaw enforcement officer reasonably believes that a person has contravened any provision of this bylaw, the peace

---

<sup>1</sup> 3332/A-2006

<sup>2</sup> 3332/A-2009

<sup>3</sup> 3332/A-2012

officer or bylaw enforcement officer may, in addition to any other remedy at law, serve upon the person a municipal ticket, in the form used by the City, allowing payment of the penalty as set out in section 21(a) of this bylaw for the particular offence, which payment will be accepted by the City in lieu of prosecution of the offence, or, a peace officer or bylaw enforcement officer may issue a violation ticket in accordance with the *Provincial Offences Procedure Act*, R.S.A. 2000, c. P-34, allowing a voluntary payment of the penalty as set out in section 21(a) of this bylaw, or, requiring a person to appear in court without the alternative of making a voluntary payment. The recording of the payment of a penalty made to the City or the Provincial Court of Alberta shall constitute an acceptance of a guilty plea and conviction for the offence.

- (c) Any peace officer or bylaw enforcement officer who reasonably believes that a person has contravened any provision of this bylaw may seize and take possession of any licenses where the same are revoked or suspended, or otherwise required to be returned to the City.
- (d) Any person who contravenes the same provision of this bylaw within twelve months after the date of the first contravention, is liable to the specified penalties for such second, third or subsequent offence in the amount set out in section 21(a) of this bylaw.
- (e) A person who breaches any of the provisions of this bylaw where the breach is of a continuing nature, shall, in addition to the penalty set forth in section 21(a), pay a penalty of \$500.00 for each day that the breach continues.
- (f) This section shall not prevent any peace officer or bylaw enforcement officer from issuing a violation ticket pursuant to the provisions of the *Provincial Offences Procedure Act*, without first issuing a municipal ticket.
- (g) If a person is found guilty of an offence under this bylaw, and the conduct giving rise to the offence involves the non-payment of a fee which remains unpaid, the court shall, in addition to any other penalty imposed, impose a penalty equivalent to the amount of the unpaid fee.
- (h) If a person is found guilty of an offence under this bylaw, the court may, in addition to any other penalty imposed, order the person to comply with this bylaw.

### **General**

23<sup>1</sup> A License issued pursuant to this bylaw is the property of the City and may not be transferred.

---

<sup>1</sup> 3332/A-2012

- 24<sup>1</sup> No License may be issued or renewed if the applicant, or any individual or corporation named in the application, has an unpaid fine owing to the City for an offence under this bylaw.
- 25<sup>2</sup> A copy of a record of the City, certified by the Inspections and Licensing Manager as a true copy of the original, shall be admitted in evidence as prima facie proof of the facts stated in the record without proof of the appointment or signature of the person signing it.
- 26<sup>3</sup> In any prosecution for an offence, where a question arises as to whether a person had a valid and subsisting License, the burden is on that person to establish that the License was valid and subsisting.

### **Severability**

- 27<sup>4</sup> The invalidity of any provision of this Bylaw shall not affect the validity of the remainder.

### **Transitional**

- 28<sup>5</sup> Notwithstanding anything in this Bylaw, a Drinking Establishment in existence as at the date of this Bylaw shall not be guilty of the offence of not having a license, provided that the Drinking Establishment is in possession of a license by noon of Friday, August 13, 2004.

### **Effective Date**

- 29<sup>6</sup> The following provisions apply to any license issued under this bylaw in 2015:
- (a) For licenses issued after May 1, 2015, the license fees set out in Schedule "A" shall be reduced pro-rata on a monthly basis for each month or partial month from the date the license is first issued until December 31;
  - (b) For licenses issued before May 1, 2015 provided the licensee has paid the fee for a license which was to be valid for 12 months, the license will expire on December 31, 2015 and the licensee shall receive a pro-rated credit for all remaining months or partial months which, at the licensee's discretion may be applied to the licensee's 2016 license fees or refunded to the licensee.

---

<sup>1</sup> 3332/A-2012

<sup>2</sup> 3332/A-2012

<sup>3</sup> 3332/A-2012

<sup>4</sup> 3332/A-2012

<sup>5</sup> 3332/A-2012

<sup>6</sup> 3332/A-2012, 3332/A-2015

READ A FIRST TIME IN OPEN COUNCIL this 17<sup>th</sup> day of May 2004  
READ A SECOND TIME IN OPEN COUNCIL this 17<sup>th</sup> day of May 2004  
READ A THIRD TIME IN OPEN COUNCIL this 14<sup>th</sup> day of June 2004  
AND SIGNED BY THE MAYOR AND CITY CLERK this 14<sup>th</sup> day of June 2004

“G.D. Surkan”

\_\_\_\_\_  
MAYOR

“Kelly Kloss”

\_\_\_\_\_  
CITY CLERK

**SCHEDULE "A"**  
**DRINKING ESTABLISHMENT LICENSE FEES**

- |    |  |            |
|----|--|------------|
| 1. | Drinking Establishment (Occupancy limit 1 - 299)   | \$ 100.00  |
| 2. | Drinking Establishment (Occupancy limit 300 - 499) | \$1,000.00 |
| 3. | Drinking Establishment (Occupancy limit 500 +)     | \$5,000.00 |