

REQUEST FOR DECISION

Subject: Storefront Cannabis Retail – Options for Business License Fees and Charges



Presented to: Council

Date: October 22nd, 2018

Submitted by:
Randall McKay, Director Planning and
Development
Shauna Baker, Business License Assistant

Agenda #: 7.4

RECOMMENDATION

That council direct administration to proceed with a fee structure for Storefront Cannabis Retail Business Licensing.

BACKGROUND

Reason for Report

At the May 14, 2018, regular meeting of the Governance and Finance Committee the following motion was passed:

FIN18-18 Moved by Mayor Sorensen that the governance and finance committee direct administration to draft Land Use Bylaw Amendments to allow Storefront Cannabis Retail with the direction that:

- f) The governance and finance committee direct administration to return to council with options for business licensing.*

CARRIED

Summary of Issue

Background

On October 17, 2018 Bill C-45, The Cannabis Act came in to effect. Under the Cannabis Act, the Federal government is responsible for regulating the production of cannabis, possession limits advertising, tracking of seed to sale, establishing minimum age limits, personal cultivation, and the continued oversight of medical cannabis. This act also enables a regime for the distribution and sale of cannabis, which will be controlled by the provincial government.

In November 2017, the Province of Alberta passed Bill 26: An Act to Control and Regulate Cannabis. This legislation gives the Alberta Gaming and Liquor Commission (AGLC) authority for oversight, compliance and retail licensing, enables online sales by AGLC, and creates restrictions on youth possession and public consumption.

The provinces generally delegate a certain amount of authority to municipal governments to regulate and license businesses. Whether a municipal license is required and what specific permits must be obtained is dependent upon the type of business in question. In Banff, Sections 7 and 8 of the Province of Alberta Municipal Government Act gives Council the authority to pass a Business Licence Bylaw. Accordingly, all businesses operating within the corporate boundaries of the town are required to obtain a municipal business license.

The general principal behind municipal business licensing is not to provide a stamp of approval which indicates that a business is honest or reputable, but rather to ensure that all necessary prerequisites relevant to a premises being approved for a particular business use have been complied with. Thus before the Town of Banff will issue a license they will generally require that any necessary health, fire, planning or other approvals have been obtained.

The Town of Banff is unique in that in addition to a base fee, a certain proportion of business license fees levied against businesses are utilized for the purpose of marketing the town as a tourist destination area. These fees are collected under Schedule “B” for each business sector in which the business operates. The Base Business License fee for 2018 is \$172.00. The existing Schedule B fee for retail is \$2.04 per sq. ft. A copy of Town of Banff Business License Bylaw 22-9 is attached as Appendix A.

This report presents a range of potential business licence fee options for cannabis retail sales that will be legalized once the Minister responsible for Parks Canada or her designate endorses Bylaw 421. Business Licence Bylaw 22-9 currently regulates fees for all businesses, however, amendments are required to accommodate the licensing of storefront cannabis retail businesses. In developing the proposed options, Administration reviewed and considered the business licensing practices of several municipalities in Canada and the United States (See Appendix B).

Council should first determine whether or not fees for licensing cannabis retail stores should align with similar established categories under Schedule B of Business Licence Bylaw 22-9, or if a cost recovery option should be pursued to recoup costs related to harm reduction, communications, fire inspections, bylaw enforcement and policing associated with the licensing and legalization of cannabis.

The table below outlines five different options for fee levels for licensing cannabis retail operations.

Business License Fee Options					
Option	1 Recommended	2	3	4	5
Application	Align with similar established categories	Planning and Development Partial Cost Recovery	Planning Development Full Cost Recovery	Town of Banff Estimated Partial Cost Recovery -Fire -Planning -Bylaw	Town of Banff and RCMP Estimated Full Cost Recovery -Fire -Planning -Bylaw -Police
Business Licensing Base Fee	\$172.00	\$1,500.00	\$3,500.00	\$44,250.00/4 \$11,062.50/business	\$104,250.00/4 \$26,062.50/business
Schedule B Fee Retail Sector	2.04 per sq ft	2.04 per sq ft	2.04 per sq ft	2.04 per sq ft	2.04 per sq ft

Option Analysis:Option 1

- Provides a fee that mirrors business licence fees of similar complexity and scope but does not reflect the additional costs that have been required to prepare for cannabis legalization. This is the recommended option of Administration as the fee is consistent with other similar established categories. The majority of directly related permitting costs for plan reviews and inspections are already proposed to be recouped through the development permit application fee. BLLT has followed this process and is not recommended a differential rate from other retail.

Based on restrictions to where cannabis retail can locate it is anticipated that base fees will be net new revenue to the town and not replace revenue from converted commercial space.

Option 2

- Proposes fees which will provide for the recovery of partial costs incurred to the Planning and Development Department as it prepares for cannabis legalization. The costs are directly attributed to the permitting and licensing process and include staff time, mapping support, training, information sessions.

Option 3

- Proposes full cost recovery to the Planning and Development Department for the costs incurred as it relates to cannabis legalization. This option builds on Option 2 and also takes into account costs for business licence bylaw amendment changes, legal support, marketing and communications support. Many of these costs are fixed costs for the department and are already incurred through day to day operations.

Legal counsel has advised that this option may be difficult to justify as it relates to steps the Town chose to take and may not actually relate to the regulation of cannabis retail.

Option 4

- Proposes full cost recovery to the Planning and Development Department and also accommodates all other estimated interdepartmental costs related to cannabis, including plan reviews and inspections by other departments including Fire Inspection, Bylaw Services, GIS and legal support. It should be noted that no other business is expected to offset their costs as it directly relates to enforcement and that the costs of enforcement may not be directly attributable to business operations. An estimated breakdown of costs is as follows:

Fire Department	\$500.00
Planning and Development/GIS	\$3,500.00
Bylaw Services Community Peace Officer (CPO)	.5 FTE \$40,250.00/year (80% job rate including benefits)

Option 5

- Proposes full cost recovery to the Town of Banff for the estimated costs associated with cannabis legalization, including costs for RCMP support and personnel. While this option fully offsets all costs (including enforcement and policing) this level of cost recovery goes far beyond what other businesses are required to offset. An estimated breakdown of costs is as follows:

Fire Department	\$500.00
Planning and Development/GIS	\$3,500.00
Bylaw Services Community Peace Officer (CPO)	.5 FTE \$40,250.00/year (80% job rate including benefits)
RCMP Constable	.5 FTE \$60,000.00/year (based on Town of Banff proportionate contribution for one constable prorated per five stores)

In both Option 4 and Option 5, the amount of the base fee for each approved storefront cannabis retail business is shown as a proportionate share of the total estimated cost based on the issuance of four business licences. For example, if four storefront cannabis retail businesses are approved under Option 4, the base fee could be set at \$11,062.50/business. Under option 5, the base fee could be set at \$26,062.50/business. If a greater number of business licences were to be approved, the base fee could be further reduced to ensure the cost of policing and enforcement is shared equally among approved businesses.

Legal Considerations

Town of Banff legal counsel has advised that business licence fees can amount to a user fee or a regulatory charge so long as there is a *reasonable connection between the fee and the cost of the municipality providing the service*. The scope of what can be included in such fee is determined by the connection to the service being provided—regulating and licensing business. That scope can include costs related to inspection, enforcing, policing and administering the process. In order to support the fee if challenged, the Town would need to show that it undertook an analysis of the costs the Town is likely to incur relative to the regulation of the operation of the particular business (for example, will additional bylaw enforcement officer(s) be necessary, additional RCMP time for which the Town would be billed, additional litter collection costs). This is important especially as the amount of the fee goes up and the risk of a legal challenge increases. The estimate has to be reasonable, and based upon some analysis—it may also be difficult to undertake such an analysis prior to the commencement of operation of such businesses.

In summary, recovery of costs can be reflected in the business licence fee provided the Town of Banff has the information and analysis to relate to the licensing process or the regulation of the operation of the particular business. The social services costs may be the most difficult to tie to the operation of one of more businesses.

Schedule 'G' – Development Fees

A new development permit application fee related to Storefront Cannabis Retail has been included within Bylaw 421. This fee is set at \$4,000.00 to cover the additional costs associated with the advertising and processing of applications and on-going compliance monitoring.

Proposed Business License Application Intake Process for Storefront Cannabis Retail

A municipal business license will be issued when all required municipal approvals and fees have been obtained.

In order to process a Storefront Cannabis Retail Business Licence application, the following documents will be required.

- a. A completed Town of Banff Business License application form.
- b. A copy of a valid Lease Agreement
- c. A valid AGLC Retail Cannabis Store License. Businesses who want to sell cannabis in the Province of Alberta must have a retail cannabis licence issued by the AGLC.
- d. An approved Storefront Cannabis Retail Development Permit.

Community Stewardship

At the May 14, 2018, Governance and Finance Committee meeting the following motion was passed:

FIN18-23 Moved by Councillor Oliver that the governance and finance committee direct administration to explore options for requiring Storefront Cannabis Retailers to have some responsibility for community stewardship.

CARRIED

A number of municipalities have included additional notification and public outreach requirements for cannabis retail applications in order to ensure the community are informed about proposed retail locations. Administration has only been able to find one example in Denver, CO where further requirements surrounding potential socioeconomic impacts have been required. As part of their Business Licence Application, the City of Denver require a Community Engagement Plan that includes:

- An outreach plan to contact and engage residents and businesses in the local neighborhoods where any license is located;
- A detailed description of any plan to create positive impacts in the neighborhoods where the licensed premises are located, which may include by way of example, participation in community service, volunteer service, and active promotion of any local neighborhood plans; and
- Written policies and procedures designed to promote and encourage full participation in the regulated marijuana industry by people from communities that have previously been disproportionately harmed by marijuana prohibition and enforcement in order to positively impact those communities.

These types of conditions are intended to address specific social impacts created by, and surrounding, a specific business type. With regards to the retail of cannabis in Denver, these are intended to positively impact people and communities who have previously been harmed by cannabis prohibition and enforcement, as well as create positive impacts in the neighbourhoods where retail premises are located.

With the broad range of socioeconomic factors in Banff that includes topics such as required housing, environmental impacts of businesses, employment etc. Banff has historically addressed these on a global scale rather than targeting specific industries or businesses. The following options could be considered by Council with regards to socioeconomic conditions:

Option 1

- Include conditions, similar to those in Denver, for storefront cannabis retail businesses. These could include a plan to create positive impacts in Banff and policies and procedures to work with those impacted by cannabis.

Option 2

- Direct administration to investigate options for socioeconomic conditions related to different businesses by type. This could include storefront cannabis retail, liquor stores, businesses that use single use containers etc.

Option 3

- Do not add any additional conditions for community stewardship specific to cannabis retail businesses.

Budget

There are no direct budget implications on drafting amendments to the Business Licence Fees and Charges Bylaw other than the staff time to draft the amending bylaw.

Internal Resources

Due to the far reaching implications of the legalizing of cannabis, amendments to both the Land Use Bylaw and Business Licence Bylaw related to Storefront Cannabis Retail involves the input from many departments across the organization. This includes, but is not limited to, Planning and Development; Community Services; Bylaw Services; Business Licencing; Communications; Operations; and, Human Resources.

Communication

A page on Banff.ca (<http://banff.ca/cannabis>) has been created to inform members of the public on the process related to the regulatory framework for cannabis in Banff.

Banff Community Plan**Local Economy**

With the Federal changes surrounding the use and access to cannabis, this is seen as a new market with potential for large growth within the Canadian economy. The Commercial Development Objectives in the Banff Community Plan include:

- Establish commercial land use policies and development regulations to ensure Banff will continue to prosper.
- Seek opportunities to enhance the overall retail offering to ensure a balance of essential services for both visitors and residents.
- Encourage capital reinvestment in existing commercial space.
- Work toward economic diversification through commercial land use that is appropriate in a national park.
- Work with partners to undertake a comprehensive retail strategy to better respond to current market orientation and future demands.

Council Strategic Priorities

A cannabis regulatory framework is a 2018 Service Review priority.

Legislation/Policy

It is anticipated that amendments to the Land Use Bylaw (Bylaw 421) to allow storefront cannabis retail as a discretionary use in the CD District will receive final authorization by Parks Canada by the end of October, 2018. Business License Bylaw 22-9 will need to be amended once council provides direction on a preferred licencing approach.

Other

In addition to development permit and business license fees, applications may require other safety code permits (such as building, electrical, plumbing, gas or HVAC). Safety Codes fees for cannabis related businesses will utilize the existing fee schedule.

ATTACHMENTS

Appendix 'A' – Town of Banff Business License Bylaw 22-9

Appendix 'B' – Cannabis Business License Fees in other Municipalities

Circulation date: _____

Submitted By: _____
 On original
 Randall McKay
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Reviewed By: _____
 On original
 Robert Earl, Town Manager

BYLAW 22-9 – OFFICE CONSOLIDATION

BEING A BYLAW OF THE TOWN OF BANFF, IN THE PROVINCE OF ALBERTA, TO PROVIDE FOR LICENSING OF BUSINESSES OPERATING WITHIN THE TOWN OF BANFF

WHEREAS the Council of the Town of Banff deems it necessary to provide for the regulation and Licensing of all Business carried on within the municipality,

AND WHEREAS Banff is, first and foremost, a town within a National Park and World Heritage Site whose purposes and objectives are set out in the Banff National Park Management Plan and Banff Incorporation Agreement;

AND WHEREAS the Council of the Town of Banff has dedicated a certain proportion of Business License fees levied against Businesses resident in the Town for the purpose of marketing the Town as a tourist destination area;

AND WHEREAS Sections 7 and 8 of the Municipal Government Act, RSA 2000, Chapter M-26 authorizes a council to give the Council authority to pass such a Bylaw;

NOW THEREFORE, the Council of the Town of Banff, in the Province of Alberta, duly assembled, enacts as follows:

CITATION

1. This Bylaw may be cited as the “Business License Bylaw.”

DEFINITIONS

2. In this bylaw:
 - a) Any reference to a named act is a reference to an Act of the Legislature of Alberta, as amended from time to time;
 - b) Any reference to a Town of Banff staff position, department or committee, the reference is deemed to be to the current name that the staff position, department or committee is known by.
 - c) The definitions in Schedule “A” will apply to the corresponding words if the first letter of that word is capitalized in this bylaw:

LICENSING REQUIREMENTS

3. Except as otherwise provided for in this Bylaw, a License is required to carry on or operate any of the following Businesses:
 - a) Resident Business
 - b) Non-Resident Business
4. The following conditions are sufficient to establish that a Business is being carried on:
 - a) Proof of one transaction or offer to transact, or
 - b) Any advertising of a Business.
5. Residents and non-residents of the Town shall be entitled to equal rights in all matters relating to the issuance of Licenses.

6. Separate Licenses are required if two or more owners are operating Businesses from the same Business Premises.
7. No License shall be required to carry on or operate any Business that is exempt under the provisions of any Statute of Canada or the Province of Alberta. The onus of proving that a Business is exempt from requiring a License is on the Business alleging the exemption.
8. No License shall be required by the operator or participants to carry on or operate a craft sale, a rummage sale, a flea market or a residential garage sale where the duration of the activity is less than seven consecutive days.
9. No License shall be required by a Non-Resident Business to deliver goods within the Town when those goods are purchased by the recipient from a place or business outside the Town.
10. No License shall be issued to a Business carried on or to be carried on partly in the Town and partly elsewhere in Banff National Park unless a License has first been issued by Her Majesty the Queen in right of Canada or her designate.
11. No License shall be issued until such time as the Applicant holds current and valid Municipal, Provincial or Federal permits, approvals licenses or clearances as required by the relevant Municipal, Provincial, or Federal bylaws, statutes or regulations, including a valid Town of Banff development permit.
12. No License shall be issued to a Business which, in the opinion of the License Inspector, is not necessary to meet the purposes and objectives of the Town as are set out in the "Town of Banff Incorporation Agreement" made between the Government of Canada and the Government of the Province of Alberta as of the 12th day of December, 1989 and further referred to in the Town of Banff Land Use Bylaw, the Banff Community Plan, Banff National Park Management Plan and Appropriate Use Guidelines.
13. No License shall be issued for Hawkers.

LICENSE APPLICATION AND FEES

14. Every Applicant for a License, for renewal of a License, or for a transfer of License:
 - a) must provide the following information, in the form prescribed by the License Inspector:
 - i) The civic and legal address for the proposed place of Business;
 - ii) The trade name under which the proposed Business will operate;
 - iii) Where the Applicant is a sole proprietorship or partnership, the full name, mailing address and telephone number of the Applicant or Applicants;
 - iv) Where the Applicant is a corporation, the full name and mailing address of the principal managing employee or employees and the telephone number of the Business;
 - v) Any certificate, authority, License or other document of qualification under this or any other Bylaw, or under any Statute of Canada or the Province of Alberta that may be required in connection with the carrying on of the Business;
 - vi) Such other information as the License Inspector may reasonably require.

OFFICE CONSOLIDATION Town of Banff Bylaw 22-9 – Business Licensing

15. An Application for a License or for a renewal of a License shall not be considered by the License Inspector until the fees as set out in this bylaw have been received by the Town. Unless otherwise indicated in this bylaw, the fees shall be:

- a) \$172; and
- b) the amounts in Schedule “B;” and
- c) in the case of a Non-Resident Business, \$172.

amended 2010.12.16 Bylaw 303
amended 2017.01.01 Bylaw 367
amended 2018.01.01 Bylaw 388

16. Any Non-Resident Business in the Service sector may be issued up to two (2) temporary Business Licenses per calendar year, which shall be valid for thirty (30) consecutive days from issue, upon approval from the License Inspector for a License fee of:

- a) 175; plus
- b) \$140, allocated as a Schedule B fee

added 2010.12.16 Bylaw 303
amended 2017.01.01 Bylaw 367
amended 2018.01.01 Bylaw 388

17. For 2014, and each year thereafter, any Non-Resident Business that is engaged in class 400, 401 or 500 may be issued a temporary Licence, valid for twenty-four hours from issue from the Licence Inspector for a License fee of:

- a) \$119; plus
- b) \$95.00, allocated as a Schedule B fee.

amended 2013.12.24 Bylaw 331
amended 2014.11.24 Bylaw 341
amended 2017.01.01 Bylaw 367
amended 2018.01.01 Bylaw 388

18. Any Non-Resident Business who has held a temporary Business License in accordance with **section 16** and who subsequently applies for an annual License within the same calendar year shall be credited with the fee amount already received.

added 2010.12.16 Bylaw 303
amended 2017.01.01 Bylaw 367

19. Notwithstanding the fees set out in this bylaw, if an Applicant for a Resident Business License satisfies the License Inspector by way of statutory declaration or otherwise that the gross annual revenue of the Business is \$30,000.00 or less, the total Business License fee shall be \$172, with 50% of the fee allocated as a Schedule “B” fee.

amended 2010.12.16 Bylaw 303
amended 2017.01.01 Bylaw 367
amended 2018.01.01 Bylaw 388

20. When a License is issued to a Business to carry on operations in two or more Business Sectors from the same Business Premises, the License fee shall be calculated as \$172 plus the fee amounts in Schedule “B” for each Business Sector Fee in which the Business operates.

amended 2010.12.16 Bylaw 303
amended 2017.01.01 Bylaw 367
amended 2018.01.01 Bylaw 388

21. Temporary Sales located in an established commercial premises will be subject to a daily License fee of:

- a) \$172/day if already licensed elsewhere in Banff for the same category;
- b) \$740/day if not licensed elsewhere in Banff for the same category.

amended 2010.12.16 Bylaw 303
amended 2017.01.01 Bylaw 367
amended 2018.01.01 Bylaw 388

22. The Business Licence Fee, pursuant to Schedule “B”, for each Hotel, Bed and Breakfast Home, and Bed and Breakfast Inn with greater than four rooms shall be determined by the Town each year in accordance with the following:

- a) Every Hotel, Bed and Breakfast Home and Bed and Breakfast Inn, greater than four rooms, shall provide to the Licence Inspector, or to any person authorized by the Licence Inspector, on or before November 15, of each year, commencing in 2006 the information specified in **Section 22(b)** of this Bylaw;
amended 2013.12.24 Bylaw 331
- b) For 2007, and each year thereafter, the Business Licence Fee shall be an amount equal to 50 percent of the Alberta Tourism Levy, as defined in the Tourism Levy Act, RSA 2000, c. T-5.5, payable by that Hotel, Bed and Breakfast Home or Bed and Breakfast Inn with greater than four rooms, for the prior year, subject to any acceptable adjustments thereto as reported in an acceptable form, to the Licence Inspector by such business or their authorized agent which shall include any chartered accountant authorized on behalf of such businesses to provide this information to the Licence Inspector;
- c) Any amendment to this bylaw provision shall not be operative until the expiry of 12 consecutive months commencing as of the first day of the January following the year in which any such amendment is passed by Council.

23. All Business Licence fees are due and payable:

- a) For all Business except for Hotels, Bed and Breakfast Homes, and Bed and Breakfast Inns with greater than four rooms, thirty days after the date invoices are sent to Licensees.
 - i) Notwithstanding **section 23(a)**, All Business except for Hotels, Bed and Breakfast Homes, and Bed and Breakfast Inns with greater than four rooms may enter into a payment plan with the Town to make three equal payments due on March 31, June 30, and September 30 of each calendar year, providing:
 - a) The Licensee’s account with the Town is in good standing,
 - b) The Business License for which the fee is due is active from January 1 to December 31 of the calendar year, and
 - c) The License Inspector has not approved a reduction of the fee in accordance with **section 19** of this bylaw.
 - ii) If a Licensee who has entered the payment plan in accordance with **section 23(i)** fails to make two consecutive payments, the full amount owing is due and payable and the Licensee is ineligible for the payment plan for the next calendar year.

amended 2011.12.19 Bylaw 312

- b) For Hotels, Bed and Breakfast Homes, and Bed and Breakfast Inns with greater than four rooms, following issue of an invoice, in accordance with the following:

Percentage of Annual Fee	Date Payment is Due
20%	March 31
25%	June 30
40%	September 30
15%	December 31

24. Charitable and Non-Profit Organizations and Family Day Homes, as defined in this Bylaw, are exempt from all requirements of this Bylaw.

amended 2008.03.27 Bylaw 278

25. If a Hotel, Bed and Breakfast Home, or Bed and Breakfast Inn with greater than four rooms ceases operations for any reason within a licensing year, the Business Licence fee up to the date the Business ceases operations is due and payable.

26. Any Resident or Non-Resident Business which commences Business or operation after January 1st and has not previously been in operation in that calendar year shall pay prorated amount of the appropriate License fees provided for in this bylaw, which amount shall be prorated on a quarterly basis.

27. The License Inspector may allow any Business closed for a renovation for which a development permit or a building permit has been issued to pay a prorated License Fee, based on the period of time the Business is closed due to the renovations.

28. License fees must be paid in full by the due date. Post-dated cheques must be valid the date on which payment is due. A License fee is non-refundable. Unpaid Licence fees are a debt owed to the Town.

amended 2014.11.24 Bylaw 341

29. Where a License fee has been paid by an uncertified cheque the License

- a) may be issued subject to the cheque being accepted and cashed by the bank, and
- b) will be automatically revoked if the cheque is not accepted and cashed by the bank on which it is issued.

30. The fee to replace a lost license is \$25.

31. A Licensee may transfer a License issued to him to another person or to another Business Premises, or change the information contained on the License upon approval of the License Inspector.

32. All License fees shall be used:

- a) for the administration and enforcement of this Bylaw, for visitor experience project funding, and for other municipal services, and
- b) in the case of Schedule “B” for the marketing and promotion of the Town as a tourist destination area.

TERM OF LICENSE

33. Every annual License issued under the provisions of this Bylaw, unless revoked, cancelled or surrendered, shall terminate at midnight on the 31st day of December of the year in which said License was issued.

amended 2010.12.16 Bylaw 303

34. Notwithstanding **Section 33**, unless the Town is notified in writing of surrender or cancellation, a Business holding a valid License on December 31st is deemed to wish to renew that License for a subsequent year, and the Town will issue an invoice to that Business for the fee owing in accordance with this bylaw. If the License fee is not received by the Town within the time periods provided for in **Section 23**, the fee will be subject to monthly interest charges, until such time that it is paid or is determined by the License Inspector that the license is surrendered or cancelled. Where interest is charged, it shall be charged on the outstanding balance each month and the monthly rate of interest used to calculate the interest owing shall be one and one half percent (1.5%).”

35. Where the Town has approved a quarterly payment structure for Business License fees, the License will be considered surrendered if any of the four payments is not received in full by the Town within thirty days of the due date provided for in this Bylaw. .

POSTING OR PRODUCTION OF LICENSE

36. A Licensee shall:

- a) post the License in a prominent visible location in the Business Premises; or
- b) if it is not practical to post the License, produce the License forthwith upon demand by a License Inspector or Bylaw Services Officer.

NATIONAL PARK REGULATIONS

37. The granting of a License pursuant to this Bylaw does not of itself establish that the holder of the License is a "Resident" as defined in the National Parks Lease and License of Occupation Regulations (Canada) as amended.

CONSULTATIONS

38. The License Inspector may consult, prior to issuing or renewing a License, with the Province of Alberta, the RCMP, Parks Canada, Headwaters Regional Health Authority, and any Town Department to determine whether they are in possession of information which, in the opinion of the License Inspector, renders it inappropriate for an Applicant to be issued a License.

39. The License Inspector may determine that it is inappropriate to issue a License to an Applicant where the safety, health or welfare of the public may be at risk due to the issuance of a License.

40. With respect to License renewal, the License Inspector may renew the License without consulting the Town Planning and Development department, if the Town Planning and Development department has previously confirmed that all necessary approvals required under the Town's Land Use Bylaw have been obtained, and

- a) There has not been a change in the Business ownership since the Town Planning and Development department gave approval, and
- b) The Business has been carried on continuously at the same Business Premises and in the same manner.

41. Subject to the provisions of this Bylaw, upon receipt of an Application for a License, the License Inspector may

- a) grant a License, or
- b) refuse a License, if the Applicant is in breach of this or any other Bylaw of the Town, does not have an occupancy permit (if required pursuant to the Town's Building Permit Bylaw), has not met the requirements of this Bylaw, or in the License Inspector's opinion, there are other just and reasonable grounds for the refusal of the Application.

INSPECTIONS

42. Where a Business requires a Business Licence or is Licensed, then the Business Premises and surrounding lot may be inspected by a License Inspector or Bylaw Services Officer, who shall at all reasonable times have the right to enter upon any Business Premises required to be Licensed under the provisions of this Bylaw for the purpose of inspection or for the purpose of ascertaining if the provisions of this or any other Bylaw of the Town are being complied with.
43. A Licence Inspector or Bylaw Services Officer may inspect a Business Premises or site at which a contractor is working for the purpose of ascertaining if the provisions of this or any other Bylaw of the Town are being complied with
44. A person whom a License Inspector reasonably believes is carrying on a Business requiring a Business License, or who is an Applicant, shall,
- a) permit and assist in all inspections requested by a License Inspector or Bylaw Services Officer;
 - b) furnish to a License Inspector or Bylaw Services Officer all identification, information, or documentation related to the inspection or Licensing requirement; and
 - c) not provide to a License Inspector or Bylaw Services Officer false or misleading information or information intended to mislead with regard to any matter or thing arising in connection with the Licensing of the Business.
45. No person shall attempt to prevent, obstruct or hinder a License Inspector or Bylaw Services Officer from making an inspection authorized by this Bylaw.
46. During an inspection authorized under this Bylaw, a License Inspector or Bylaw Services Officer may examine any Business record or document for the purpose of enforcing this Bylaw, remove any relevant record or document from the Business Premises for the purpose of copying it, and will provide a receipt for any document or record so removed.

REFUSAL, REVOCATION, SUSPENSION

47. A License Inspector shall refuse an Application if, in the opinion of the License Inspector, any Licensing requirements of this bylaw have not been met or the License Inspector has reasonable grounds to believe that operation of the Business poses a danger to the safety, health or welfare of the public.
- amended 2008.03.27 Bylaw 278
48. A License Inspector may suspend or revoke a License if:
- a) The Licensee fails to comply with the Licensing requirements of this bylaw; or
 - b) The License Inspector has reasonable grounds to believe that operation of the Business poses a danger to the safety, health or welfare of the public.
- amended 2008.03.27 Bylaw 278
49. The License Inspector may make inquiries and receive information, including information from the Applicant, to determine whether there are just and reasonable grounds for the refusal of an Application, or a revocation, or a suspension of a License.
- amended 2008.03.27 Bylaw 278
50. A suspension of a License may be:
- a) for a period of time not exceeding the unexpired term of the License; or
 - b) where the suspension is for non-compliance with the licensing requirements of this bylaw, until the holder of the suspended License proves compliance to the satisfaction of the Licence Inspector.

51. A License may be revoked or suspended for non-compliance with any law or regulation notwithstanding that the holder of the License has not been prosecuted for a contravention of that law, where the License Inspector has reasonable grounds to believe that the Licensee poses a danger to the safety, health or welfare of the public, to the protection of property.
52. When an Application for a License is refused, or when a License is revoked or suspended, the License Inspector shall notify the Applicant or Licensee, in writing, of the refusal, revocation or suspension and the reasons for it:
- a) by delivering a notice to the Applicant or Licensee personally; or
 - b) by delivering a notice by registered mail to the Applicant's or Licensee's most recent place of Business or residence as shown on the License or Application.
53. After the delivery of a notice of the refusal of an Application or a suspension or revocation of a License, the Business shall not be carried on until such time as a License is issued or the suspended License is reinstated.

amended 2008.03.27 Bylaw 278

APPEALS

54. Where an Application for a License has been refused, a License revoked or suspended or an exemption has been refused, the Application may appeal the decision to Council. All appeals shall be made in writing addressed to the License Inspector of the Town, and received by the Town within 45 days of the date of issue of refusal, revocation or suspension.

amended by Bylaw 261

55. Any Applicant for a License may appeal to Council the License fee imposed or the Business Sector of Business applied to the Applicant. All appeals of License fee or Business Sector shall be made in writing addressed to the License Inspector of the Town and received by the Town, on or before the due date for payment of the License fee.

56. Upon receipt of any appeal under **Section 54 or 55** Council, or a Committee appointed by Council, shall:

- a) Schedule and hold an appeal hearing not more than thirty days following receipt of appeal;
amended by Bylaw 261
- b) Advertise the date, time and details of the appeal hearing at least once a week for two consecutive weeks in at least one newspaper or other publication circulating in the area to which the appeal relates;
- c) Allow any third party to make written or oral representation in support of or in opposition to the appeal at its first regular meeting following receipt of the recommendation;
- d) If a committee hears the appeal, make a written recommendation to Council within fifteen days of the hearing following which Council shall make a decision upon the appeal;
- e) If Council hears an appeal, make a decision on the appeal.

57. Council may extend the time frames referred to in **Section 52** of this Bylaw, but any such extension shall not exceed fifteen (15) days in total.

VIOLATIONS

58. Any Person who contravenes a provision of this bylaw or the terms of any permit issued pursuant to this bylaw is guilty of an offence and is liable for the penalty set out in Schedule "C", or if no penalty is specified in Schedule "C" for the particular offence, for the penalty in accordance with **Section 61** of this bylaw.

59. When a corporation commits an offence under this bylaw, every principal, director, manager, employer or agent of the corporation who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence whether or not the corporation has been prosecuted for the offence.
60. If a partnership is guilty of an offence under this bylaw, each partner in that partnership who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence.
61. Violation tickets:
- a) Where a License Inspector reasonably believes that a person has contravened any provision of this bylaw, the License Inspector or Bylaw Services Officer may serve upon the person a Violation Ticket, allowing payment of the specified penalty set out in Schedule “C” for the offence, and the recording of such payment by the Court shall constitute acceptance of a guilty plea and the imposition of a fine in the amount of the specified penalty.
 - b) This section shall not prevent any License Inspector or Bylaw Services Officer from issuing a ticket requiring a court appearance of the defendant, pursuant to the provisions of the Provincial Offences Procedure Act or from laying an information in lieu of issuing a Violation Ticket.
62. Except as otherwise provided in this Bylaw, a person who is guilty of an offence under this Bylaw for which a penalty is not otherwise provided, is liable to a fine of not less than \$200.00 and not more than \$500.00.
63. The imposition of a fine either by issuance of a Violation Ticket or by summary conviction in court shall not relieve any person so fined from any debt owing to the Town for an unpaid Business Licence.

TRANSITION

64. If any clause in this Bylaw is found to be invalid, it shall be severed from the remainder of the Bylaw and shall not invalidate the whole Bylaw.
65. Schedules “A,” “B,” and “C” form part of this Bylaw.
66. Bylaw 22-8 and Bylaw 255 are repealed upon this Bylaw coming into force.
67. This Bylaw comes into force on January 1, 2007.
- Read a first time this 27th day of November, 2006.
- Read a second time this 11th day of December, 2006.
- Read a third time this 11th day of December, 2006.

Approved on behalf of the Town of Banff:

OFFICE CONSOLIDATION Town of Banff Bylaw 22-9 – Business Licensing

John Stutz
Mayor

December 13, 2006
Date

Robert Earl
Town Manager

December 13, 2006
Date

SCHEDULE “A” - DEFINITIONS

1. **Applicant** means a person who applies for a License or the renewal of a License required by this Bylaw.
2. **Application** means a written Application for a Business License or renewal thereof required under this Bylaw.
3. **Business** means
 - a) a commercial, merchandising or industrial activity or undertaking;
 - b) a profession, trade, occupation, calling or employment, or
 - c) an activity providing goods or services,whether or not for profit and however organized or formed, including a co-operative or association of persons.
4. **Business License** and **Licence, Licensed** and **Licensing** means a License issued pursuant to this Bylaw.
5. **Business Premises** includes any store, office, dwelling, warehouse, yard, building, enclosure or other place occupied, or capable of being occupied, for the purpose of carrying on a Business and in which place the carrying on of a Business is a permitted or discretionary use under the Town’s Land Use Bylaw.
6. **Business Sector** and **Business Sectors** means any one of the following: lodging, restaurants/bars, retail, transportation/attractions/entertainment, or service.
7. **Bylaw Services Officer** means an employee of the Town who has been appointed to the position of Bylaw Enforcement Officer or Bylaw Services Officer pursuant to Bylaw Enforcement Officer Bylaw 5-2.
8. **Carry on, carrying on, carried on** and **carries on** means to conduct, operate, perform, keep, hold, occupy, deal in or use, for a fee or exchange of benefits, whether as principal or agent.
9. **Charitable Organization** means
 - a) any incorporated or unincorporated organization that is formed for a charitable purpose, including a philanthropic, benevolent, educational, health, humane, religious, cultural, artistic or recreational purpose, so long as the purpose is not part of a Business, or
 - b) a person who makes solicitations for contributions to be used for a charitable purpose and who is not connected to any incorporated or unincorporated organization that is formed for the charitable purpose for which the solicitation is made.
10. **Development Officer** means a person appointed as Development Officer by resolution of Council to fulfil the duties specified in the Town of Banff Land Use Bylaw.
11. **Family Day Home** means the accessory use of a dwelling, operated under contract with a Family Day Home Agency, to provide care and supervision on an ongoing basis of six or fewer children including, where applicable, the provider’s own children.

Definition 11 added 2008.03.27 Bylaw 278

12. **Family Day Home Agency** means an individual, partnership, group of individuals or a corporation that contracts with a Child and Family Services Authority to administer a family day home service, which may include provider recruitment, selection, training, and monitoring; assistance to parents with choosing a home; enrolment and placement of children in homes; and may also include the collection of parent fees and payment of providers.
- Definition 12 added 2008.03.27 Bylaw 278
13. **Hawker** means any person who:
- a) goes from house to house selling or offering for sale any merchandise or service, or both, to any person, and who is not a wholesale or retail dealer and direct seller in that merchandise or service, and not having a permanent place of business in the municipality, or
 - b) sells merchandise or a service, or both, on the streets or roads or elsewhere than at a building that is his permanent place of business.
14. **Licensee** means the holder of a valid and subsisting License issued pursuant to the provisions of this Bylaw.
15. **License Inspector** means the Town's Manager of Corporate Services or any other person as may be authorized by Council to enforce the provisions of this Bylaw.
16. **Lodging** means a person, corporation or organization resident in Banff engaged in the rental of accommodation on a short term basis, including hotels, motels, hostels, and bed & breakfasts.
17. **Non-Profit Organization** means a club, society, or association that's organized and operated solely for social welfare, civic improvement, pleasure or recreation, or any other purpose except profit.
18. **Non-Resident Business** means a Business that is carried on, in whole or in part, within the Town, but neither maintains a permanent place of Business within the incorporated boundaries of the Town nor is listed on any current Town tax assessment roll.
19. **Resident Business** means any Business that locates or maintains a permanent place of Business within the incorporated boundaries of the Town, including commercial operations, licensed home occupations and bed and breakfast operations.
20. **Restaurant/Bar** means a person, corporation or organization resident in Banff engaged in the retail sale of food or beverage to the public for consumption within the premises or off the site, and, without limiting the foregoing, includes licensed drinking establishments, restaurants, cafes, delicatessens, ice cream shops, tea rooms, lunchrooms and take-out restaurants.
21. **Retail** means the sale or offering for sale of tangible personal property from a premises in the Town of Banff to a consumer for purposes of use and not for resale, and without limiting the forgoing includes the retail sale of groceries, beverages, baked goods, household goods, clothing, jewellery, furniture and appliances, hardware, printed matter, confectionery, gifts and souvenirs, tobacco, pharmaceutical and personal care items, automotive parts and accessories, office equipment, stationery and similar goods, minor public services, such as postal services and film processing depots, and convenience retail stores from within an enclosed building.

22. **Service** means a person, corporation or organization engaged in the operation of a business in Banff which primarily serves residents or businesses defined as Lodging, Restaurants/Bars, Retail, Ski area or Transportation/Attraction/Entertainment; and without limiting the foregoing includes; agency sales or distributors, automotive, banks, full service banking machines (when no local branch), brokerages, business support services, car washes, cleaning services, contractors, currency exchanges, educational services, financial institutions, garages, laundry and linen supplies, marriage commissioners, newspapers, personal services including massage and spa, printing businesses including publishers, designers and websites, property development firms, property management companies, repair services, service stations, towing companies, trades, travel agencies, and wholesalers.
23. **Town** means the Corporation of the Town of Banff and, where the context requires, the land included within the boundaries of the Town of Banff.
24. **Transportation/Attraction/Entertainment** means a person, corporation or organization resident in the Town of Banff engaged in the operation of public transportation, a photography, film or video production business, a tour and/or guide business, or in the operation of a business which primarily operates as a business encouraging patrons to use its facilities and, without limiting the foregoing, includes movie theatres, live theatres, bowling alleys, pool rooms, museums, gondola lifts, arcades, rentals, golf courses and tennis courts; or in the business of selling, providing or distributing tour packages, tour arrangements and reservation services.
25. **Temporary Sales** means the selling of goods or services, including food and beverages from a temporary location in any place where the public has an expected right of access, but not including sales to a wholesale or retail dealer in any such goods.
26. **Violation Ticket** means any ticket or tag in a form approved by the Town of Banff, authorized under the Provincial Offences Procedures Act, issued for any offence for which a penalty may be paid out of court in lieu of appearing to answer a summons.

OFFICE CONSOLIDATION Town of Banff Bylaw 22-9 – Business Licensing
SCHEDULE “B” – 2018 BUSINESS LICENSE FEES

amended 2013.12.24 Bylaw 331
 amended 2015.01.01 Bylaw 341
 amended 2016.01.01 Bylaw 351
 amended 2017.01.01 Bylaw 367
 amended 2018.01.01 Bylaw 388

BusinessSector		Class	Fee
Sector I - Lodging			
Lodging - Hotels, B&B Inns, and B&B Homes with greater than four (4) rooms		100	Fee determined annually in accordance with Section 22 of the Bylaw
Lodging - B&B Homes with four (4) rooms or less		101	\$44.73 per pillow
Sector II - Restaurant/Bar			
Restaurant/Bar		200	\$37.86 per seat **
Sector III - Retail			
Retail Sales		300	\$2.04 per sq. ft. **
Sector IV -Transportation, Attractions and Entertainment			
Photographers/Videos		400	\$516.91
Activities/Guiding/ Reservations/DMC/ Event Planners	Owner/Operator or one employee	401A	\$516.91
	Two to five employees	401B	\$631.77
	Six to nineteen employees	401C	\$746.65
	Twenty or over employees	401D	\$861.52
Heli Skiing/Heli Hiking		402	\$3905.54
Horse Livery		403	\$7581.32
Movie Theatres		404	\$1263.56 per screen
Motor Vehicles	1 – 2 Vehicles	405A	\$1148.68
	3 - 6 Vehicles	405B	\$1723.03
	7 – 19 Vehicles	405C	\$3446.05
	20 – 25 Vehicles	405D	\$5743.42
	26 – 30 Vehicles	405E	\$10338.17
	31 – 35 Vehicles	405F	\$12635.55
	36 – 40 Vehicles	405G	\$16081.60
	41 – 45 Vehicles	405H	\$18378.98
	46 – 50 Vehicles	405I	\$20676.34
	Over 50 Vehicles	405J	\$22973.71
Rental Cars		406	\$2297.38
Sector V - Service			
Agency or Sales Business, Business Support, Contractors, Automotive Repair, Service or other	Owner/Operator or one employee	500A	\$516.90
	Two to five employees	500B	\$631.77
	Six to nineteen employees	500C	\$746.65
	Twenty or over employees	500D	\$861.52
Bank/Financial Institution		504	\$5973.17
Banking Machines (Full Service ATM)		505	\$1734.51 per ATM
Newspapers		506	\$3216.32

**** Minimum Business License Fee of \$516.90**

SCHEDULE “C” – SPECIFIED PENALTIES

Schedule C Penalties amended 2013.12.24 Bylaw 331

Section	Description	Amount
3	Carrying on or operating a Business within or partially within the Town without a valid and subsisting Business License.	\$500.00 plus \$100.00 per day for each day the offence continues after conviction.
45	Refusing a License Inspector or Bylaw Services Officer from conducting any inspection authorized by this bylaw.	\$500.00
36	Failing to post the Business License in a conspicuous place on the Business premises of the Licensee.	\$200

Appendix B

Cannabis Business License Fees in other Municipalities		
Canada	License Fees	Type of license
BRITISH COLUMBIA		
Kamloops	\$5,000.00	Price specific to Cannabis Retail
Nelson	\$5,000.00	Price specific to Cannabis Retail
Squamish	\$5,000.00	Price specific to Cannabis Retail
Vancouver	\$31,824.00	Price specific to Cannabis Retail
Victoria	\$5,000.00	Price specific to Cannabis Retail
Whistler	N/A	Not Permitted
ALBERTA		
Airdrie	\$100.00	Same fee for all license holders
Calgary	\$191.00	Same fee for all license holders
Camrose	\$1,200.00	Price specific to Cannabis Retail
Canmore	\$130.00	Same fee for all license holders
Cochrane	\$300.00	Same fee for all license holders
Edmonton	\$2,500.00	Price specific to Cannabis Retail
Fort Saskatchewan	\$95.00	Same fee for all license holders
Grande Prairie	\$2,500.00	Price specific to Cannabis Retail
Lethbridge	\$700.00	Price specific to Cannabis Retail
Okotoks	\$185.00	Same fee for all license holders
Red Deer	\$108.00	Same fee for all license holders
Spruce Grove	\$260.00	Same fee for all license holders, as a onetime fee. They do not charge annually
St. Albert	\$854.76	same as Tobacco License
SASKATCHEWAN		
Saskatoon	\$20,000.00 and \$10,000.00 to renew	Retail – price specific to Cannabis and divided over the 7 retailers selected from lottery
USA	License Fees	Type of license
Boulder	\$2,500	Retail Cannabis
Denver, Colorado	\$5,000.00	Retail Cannabis
Steamboat Springs, Colorado	\$9,165.00	Medical Centre & Cannabis Retail
	\$5,000.00	Retail Cannabis
	\$5,000.00	Retail Cannabis Infused Products Manufacturer
	\$5,000.00	Retail Cannabis Testing Facility
Vail	N/A	Not Permitted
Aspen	\$7,000.00	Retail Cannabis
Breckenridge	\$2,812.50 - \$10,500.00	Medical Centre & Cannabis Retail
Seattle, Washington	\$1,480.00	Retail Cannabis