

CITY OF PORT ALBERNI

BYLAW NO. 4980

**A Bylaw to regulate businesses within the City of
Port Alberni.**

WHEREAS under Section 8(6) and 15 of the *Community Charter* a municipal council may, by bylaw, regulate businesses, including by:

- A. Regulating the conduct of business within the City for municipal purposes such as minimizing nuisances and advancing consume protection;
- B. Imposing licensing requirements for businesses; and
- C. Imposing fees with respect to regulation and the issuance of licenses by the City;

AND WHEREAS the Council of the City of Port Alberni considers it necessary and expedient to provide for the regulation of businesses and to require that businesses be licensed;

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CITY OF PORT ALBERNI IN OPEN MEETING ASSEMBLED ENACTS AS FOLLOWS:

1. TITLE

This Bylaw may be cited as "**City of Port Alberni Business Licence Bylaw No. 4980, 2019**".

2. DEFINITIONS

Terms in this bylaw have the same meaning as in the *Community Charter* and the Zoning Bylaw unless otherwise defined.

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| “Bed and Breakfast” | Means the operation of a bed and breakfast. |
| “Business” | Means the carrying on of a commercial or industrial undertaking of any kind or nature, or the providing of professional, personal or other services, but does not include an activity carried on by the government, its agencies or government owned corporations. |
| “Building Official” | Means the Building Official and Building Officials designated by the Corporation of the City of Port Alberni. |
| “Cannabis” | Means a cannabis plant belonging to the genus Cannabis and including the following: <ul style="list-style-type: none">(a) Any part of a cannabis plant, including the phytocannabinoids produced by, or found in, such a plant, regardless of whether that part has been |

- processed or not;
- (b) Any substance or mixture of substances that contains or has on it any part of such a plant; or
- (c) Any substance that is identical to any phytocannabinoid produced by, or found in, such a plant, regardless of how the substance was obtained.

But does not include:

- (a) A non-viable seed of a cannabis plant;
- (b) A mature stalk, without any leaf, flower, seed or branch, of such a plant;
- (c) Fibre derived from a stalk referred to in item 2; or
- (d) The root or any part of the root of such a plant.

“Cannabis Accessories”	Means rolling papers or wraps, holders, pipes, water pipes, bong and vaporizers, that is represented to be used in the consumption of cannabis.
“Cannabis Retail”	Means the retail sales of <i>cannabis</i> and <i>cannabis accessories</i> .
“City”	Means the Corporation of the City of Port Alberni and lands lying within its boundaries.
“Council”	Means the City of Port Alberni Council.
“Enforcement Officer”	Means any person employed by the City as a bylaw enforcement officer, supervisor, or manager, or any member of the Royal Canadian Mounted Police.
“Home Occupation”	Means the use of a dwelling, or a dwelling unit on the same zoning lot, for commercial activities; these activities must be clearly secondary to the use of the building as a residential dwelling.
“Licence”	Means a licence to operate a business under this Bylaw.
“Licence Inspector”	Means a licence inspector, bylaw enforcement officer, supervisor, manager, or any person designated by the City.
“Market”	Means sell, offer for sale, promote, canvass, solicit, rent, advertise, book, arrange or facilitate sale or rental, and includes placing, posting or erecting advertisements physically or online, but does not include the mere provision of a neutral space or location for such marketing activities in newspapers, bulletin boards or online.
“Principle Residence”	Means the primary dwelling unit where an individual lives, makes their home and conducts their daily affairs, including, without limitation, paying bills and receiving mail,

and is generally the dwelling unit with the residential address used on documentation related to billing, identification, taxation and insurance purposes, including, without limitation, income tax returns, Medical Services Plan documentation, driver's licenses, personal identification, vehicle registration and utility bills.

“Permanent Resident”	In respect of any dwelling or lot means a person who normally resides in a dwelling on the lot and for these purposes a person cannot normally reside at more than one location within the City of Port Alberni.
“Person”	Includes a natural person, corporation, partnership or party, and the personal or other legal representatives of a person to whom the context can apply according to law.
“Premises”	Means a legal parcel, and may include more than one parcel where the parcels are within a single civic address.
“Residential Tourist Accommodation”	Means a business where accommodation is offered to paying guests for less than 30 days in a dwelling unit, and includes Bed and Breakfast and Short Term Rental Businesses.
“Short Term Rental”	Means the use of a dwelling unit to provide temporary accommodation to the traveling public in exchange for remuneration.
“Tourist Accommodation Property”	Means premises in the City where accommodation of paying guests for less than 30 days is a permitted use pursuant to the Zoning Bylaw and other land use enactments.
“Zoning Bylaw”	Means the <i>City of Port Alberni Zoning Bylaw No.4832</i> .

3. GENERAL REGULATIONS

- (1) No person shall carry on any business within the City unless that person holds a valid and subsisting business licence issued to that person for that business.
- (2) Every business shall comply with all federal, provincial, and municipal laws and regulations applicable to the business and the business premises.
- (3) If a person operates a business at more than one premises, that person shall apply for and maintain a separate business licence for each business.
- (4) If a person operates more than one classification of business at the same premises, that person shall apply for and maintain a separate business license for each business.
- (5) Every holder of a business licence shall display the business licence at the place of business in a location visible to customers and suppliers attending the business.

- (6) Every licence issued shall be deemed to be a personal licence to the licensee therein named.
- (7) A not-for-profit organization registered as a society is required to apply for and obtain a business licence at no cost to the applicant.
- (8) A valid licence will permit a business to conduct the specific activities to the stated extent described in the licence application. If a business entity makes any changes to the information contained in its business licence application, undertakes new business activities or expands those activities, it is required to obtain a new business licence or a business licence amendment for those activities.
- (9) No person operating a business within the City shall market that business or its products and services through any means of promotion unless:
 - (a) The person operating that business is the holder of a valid business licence issued pursuant to this Bylaw; and
 - (b) The marketing offers products and services that comply with City bylaws and related enactments.
- (10) No person shall carry on a business of any kind, in any way or manner on City owned property, parks, boulevards, highways, or other public property unless specifically authorized to do so by a permit under City bylaws or another enactment.

4. ADMINISTRATION AND ENFORCEMENT

- (1) The Licence Inspector may:
 - (a) grant, issue, amend, or transfer business licences if the Licence Inspector is satisfied that the applicant has complied with all of the bylaws of the City and related enactments that apply to the applicant's business;
 - (b) suspend, cancel, or refuse to issue a business licence in accordance with Section 8 of this Bylaw;
 - (c) impose conditions on a licence at the time of issuance, renewal, or suspension for the purposes of ensuring compliance with all applicable enactments pertaining to the business;
 - (d) inspect premises to ensure that all regulations and provisions prescribed in this Bylaw are carried out; and
 - (e) prepare, from time to time, forms to be used for the purpose of making applications under this Bylaw.

5. LICENCE FEES

- (1) Business Licence fees shall be in accordance with those specified in Schedule 'A' attached hereto and forming part of this Bylaw.

- (2) A penalty of 25% shall be added to each unpaid business licence as of January 31st of each calendar year or 30 days following the issuance of a new licence. If unpaid by this time, the licence shall to be revoked and a new business licence application shall be required.
- (3) For new businesses applying after July 1 in any year, the fee shall be reduced to one-half the annual fee.
- (4) If an Enforcement Officer determines that a person has carried on business prior to July 1 in any year and has failed to apply for a licence until after July 1, the licence fee shall not be reduced.
- (5) If an application for a licence is withdrawn, in writing, prior to the issuance of the licence, the licence fee shall be refunded to the applicant if licence was pre-paid.
- (6) No licence fee shall be refunded after the issuance of a licence.

6. APPLICATION AND RENEWAL

- (1) Every person who applies for a business licence shall submit to the City true and complete information disclosing the nature and character of the business to be carried on by the applicant, including:
 - (a) a complete application form;
 - (b) proof of consent by the owner or registered leaseholder of the premises if the applicant is not the owner or registered lessee of the property on which the business is to be located;
 - (c) copies of all current certificates, licences, and approvals from the federal, provincial, and local government authorities necessary to lawfully operate the proposed business, which may include:
 - (i) A building inspection report by the Building Official;
 - (ii) A Fire Safety Certificate;
 - (iii) A Health Certificate;
 - (iv) A Provincial Liquor or Cannabis Licence; or
 - (v) Any other information the Licence Inspector may require for the purposes of ensuring compliance with the City's bylaws and related enactments.
- (2) The terms of a business licence issued under this Bylaw are for a period commencing January 1 and ending December 31 of the year for which the licence is issued.
- (3) No licence holder shall carry on business without renewing the licence and paying the annual fee prior to January 1 in each year that the business is carried on.
- (4) Failure to pay the licence fee by January 31 will result in the revocation of the business licence.
- (5) Every owner or operator of a business shall notify the Licence Inspector of any changes in that person's mailing address and any changes to the business within 14 days of such change by completing the changes on an application form and submitting it to the Licence

Inspector.

- (6) The Licence Inspector may, after providing reasonable notice, conduct an onsite inspection to confirm the details of a business licence application, renewal, transfer, or other change where the Licence Inspector determines that false information has been provided.
- (7) The Licence Inspector may refuse a licence application, renewal, transfer, or other change where the Licence Inspector determines that false information has been provided.

7. LICENCE TRANSFERS

- (1) No person shall change the location of a business unless an application for a licence transfer has been made to and approved by the Licence Inspector.
- (2) A licence transfer shall not be approved until the Licence Inspector is satisfied that the premises to which the business is proposed to be relocated complies with all applicable City bylaws and other related enactments.

8. SUSPENSION, CANCELLATION, AND REFUSAL

- (1) In addition to Council's power under section 60 of the *Community Charter*, a Licence Inspector may suspend, cancel, or refuse to issue, amend or renew a business licence for failure to comply with City bylaws, related enactments, or a condition of a business licence.
- (2) When a Licence Inspector suspends, cancels or refuses to issue, amend or renew a business licence, the Licence Inspector shall provide a formal letter outlining the reason(s) for the refusal.
- (3) If a Licence Inspector or Council suspends, cancels or refuses to issue, amend or renew the business licence for a business, the City may post a notice of suspension, cancellation, or refusal on the premises of the business.
- (4) A posted notice of suspension, cancellation, or refusal of a business licence shall not be removed until a Licence Inspector has issued a valid business licence.
- (5) If a business is operating without a licence required under this Bylaw, the City may post a notice describing the failure to hold a valid business licence on the premises of the business.
- (6) A posted notice of operating without a business licence shall not be removed until a Licence Inspector has issued a valid business licence.
- (7) An applicant or holder of a business licence may request that Council reconsider a Licence Inspector's decision to suspend, cancel or refuse to issue, or renew a business licence by delivering a written request to the City Clerk within 30 days of the Licence Inspector's decision being sent.
- (8) No person shall conduct any business pursuant to their business licence during a period of suspension of that business licence.
- (9) No person shall market a business during a period of suspension of that business' licence.

9. SPECIFIC REGULATIONS

9.1 Retail Cannabis Stores

- (1) The owner or operator of a Retail Cannabis Store must:
 - (a) hold a valid and subsisting non-medical retail cannabis provincial licence, issued by the Liquor and Cannabis Regulation Branch of British Columbia;
 - (b) provide proof of all related federal and provincial certifications;
 - (c) comply with all related federal, provincial and local regulations and enactments;
 - (d) operate between the hours of 9:00am and 11:00pm; and
 - (e) comply with the provisions set forth in the City's Zoning Bylaw.

9.2 Home Occupations

- (1) A Home Occupation:
 - (a) shall operate in accordance with Section 6.15 of the City's Zoning Bylaw;
 - (b) shall only be conducted on a lot owned or rented by the operator; and
 - (c) must apply for and obtain a City of Port Alberni Business Licence.
- (2) A Home Occupation shall not be conducted in such a manner as to create noise, dust, vibration, odour, smoke, glare, litter or heat, other than that normally associated with a residential dwelling.
- (3) A Home Occupation shall not cause any fire hazard, electrical interference, or traffic congestion on the street.
- (4) Any materials related to a Home Occupation must be stored within the dwelling or accessory building. No outside storage shall be permitted.
- (5) For clarity, a Home Occupation does not include:
 - (a) industrial manufacturing;
 - (b) welding;
 - (c) vehicle or machinery repair;
 - (d) Residential Tourist Accommodation Businesses; or
 - (e) any other light industrial use.

9.3 Residential Tourist Accommodation Business

- (1) No more than one Residential Tourist Accommodation Business is permitted on a lot.
- (2) A Residential Tourist Accommodation Business shall only be operated within one dwelling unit on a lot.
- (3) Residential Tourist Accommodation Businesses shall provide one off-street parking space for each bedroom identified as in use by the business. In addition to this requirement, one off-street parking space shall be provided for the permanent resident of the property.
- (4) Each bedroom intended to be operated as part of a Residential Tourist Accommodation Business shall be clearly identified at the time of a new or renewal business licence application process through the provision of a floor plan showing the location of each bedroom.
- (5) Any changes to the number or location of bedrooms shall be provided to the Licence Inspector through a licence amendment application, prior to those bedrooms being used by the business.
- (6) An operator of a Residential Tourist Accommodation Business shall not:
 - (a) rent out or provide any sleeping accommodation within any vehicle, tent, or any accessory building;
 - (b) permit more than three (3) bedrooms to be made available for use;
 - (c) permit more than (6) overnight guests at one time; or
 - (d) allow beds or bedrooms to be used that are not identified on the business licence application for that premises.
- (7) An operator of a Residential Tourist Accommodation Business shall:
 - (a) Comply with all applicable requirements in the Zoning Bylaw and related enactments;
 - (b) Display the business licence number on any marketing, advertisements, or promotions for that business; and
 - (c) Display the business licence for that premises on the business premises.

9.4 Short Term Rentals

- (1) An applicant for a Short Term Rental business shall provide:
 - (d) proof that they are a Permanent Resident on the property; or
 - (e) the name of the Permanent Resident(s) on the property and a copy of a tenancy agreement, or other proof satisfactory to the Licence Inspector, of an existing and ongoing principle residential use, at the time of a new or renewal application.
- (2) An operator of a Short Term Rental shall ensure that a Permanent Resident on the property is present and available within the City at all times while guests are staying on the premises, and is able to respond to concerns raised by guests, neighbours, or the Licence Inspector within 24 hours.

- (3) An operator of a Short Term Rental shall provide to each guest and the Licence Inspector the telephone number of the person who is present or available to respond to concerns pursuant to City bylaws or provincial regulations.

9.5 Mobile Vending Businesses

- (1) Mobile Vendors must comply with terms and conditions set forth in the City of Port Alberni's Mobile Vending Policy, attached hereto and forming part of this Bylaw as Schedule "B".

10. OFFENCE

- (1) Any person who contravenes or violates any provision of this Bylaw, or who suffers or permits any act or thing to be done in contravention of, or in violation of any provision of this Bylaw, or who neglects to do or refrains from doing anything required to be done by any provision of this Bylaw, commits an offence and is liable to the penalties imposed.
- (2) Where the offence is continuous, each day the offence continues shall constitute a new and separate offence.
- (3) No person shall obstruct an Enforcement Officer engaged in the administration or enforcement of this Bylaw.

11. SEVERABILITY

- (1) If any provision of this Bylaw is held to be invalid by any court of competent jurisdiction, it is intended that that provision may be severed and its severance shall not affect the validity of the remainder of the Bylaw.

12. REPEAL

- (1) City of Port Alberni Business Licence Bylaw No.4951" and all amendments thereto are hereby repealed.

READ A FIRST TIME THIS

READ A SECOND TIME THIS

READ A THIRD TIME THIS

FINALLY ADOPTED THIS

Mayor

Clerk

SCHEDULE "A"

Business Licence Classifications

CATEGORY	DESCRIPTION	FEE
1. Service	All businesses except those identified in Categories 2-8 of this schedule	\$132.00
2. Escort Service	Any business which offers to provide services of Escorts	\$2,200.00
3. Financial Institutions	Banks Trust Companies Finance Companies	\$550.00
4. Liquor Outlets	Public Houses Lounges Cabarets Night Clubs Liquor Stores Other liquor-related	\$220.00
5. Pawnbrokers	Business professional who buys merchandise of value, making loans to individuals using tangible property as collateral, and in some cases, running a storefront operation to resell collateral pieces not recovered by owners	\$550.00
6. Special Events	Carnival Circus Exhibition Horse/Pony Show Dog Show Other	\$220.00 (per day, to a maximum of \$2,200.00 per event)
7. Cannabis Retail	Retail sale of cannabis and cannabis accessories	\$3000 to apply \$220.00 renewal fee
8. Mobile Vending	Business where a vehicle is used as a mobile restaurant.	\$132.00

SCHEDULE "B"
Mobile Vending Policy

Definitions

Mobile Vending Vehicle

"A vehicle not registered to operate on a highway and which is approved for use as a vending outlet for food and beverage and/or a vehicle registered to operate on a highway and which is used in the carrying on of a business as a mobile restaurant"

Policy Regulations

Mobile Vendors may operate in the City of Port Alberni according to the following terms and conditions:

- a) All Mobile Vendors operating within the City of Port Alberni must obtain a Business Licence.
- b) All Mobile Vending Vehicles for food and beverage must be approved for use by the local Provincial Health Inspector.
- c) Failure to abide by any of the policy regulations will result in cancellation of the Business Licence.
- d) The City shall not issue any licence for a Mobile Vendor until the applicant has provided evidence that all vehicles intended for use as mobile stores, restaurants, or vending push carts by the applicant are insured under a comprehensive liability policy or insurance for five million dollars (\$5,000,000.00) with the City of Port Alberni named as additional insured.
- e) The applicant shall indemnify and save the City harmless against all loss, damage, costs and liabilities, including fees of solicitors and other professional advisors arising out of:
 - i) any breach, violation or non-performance of any provision of this bylaw, and
 - ii) any personal injury, death or property damage related to the operation of a mobile store, mobile restaurant or mobile vending push cart.

It shall also be provided that coverage under the policy cannot be cancelled or any provisions changed or deleted unless thirty (30) day prior written notice is given to the City by the insurer.

- f) All Mobile Vending Vehicles must comply with all traffic regulations, shall be in good mechanical condition and meet all the food handling requirements of the provincial government. Mobile Vending Vehicles shall be in possession of valid permits issued by the provincial government authority having jurisdiction.

- g) Mobile Vending Vehicles shall not be located in City Parks without approval from the Director of Parks, Recreation & Heritage and there is a daily fee which is in addition to the Mobile Vending Licence fee.
- h) The operator of a Mobile Vending Vehicle must provide waste receptacles and shall be responsible for cleaning all litter generated within 20 metres of the mobile vending vehicle. Arrangements for collection of garbage shall be made through the City.
- i) The only goods to be sold from a Mobile Vending Vehicle are food and beverages.
- j) A minor amount of accessory equipment, limited to tables, chairs, racks, or signs shall be permitted within 5 metres of the Mobile Vending Vehicle or to the approval of the City.
- k) If a Mobile Vending Vehicle located on a City sidewalk or boulevard, 1.5 metres (5') of the sidewalk or boulevard shall be provided at all times for passing pedestrians.
- l) Unless a Mobile Vendor has leased space from the City, the Mobile Vendor shall remove any vehicle, trailer, push cart or materials associated with the mobile vending operation each day between 10:00 pm and 7:00 am.
- m) Mobile Vending sales are restricted to the hours of 7:00 am to 10:00 pm.
- n) No Mobile Vending shall be permitted within a two block radius of any school between the hours of 8:00 am and 5:00 pm, Monday to Friday during the regular school year.
- o) Mobile Vending Vehicles shall not be located within 50 metres of any like food service establishment without the express written non objection of the food service establishment.
- p) All Mobile Vendors may be required to provide a copy of the menu items to be served for review by the City.