

**LOCAL GOVERNMENT DISTRICT OF PINAWA
BY-LAW NO. 865-2020**

Being a By-law of The Local Government District of Pinawa for the licensing and regulation of businesses and certain trades carried on within the municipality and to rescind By-laws 837-18 and 748-12 and all amendments;

WHEREAS subsection 1(1) of the Municipal Act S.M. 1996, c. 58 defines "business" as:

- (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 it is carried on continuously or on an intermittent or one-time basis, and whether or not for profit, and however organized or formed, and includes a cooperative and an association of persons;

AND WHEREAS paragraph 232(1)(n) of the Act provides that a council may pass by-laws for municipal purposes respecting businesses, business activities and persons engaged in business;

AND WHEREAS paragraph 232(1)(o) of the Act provides that a council may pass by-laws for municipal purposes respecting the enforcement of by-laws;

AND WHEREAS subsection 232(2) of the Act provides that a council may in a by-law passed under subsection 232(1):

- (a) regulate or prohibit;
- (c) deal with any development, activity, industry, business, or thing in different ways, or divide any of them into classes and deal with each class in different ways.
- (e) subject to the regulations, provide for a system of licenses, permits or approvals, including any or all of the following:
 - (i) establishing fees, and terms for payment of fees, for inspections, licenses, permits and approvals, including fees related to recovering the costs of regulation,
 - (ii) establishing fees for licenses, permits and approvals that are higher for persons or businesses who do not reside or maintain a place of business in the municipality,
 - (iii) prohibiting a development, activity, industry, business or thing until a license, permit or approval is granted,
- (g) require persons who do not reside or have a place of business in the municipality to report to the municipal office before conducting business in the municipality.

AND WHEREAS Fees, Discounts and Penalties Regulation 50/97 registered March 4, 1997 provides that the maximum fee that the council of a municipality may establish for a business license for a calendar year under subclause 232(2)(e)(i) and (ii) of the Act for an urban municipality with fewer than 5,000 residents is \$200.00;

AND WHEREAS subsection 249(1) of the Act provides, in part, that a person who contravenes a by-law of a municipality is guilty of an offense;

AND WHEREAS subsection 249(2) of the Act provides that where a contravention continues for more than one day, the person is guilty of a separate offense for each day it continues;

AND WHEREAS Fees, Discounts and Penalties Regulation 50/97 registered March 4, 1997 provides that the maximum fine that a council may impose in respect of a contravention a by-law is \$1,000.00;

AND WHEREAS section 237 of the Act provides that no municipality shall require a license to sell produce grown in Manitoba if the sale is by the individual who produced it or an immediate family member or employee of the individual;

NOW THEREFORE the Council of the Local Government District of Pinawa in meeting duly assembled, enacts as follows:

1. That for the purpose of this by-law, "home business" shall be defined as any business or profession carried on from an individual's residence whether as a primary or as a secondary source of income;

Businesses that offer goods and/or services primarily off-site are required to enter into a Memorandum of Understanding with the Local Government District of Pinawa.

2. That for the purpose of this by-law, "transient trader" shall be defined as:

That all transient traders, defined as:

- a) any person who goes from house to house, and who is not a wholesale or retail dealer in such merchandise or services, and who does not have a permanent place of business in the municipality;
- b) any person who offers or exposes for sale to any person by means of samples, patterns, cuts or blue prints, merchandise or services or both, to be afterwards delivery in or shipped into the municipality;
- c) sells merchandise or services or both on the streets or roads or elsewhere than a building that is his permanent place of Business,

and includes a Hawker and Peddler, defined as:

- a) Any person who goes from place to place on foot or vehicle, bearing goods, wares, merchandise or food products for sale.

3. That for the purposes of this by-law, "Outdoor Mobile Food Vending Unit" shall be defined as a Vehicle, mobile cooking or food storage unit, including Refreshment Vehicle, pushcart, handcart or other similar device from which food is offered for sale and which is moved about from place to place or located on a street or at a temporary outdoor location other than premises licensed by the operators of a food handling establishment.

Special Provisions for Outdoor Mobile Food Vending Unit:

- a) No license to carry on the trade of Outdoor Food Vending Unit or Refreshment Vehicle shall be issued to an applicant unless the applicant first obtains and files with the municipality a certificate from the Provincial Health Inspector that the Vehicle, mobile unit or premises in respect of which the License is applied for have been examined and found in a fit and clean condition and suitable for the purposes of such trade.
- b) Every person operating an Outdoor Mobile Food Vending Unit shall cause his name to be legibly and conspicuously displayed in letters of a minimum height of 5 centimetres on both sides of any Vehicle used in the carrying on of his trade, in a place and manner satisfactory to the License Inspector.

4. That for the purposes of this by-law, "person" shall be defined as including an individual, proprietorship, partnership or corporation;
5. (a) That subject to subsections (b) and (c) hereof, no person shall carry on a business of any kind within the Local Government District of Pinawa without first having obtained from the Local Government District of Pinawa a license to do so. A License Application is required as set out in Schedule A attached to this By-law.
(b) That no license shall be required under subsection (a) to sell produce grown in Manitoba if the sale is by the individual who produced it or an immediate family member or employee of the individual;
(c) That no license shall be required under subsection (a) for businesses engaged exclusively in the wholesale of goods to other businesses within the Local Government District of Pinawa;
6. Licenses issued are subject to the requirements and provisions set out in the current Zoning By-Law.

7. There shall be no external storage, or display of goods for sale, rent or trade on the property in which a home business is carried on.
8. External signage and advertising is limited to one non-illuminated, non-flashing sign with a maximum area of 0.4m².
9. That every license issued under this by-law shall be effective only from the day of issue and including the 31st day of December of the year of issuance.
10. All home businesses shall be registered at the Local Government District of Pinawa office on or before January 31st of each year. An annual license fee will be charged. A late registration fee will be payable for license renewals not paid on or before January 31st in each year. The late registration penalty is in addition to the annual license fee. The annual fee and late registration fee amount will be set by resolution of Council and amended from time to time.
11. A record of all registered home businesses, transient traders and outdoor mobile food vendors shall be maintained.
12. No person shall carry on a Home Business, Transient Trader Business or Outdoor Mobile Food Vending Unit without first having registered with and received a license from the Local Government District of Pinawa. A License Application is required as set out in Schedule A attached to this By-law. An annual fee will be charged.
13. When it comes to the attention of the Resident Administrator that a Home Business, Transient Trader business or Outdoor Mobile Food Vending Unit has been established for which a license has not been purchased, the Resident Administrator shall proceed in accordance with the following procedure:
 - a) A letter will be mailed to the proprietor of the unlicensed Home Business, Transient Trader business or Outdoor Mobile Food Vending Unit notifying the proprietor that all Home Businesses be licensed and stating that a Home Business license must be purchased within 15 working days of the date of the letter.
 - b) If the proprietor fails to purchase a Home Business License, Transient Trader license or Outdoor Mobile Food Vending Unit within the 15 working days, the Resident Administrator shall initiate legal proceedings against the proprietor.
14. Any resident presently carrying on a home business which does not meet the provisions of this by-law must, within sixty (60) days of the effective date of this by-law, make any and all changes necessary to ensure that the home business does meet the provisions of this by-law.
15. A licensed home business engaged in the selling of goods to the public during participation in an organized Trade Fair, Bazaar, Town Market or like activity, is exempt from paying any additional business license fee for the said participation.
16. The license year shall be from January 1st to December 31st in each year.
17. Licenses issued under the provisions of the By-law are not transferable.
18. Where a Home Business proprietor who, in the immediately preceding year, purchased a Home Business License, fails to renew that license in the next license year, or notify the Resident Administrator that the Home Business has ceased operation, the Resident Administrator shall proceed in accordance with the following procedure:
 - a) A letter shall be mailed forthwith to the Proprietor notifying him/her that the Home Business in question must be licensed within 15 working days of the date of notification.

- b) If the proprietor fails to purchase a license or fails to notify the Resident Administrator within a fifteen-day period that the Home Business has ceased operation, the Resident Administrator shall initiate legal action against the proprietor.
19. Every person providing health services within the Local Government District of Pinawa, and who is not subject to business tax under the Municipal Act, shall purchase a business license in each year.
20. The following are exempt from paying business license fees within the Local Government District of Pinawa:
- a) Students enrolled in any school of the School District of Whiteshell, where such students are principally responsible for the business or businesses being conducted by such students.
 - b) Duly recognized charitable organizations.
21. That it is an offence to carry on a Home Business, Transient Trader Business or activity or Outdoor Mobile Food Vending Unit within the Local Government District of Pinawa without having first obtained a license under this by-law.

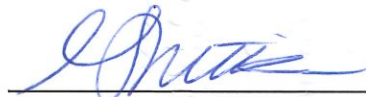
Subject to Section 249 of The Municipal Act, Contravention of By-law is an Offence. Subject to The Municipal Act "Fees, Discounts and Penalties Regulation" Section 3 "Maximum fine for by-law contravention", A person who contravenes a by-law of a municipality is guilty of an offence and may be subject to a pre-set fine and to a penalty equal to the costs associated with or resulting from enforcing this Bylaw. The pre-set fine as set out in **Schedule B** on this By-law. The maximum fine that a council may impose in respect of a contravention of a by-law is \$1,000.00.

A person is subject to court costs equal to 45% of the preset fine and the prescribed justice services surcharge of \$50.

Where an infraction of any of the provisions of this by-law continues for more than one (1) day, the person is guilty of a separate offence for each day such infraction continues. Unpaid fines for municipal by-law offences are a debt due to the municipality. The municipality is responsible for collecting the unpaid fine, court costs and justice services surcharge.

22. That By-Law No. 837-18 and By-Law No. 748-12 be hereby rescinded.

DONE, PASSED and ENACTED by Council duly assembled in the Council Chambers of the Local Government District of Pinawa, in the Province of Manitoba this 10th day of March, 2020.



Gisèle Smith
Resident Administrator

Read a first time this 14th day of January, 2020
Read a second time this 11th day February, 2020
Read a third and final time this 10th day of March, 2020

Schedule A

**Local Government District of Pinawa
APPLICATION FOR LICENSE**

- Home Business
- Transient Trader

The undersigned hereby applies for a License as follows:

Name:

Name of Business:

Home Address:

Business Address:

Phone Number:

Type of Business: (describe in detail)

Fax Number:

E-Mail:

Type of Product:

Mode of Transportation:

Affiliation (if any): (name of company)

If Salesman – Provincial License Number:

If Mobile Food Vending Unit –

- a) Health Inspector's Certificate _____
- b) Proof of Insurance _____

Place of residence last 3 months:

Other Information:

DATE:

SIGNATURE:

FOR OFFICE USE ONLY:

License Fee:

License No.: Class:

Conditions:

Signature:

Schedule B
Schedule of Fines and Penalties

Carrying on a Business without obtaining a license from the Local Government District of Pinawa.			Pre-set Fine Amount 50.00