

CITY OF ST. ALBERT

TOBACCO RETAIL LICENSING BYLAW 20/96 (Consolidated by Bylaw 20/2016, September 19, 2016)

Being a bylaw to provide for the licensing of tobacco retail operations

The Council of the City of St. Albert, duly assembled, enacts the following:

Title

1. This Bylaw may be referred to as the "Tobacco Retail Licensing Bylaw".

Definitions

2. In this Bylaw:

- (a) "City" means the municipal corporation of the City of St. Albert or, where the context so requires, the area contained within the boundaries of the City;

- (b) "City Manager" means the City's chief administrative officer or designate;

~~Corporation means a corporation that is registered, incorporated or continued under the Business Corporation Act (Alberta) or the Companies ACT or another enactment of the Government of Alberta or the Government of Canada;~~

- (c) "Designated Manager" means the individual designated by a Licensee as the Person responsible for compliance with this Bylaw;

- (d) "Designated Premises" means the premises described in a Tobacco Retail License;

- (e) "Inspector" means ~~an inspector appointed under the Bylaw~~ the individual appointed pursuant to sections 22 and 23 of this Bylaw;

- (f) "Licensee" means the Person to whom the applicable Tobacco Retail License has been issued;

- (g) "Peace Officer" means a peace officer as defined in the *Provincial Offences Procedure Act*, RSA 2000 cP-34 and any amending or succeeding legislation;

- (h) "Person" includes any adult individual, sole proprietorship, corporation, association, partnership, joint venture, co-operative or society;
- (i) "Tobacco Product" means:
 - (i) tobacco in any form including, but not limited to, cigarettes, pipe tobacco, loose tobacco, plugs of tobacco, chewing tobacco and snuff;
 - (ii) merchandise used to make cigarettes, including, but not limited to, rolling papers, tubes, and filters; and
 - (iii) any device intended to facilitate smoking activity, including pipes (metal/ glass blown, plastic, wood), water bongs and vaporizers; and
- (j) "Tobacco Retail License" means a license to sell Tobacco Products, as issued in accordance with this Bylaw.

Requirement for a Tobacco Retail License

3. No Person shall:

- (a) keep for sale;
- (b) offer or expose for sale; or
- (c) sell,

any Tobacco Product unless that Person is a Licensee or the employee of a Licensee working under the direct supervision of the Licensee or Designated Manager, or is the Designated Manager.

4. No Person shall:

- (a) keep for sale;
- (b) offer or expose for sale; or
- (c) sell,

any Tobacco Product except in accordance with this Bylaw.

5. No Tobacco Product shall be:

- (a) kept for sale;

(b) offered or exposed for sale; or

(c) sold,

except at a Designated Premises.

6. The Licensee and Designated Manager shall be jointly responsible for ensuring that employees of the Licensee who are involved in the storage, offering or exposing for sale or sale of Tobacco Products comply with this Bylaw and any conditions applicable to the Tobacco Retail License.

Tobacco Retail License

7. A Tobacco Retail License shall:

(a) be issued in the name of the Licensee;

(b) apply to a Designated Premises; and

(c) shall state the name of the Designated Manager.

8. A Tobacco Retail License issued under this Bylaw expires on December 31 of the year in which it was issued, unless it is

(a) cancelled earlier under section 44 ~~13~~; or

(b) suspended or revoked under section 23 ~~25~~.

9. An Inspector may renew a Tobacco Retail License for a subsequent period of one year on application to the Inspector.

~~10. A tobacco retail license is not transferable.~~

10. A Licensee may apply to an Inspector to transfer a Tobacco Retail License to another Person.

11. An application under section 10 must:

(a) be made within five days of the new Licensee assuming conduct or ownership of the Designated Premises;

(b) be in the form required by the Inspector;

(c) be signed by the previous Licensee, and the Person to whom the existing Tobacco Retail License is being transferred; and

(d) include all or any of the information required under section 17.

12. If an application for a transfer is not made within the time specified under section 11(a), the Tobacco Retail License is revoked on the 6th business day following the new Licensee's assumption of conduct or ownership of the Designated Premises.
13. A Tobacco Retail License is automatically cancelled if:
 - ~~(a) — there is a change of ownership of the designated premises;~~
 - (a) the Licensee ceases to exercise direction and control over the storage and sale of Tobacco Products at the Designated Premises;
or
 - (b) the Licensee fails to inform the Inspector of a change in Designated Managers within 30 days of such a change taking effect.
14. The Tobacco Retail License shall be posted at all times on the premises **Designated Premises** in a location that is clearly and readily visible to the public and shall be produced for inspection purposes at the request of the Inspector or a Peace Officer.
15. The Licensee shall post signs at all cash registers indicating that customers purchasing Tobacco Products may be required to produce verification of the customers' age, ~~that~~ **which** includes photographic identification.

Application for Tobacco Retail License

16. The applicant for a Tobacco Retail License shall:
 - (a) be ~~an adult individual or a corporation~~ **a Person**; and
 - (b) exercise direction and control over the storage and sale of Tobacco Products at the Designated Premises,and upon approval of the application, shall be the Licensee.
17. An application for a Tobacco Retail License or renewal of a Tobacco Retail License shall be made by the Licensee to an Inspector and shall be in writing and in the form required by the ~~Chief Administrative Officer~~ **City Manager** setting out:
 - (a) the name of the proposed Licensee;
 - (b) the municipal address of the proposed Designated Premises;
 - (c) the name and address of the Designated Manager; and

- (d) any other information that an Inspector may require to be satisfied under the terms of this Bylaw that a Tobacco Retail License should be issued to the proposed Licensee for the proposed Designated Premises.
- 18. An applicant for a Tobacco Retail License or for the renewal of a Tobacco Retail License must pay the applicable license fee listed in Schedule "A".
- 19. An Inspector shall not consider an application for a Tobacco Retail License or renewal of a Tobacco Retail License unless the **license** fee set out in Schedule "A" has been paid.
- 20. Upon review of an application for a Tobacco Retail License or renewal of a Tobacco Retail License, an Inspector may:
 - (a) approve the application and issue or renew a Tobacco Retail License;
 - (b) approve the application in part and issue or renew a Tobacco Retail License subject to conditions;
 - (c) refuse the application for a Tobacco Retail License or **for** the renewal of ~~the~~ **a** Tobacco Retail License if, in the opinion of the Inspector, there are just and reasonable grounds for the refusal, including:
 - (i) previous breaches of this Bylaw by the proposed Licensee or proposed Designated Manager, or in the case of a renewal by the Licensee or Designated Manager;
 - (ii) previous breaches of this Bylaw at the proposed Designated Premises by any Person;
 - (iii) previous breaches of the ~~Tobacco Sales to Young Persons Act~~ **Tobacco Act, SC 1997 c13 and any amending or succeeding legislation**, or any ~~other federal or provincial~~ enactments or municipal bylaws relating to the sale of Tobacco Product; or
 - (iv) a current suspension or revocation of a Tobacco Retail License.

Before an application for a Tobacco Retail License or the renewal of a Tobacco Retail License is refused pursuant to section ~~48~~ **20(c)(ii)**, an Inspector shall take into consideration any changes ~~in the lessee~~ **in the ownership and/or lessee** of the Designated Premises.

- 21. In the event that there has been a previous breach of this Bylaw on the Designated Premises or by the proposed Licensee or proposed Designated Manager, or in the case of a renewal, by the Licensee or Designated

Manager, an Inspector may impose conditions on a Tobacco Retail License relating to the following matters:

- (a) secure storage of Tobacco Products;
- (b) the hours during which Tobacco Products may be sold;
- (c) location of displays of Tobacco Products on the Designated Premises; and
- (d) requirement that all customers purchasing Tobacco Products be required to provide verification of their age, ~~that~~ which includes photographic identification.

Appointment of Inspectors

- 22. ~~The City of St. Albert's~~ City's License Inspector is hereby appointed as an Inspector.
- 23. ~~The Chief Administrative Officer~~ City Manager may appoint one or more Inspectors, in addition to the ~~City of St. Albert's~~ City's License Inspector, each of whom may exercise the duties and responsibilities of an Inspector.

Duties and Responsibilities of an Inspector

- 24. An Inspector shall:
 - (a) review applications for a Tobacco Retail License, ~~or for the renewal of a Tobacco Retail License,~~ or for the transfer of a Tobacco Retail License;
 - (b) approve or refuse to approve an application for a Tobacco Retail License, ~~or for the a renewal of a Tobacco Retail License,~~ or a transfer of a Tobacco Retail License;
 - (c) establish and maintain a record of all applications for a Tobacco Retail License and a record of each Tobacco Retail License that is issued; and
 - (d) conduct inspections and investigations of the Designated Premises as and when the Inspector, in the Inspector's sole discretion, determines necessary.

Suspension and Revocation of Tobacco Retail License

- 25. An Inspector may suspend or revoke a Tobacco Retail License if:

- (a) there has been a breach of a condition of the Tobacco Retail License;
 - (b) the Licensee or Designated Manager has been convicted of a breach of this Bylaw, the ~~Tobacco Sales to Young Persons Act~~ **Tobacco Act**, or any other ~~federal or provincial legislation~~ **enactment** relating to the sale of Tobacco Products; or
 - (c) a breach of this Bylaw, the ~~Tobacco Sales to Young Persons Act~~ **Tobacco Act**, or any other ~~federal or provincial law~~ **enactment** relating to the sale of Tobacco Products has occurred on the Designated Premises.
26. Failure to provide true, accurate, and precise information on the Tobacco Retail License application form or to the Inspector is an offence under this Bylaw and shall be grounds for immediate cancellation of the Tobacco Retail License, if issued, and the forfeiture of any **license** fee paid for the Tobacco Retail License.

Appeals

27. In those cases where the Inspector has:
- (a) refused to issue a Tobacco Retail License to an applicant;
 - (b) imposed conditions on the issuance of a Tobacco Retail License;
 - (c) suspended or revoked a Tobacco Retail License;
 - (d) refused to renew a Tobacco Retail License; or
 - (e) **refused to transfer a Tobacco Retail License,**
- the applicant for the Tobacco Retail License or the ~~tobacco retail~~ Licensee may appeal the decision of the Inspector to the appeal committee.
28. An appeal made under this Bylaw must be:
- (a) in writing, setting out the reasons for the appeal;
 - (b) accompanied by the appeal fee set out in Schedule "A"; and
 - (c) delivered to the office of the ~~Chief Administrative Officer~~ **City Manager** within seven days of the applicant or Licensee being notified of the decision of the Inspector.

29. On the filing of an appeal under this Bylaw, a suspension or revocation of a Tobacco Retail License is stayed until the date on which the hearing of the appeal committee is scheduled, or 30 days, whichever occurs first.
30. On the filing of an appeal under this Bylaw, the ~~Chief Administrative Officer~~ **City Manager** shall appoint an appeal committee for the purposes of hearing the appeal.
31. An appeal committee shall comprise three members who are residents of the City, but shall not include an Inspector.
32. The appeal committee shall schedule the hearing of the appeal within 30 days of the filing of the notice of the appeal.
33. The appeal committee may adjourn the hearing from time to time, and in the event a hearing is adjourned, shall determine whether or not there is to be a further stay of the revocation or suspension during the adjournment.
34. The Appeal Committee shall issue their decision in writing within seven days of the conclusion of the hearing, together with reasons.

Penalties

35. A Person who contravenes this Bylaw is guilty of an offence and on conviction is liable to a fine:
 - (a) for a first breach, of \$300;
 - (b) for a second breach, of \$600; and
 - (c) for a third and any subsequent breach, of \$1200.
36. A fine may be imposed notwithstanding that a suspension or revocation of the Tobacco Retail License has occurred in relation to the same event.

SCHEDULE "A"
TO TOBACCO RETAIL LICENSE BYLAW 20/96
 (As amended September 19, 2016)
 (rates effective January 1, 2017)

GST EXEMPT

	2017
License Fee	714.00
Appeal Fee	55.00

	2017		
	Column 1	Column 2	Column 3
	For a Tobacco Retail License issued before May 1 or for any Tobacco Retail License to which Column 2 or 3 do not apply.	For a Tobacco Retail License issued on or after May 1 but before August 31.	For a Tobacco Retail License issued on or after September 1.
License Fee	714.00	535.50	357.00
Appeal Fee	55.00	55.00	55.00