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TSAWWASSEN FIRST NATION

Community Governance Act

BUSINESS LICENCE REGULATION

Date Enacted: 17 September 2015

Order Number: O.063-2015

Last Amended: 13 October 2020

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Table of Regulation Changes

Section(s) Amended	Date	Order number	Come Into Force Date
Schedule A	01/10/2019	O.068-2019	01/10/2019
s.1, 4(1), 22(2), 26(all), 32 amended s.10(1), 12, 17(1), 18, 19, 20, 23, 24, 27(1), and Sch. A repealed and replaced Sch. B repealed	13/10/2020	O.061-2020	13/10/2020

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PART 1 – ADMINISTRATION

Title

1 This regulation may be cited for all purposes as the “Business Licence Regulation.”

[Amended by Order number O.061-2020]

Authority

2 (1) This regulation is made under the *Community Governance Act*.

(2) A licence issued pursuant to this regulation does not permit or authorize construction, renovation, or development

Severability

3 The provisions of this regulation are severable and the invalidity of any part of this regulation shall not affect the validity of the remainder of this regulation.

Definitions

4 (1) In this regulation:

“**Act**” means the *Community Governance Act*;

“**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 for the purpose of gain or profit but does not include any activities carried on by the Tsawwassen First Nation government or by Tsawwassen Corporations or Tsawwassen Public Institutions;

“**carnival**” means a temporary exhibition, show, or production which offers to the public amusement rides, circus performers, games of skill or chance, or other similar entertainment;

“**Chief Administrative Officer**” means a person appointed in that capacity under the *Government Organization Act*;

“**Director**” means the Director of Lands or the Director’s delegate;

“**enforcement officer**” has the same meaning as in the *Laws Enforcement Act*, and as such, includes a person appointed as an enforcement officer under section 3 of that act;

“**farm operation**” means land within Tsawwassen Lands, whether consisting of one or more separate parcels, classified as farm land by the British Columbia Assessment Authority, and operated as one farming operation principally for the growing or raising of farm produce;

“**home-based business**” is an accessory business use permitted within a principal residential building;

“**licence**” unless otherwise defined or qualified means a business licence issued in accordance with this regulation;

“**licencee**” means a person holding a valid licence issued under this regulation;

“**mobile business**” means a business that changes its location or that operates in a premise that is capable of relocating, such as in the case of a food truck or similar;

“**Member-owned business**” means a business that is directly or indirectly majority owned by a Tsawwassen Member or Members;

“**occupier**” means a leaseholder or sub-leaseholder of Tsawwassen Lands or the holder of a Tsawwassen Fee Simple Interest;

“**person**,” in addition to its ordinary meaning, includes a partnership, unincorporated association, trust and corporation and the singular shall be held to mean and include the plural.

“**premise**” means the place of operation of a business, and as such, includes a place, structure, vehicle or location of any type in or on which a business operates;

“**temporary business**” means a business which offers goods or services for sale from a temporary place of business for a period of less than six months in any twelve-month period;

“**temporary licence**” means a license issued for the duration of less than one year, whether from a temporary business or otherwise

“**TFN Member**” means a Tsawwassen Individual who is enrolled as a member of Tsawwassen First Nation in accordance with the *Membership Act*; and

“**TFSI**” or “**Tsawwassen Fee Simple Interest**” means a fee simple interest that is subject to any condition, proviso, restriction, exception, or reservation that may be set out in Tsawwassen Law, but does not include a fee simple interest in Tsawwassen Lands held by the Tsawwassen Government;

[Amended by Order number O.061-2020]

- (2) Unless specifically provided otherwise in this regulation, the terms used herein have the same meaning as defined in the Act.

Licence Required

- 5 (1) Except as hereinafter provided or by order of the Executive Council, no person shall carry on a business on Tsawwassen Lands, without holding a valid and subsisting licence for the business so carried on.
- (2) Every licence issued pursuant to this regulation shall authorize the holder to carry on the business stipulated in the licence in a lawful manner for the period, within the times, and at the premise specified in the licence, subject to the terms and conditions specified on the licence.
- (3) Where a business is carried on in or at more than one premise, each premise is deemed to be a separate business.
- (4) Every person who operates more than one business from the same premise must apply for and maintain a separate business licence in respect of each business.

Non-transferability

- 6 (1) Every licence issued is personal to the person named therein and may not be transferred, given, lent, or sold to another person.
- (2) Where any person purchases the controlling interest in a business licensed under this regulation from another person, the licence of that business expires sixty (60) days after the purchase.

Licence Conditions

- 7 (1) It shall be the responsibility of the applicant for a licence under this regulation to ensure that the business complies with all applicable regulations and other enactments, including, without limitation, the *Land Use Planning and Development Act*, the *Fire Services Act (BC)*, and the *Public Health Act (BC)*, and the regulations made pursuant thereto, and the applicant shall, upon request by the Director, produce certificates, permits or letters of approval as may be required by applicable governmental authorities.
- (2) Neither the issuance of a licence under this regulation nor the acceptance or review of supporting documents, nor any inspections made by or on behalf of the Tsawwassen First Nation, shall in any way relieve the business or its owners from full and sole responsibility to comply with this regulation and any other applicable enactments.
- (3) Neither the issuance of a licence under this regulation nor the acceptance of supporting documents, nor any inspections made by or on behalf of the Tsawwassen First Nation, constitute in any way a representation, warranty, assurance or statement that this regulation or other applicable enactments have been complied with.
- (4) No person shall rely upon any licence as evidence of compliance with this regulation or assume or conclude that this regulation has been administered or enforced according to its terms.

Businesses Licensed to Serve Liquor

- 8 No one may sell, distribute or serve liquor on Tsawwassen Lands without a valid permit issued under applicable laws.

Safety

- 9** (1) Every licence application shall be accompanied by a satisfactory fire safety inspection report, except a licence application for a home-based business, subject to subsection (2).
- (2) The Director may require that a home-based business obtain a satisfactory fire safety inspection report before issuing a licence.
- (3) Every licence application must be accompanied by confirmation of approvals from other regulatory agencies that provide approvals for the business, such as Fraser Health or the Liquor Licensing Board, or any other approval required by the Director.

[Amended by Order number O.061-2020]

License to be Displayed

- 10** (1) Every licence granted under this regulation must be displayed in a conspicuous place on the premises or vehicle for which the licence was issued, and must be provided to an enforcement officer on request.

[Amended by Order number O.061-2020]

- (2) Where the licensee has no permanent business premises on Tsawwassen Lands, the licence shall be carried upon the licensee's person, or by a representative of the licensee at all times when the licensee is engaged within Tsawwassen Lands in the business for which the licence was issued.

PART 2 – EXEMPTIONS

Licence not required

- 11** (1) Notwithstanding the provisions of this or any other regulation, a business licence is not required for the following activities:
- (a) any business, the entire proceeds of which, above actual bona fide expenses, are devoted to any charitable purposes, but does not include a charitable casino;
 - (b) any performance, concert, exhibition or concession which is held in a premise that is licensed for such a purpose;
 - (c) any business of renting rooms where not more than two rooms are available for renting;
 - (d) carriers and taxi cabs and owners or operators of carriers other than taxi cabs whose premise and licence are maintained in another jurisdiction and whose only activity on Tsawwassen Lands is the picking up and/or discharge of chattels or passengers;
 - (e) owners or operators of retail businesses whose premise and licence are maintained in another jurisdiction and whose only activity on Tsawwassen Lands is to deliver commodities already purchased or requested for delivery and pick up of commodities being returned or exchanged;
 - (f) a wholesaler, manufacturer, or processor whose premise and licence are maintained in another jurisdiction and whose only activity on Tsawwassen Lands is to deliver merchandise in their own vehicle to licensed businesses and/or licensees for resale by them in the ordinary course of their business; and
 - (g) a farm operation.
- (2) For greater certainty, and despite subsection 11(1)(g), a business licence is required for the operation of a roadside stand or other retail business located on a farm.

[Amended by Order number O.061-2020]

PART 3 – APPLICATION AND PROCESS

Licence Applications

- 12** (1) Every application for a licence must be
- (a) made to the Director on an application form prescribed by the Director, as amended from time to time;

- (b) signed by the owner of the business or their duly authorized agent; and
 - (c) accompanied by the fee prescribed in Schedule A [*Licence Classes and Fee Amounts*]
- (2) In the case of partnerships, joint ventures, or multiple owners, any one of such partners or owners may apply and such partner or owner will be deemed to be duly authorized by all the partners or owners.
- (3) In the case of a corporation, the application must be signed by a director of the corporation or an agent authorized in writing by a director to make such application on behalf of the corporation.

[Amended by Order number O.061-2020]

Applicant must give true information

- 13** An applicant must at the time of making the application give true, correct, and complete details and facts with regard to all information about the business for which the application is being made.

PART 4 – ISSUING OF LICENCES

Director authorized

- 14** (1) The Director is authorized to issue or deny business licences as provided in this regulation.
- (2) A licence may be issued with conditions which the Director considers necessary, including, but not limited to, that specified insurance be obtained, and documentation thereof provided to the Director, that the applicant indemnify Tsawwassen First Nation, or stating a maximum number of occupants allowed on the premise of the business.
- (3) The Director may deny a business licence to an applicant who:
- (a) has been convicted under any law of the Tsawwassen First Nation, another First Nation, the Province of British Columbia or Canada in relation to the activities of the business for which the applicant has applied; or
 - (b) is the owner of a business whose licence was suspended or revoked under section 27 [*Suspension and Revocation*] of this regulation, and that suspension or revocation was not reversed under section 28 [*Administrative Review*] or set aside under section 29 [*Appeal*].
- (4) If the Director denies a business licence under subsection 14(3), the Director shall provide a written summary of the reason(s).

[Amended by Order number O.061-2020]

No licence issued

- 15** (1) The Director may refuse to review any application which is materially incomplete or insufficient to ascertain whether the business complies with this or other applicable laws or regulations.
- (2) The Director must deny a business licence if the business is not permitted under the *Zoning Regulation* (Tsawwassen) or does not comply with the provisions of this regulation or other applicable laws or regulations, in which case the Director shall provide a written summary of the reason(s) for the refusal.

Licence cancelled

- 16** (1) If an application for a business is approved in error, the licence will be cancelled at the time that the error is uncovered, and the applicant will be sent notification to the contact address provided by the applicant.
- (2) If an application for such a business is accepted due to any misrepresentation or concealment of fact, the application will be revoked upon the discovery of such misrepresentation or concealment of fact, and no refund will be given.

PART 5 – LICENCE FEES AND TERMS

Fees

- 17 (1) The application fee and licence fees set out in Schedule A [*Licence Classes and Fee Amounts*] are hereby imposed. Every applicant for a licence must pay to Tsawwassen First Nation at the time of application, the proper application fee and licence fees set out in Schedule A and no licence will be issued until payment of the fee is made. If a business falls into more than one fee category, the higher of the two applicable fees is payable.
- [Amended by Order number O.061-2020]
- (2) No fee is payable by Member-owned businesses for licences issued under this regulation.

Licence term

- 18 (1) All licences issued pursuant to this Regulation, other than temporary licences, shall expire one year from the date the application is approved, unless terminated earlier in accordance with this Regulation.
- (2) The term of any temporary licence shall expire on the date indicated on the licence.

[Amended by Order number O.061-2020]

PART 6 – LICENCE RENEWAL

Renewal Requirements

- 19 Each licensee wishing to renew their licence must pay the fee for the licence class as established in Schedule A [*Licence Classes and Fee Amounts*] before their licence expires. An application form, and payment of an application fee, is not required unless one of the changes set out in section 22 has occurred.

[Amended by Order number O.061-2020]

Late Renewal

- 20 Any licence renewal request received after termination of the licence shall be accompanied by payment of the application fee established in Schedule A [*Licence Classes and Fee Amounts*].

[Amended by Order number O.061-2020]

Licence No Longer Required

- 21 Every licensee must notify the Director in writing when the licence is no longer required. The licence will be cancelled upon receipt of such notification or on the date indicated in the notification as the end of business operations. There will be no refund or partial refund of the licence fee.

PART 7 – CHANGES AFFECTING LICENCE

Changes

- 22 (1) Every licensee must immediately notify the Director in writing of:
- (a) any change in the contact and/or business address, provided that if the intention is relocation of the business to a different premise than the premise for which the licence was granted, a business licence application must be submitted and approved for the new premise prior to such relocation;
 - (b) any change in the nature or activities of the business;
 - (c) any change to the name of the business;
 - (d) any change to the ownership of the business; and
 - (e) any change to any term or condition on which the licence was granted.
- (2) If any notification given under subsection 22(1) would lead to an additional fee under Schedule A [*Licence Classes and Fee Amounts*] of this regulation, the additional amount shall be paid at the time when the notification is given. No fee refunds shall be given as a result of such changes.

[Amended by Order number O.061-2020]

- (3) For certainty, an application to relocate an existing business to a new location may require a fire inspection report as set out in section 9 [*Safety*].

PART 8 – LICENCE OPERATION

Mobile Businesses

23 Operation of a mobile business is prohibited:

- (a) on any leaseholder or TFSI lands except with the written permission of the occupier or authorized agent of the occupier; and
- (b) in any roadway such that flow of vehicular or pedestrian traffic is obstructed or impeded, including by customers accessing the mobile business, except with authorization by Tsawwassen First Nation government.

[Amended by Order number O.061-2020]

Conditions

24 The Director may place any conditions they deem necessary on a licence for a mobil business including, but not limited to, requiring the business:

- (a) to provide on-site receptacles for garbage, and dispose of the garbage in an appropriate manner;
- (b) to adhere to specific operating hours;
- (c) limit the accessory equipment around the mobile business; and
- (d) to remain a certain distance from similar businesses

[Amended by Order number O.061-2020]

Businesses Offering Accommodations

25 All licencees whose business activities include the letting of rooms, suites, or other accommodations shall maintain a register of all persons dwelling therein that includes the name and contact information of those persons and that shall be produced at the request of any enforcement officer.

Access to Premise

- 26**
- (1) The Director or an enforcement officer may enter at any reasonable hours, any house, place, premises, vehicle, or other place in respect of which a licence has been applied for, granted or may be required under this regulation, for the purpose of ascertaining that the terms of this regulation are being observed, except that where any residential building is occupied, must obtain the consent of the occupant, or provide written notice to the occupant 24 hours in advance of entry.
 - (2) Despite subsection 26(1), the Director or an enforcement officer may conduct an inspection without providing notice to the occupant of a residential building if:
 - (a) providing notice would not be reasonably possible or practical in the circumstances, or
 - (b) providing notice would frustrate the purposes of the inspection.
 - (3) An individual authorized under Federal law or British Columbia law to inspect premises to ensure health and safety, may enter, at any reasonable hour, any house, place, premises, vehicle, or other place in respect of which a licence has been applied for, granted or may be required under this regulation, for the purpose of ascertaining that a business is observing the applicable health and safety laws and regulations.
 - (4) It shall be unlawful for any person to prevent or obstruct or attempt to prevent or obstruct the Director or an enforcement officer from carrying out any of their official duties under this regulation.

[Amended by Order number O.061-2020]

PART 9 – SUSPENSION AND REVOCATION

Suspension and Revocation

- 27 (1) The Director may revoke or suspend a licence for reasonable cause. Without limiting what constitutes reasonable cause, any one or more of the following circumstances may constitute reasonable cause:
- (a) the licensee is convicted of an indictable offence in Canada;
 - (b) the licensee is convicted under any law of the Tsawwassen First Nation, another First Nation, the Province of British Columbia or Canada in relation to the activities of the business for which the licensee is licensed;
 - (c) the licensee has, in the opinion of the Director, engaged in misconduct that warrants the suspension or revocation of the holder's licence, if the misconduct is in respect of the business or the premises for which the business is licensed;
 - (d) the licensee has ceased to meet the legal or regulatory requirements to carry on the business for which the licensee is licensed or with respect to the premise for which the business is licensed; or
 - (e) the licensee has failed, or ceased, to meet the conditions imposed by the Director as a condition of issuing the licence.
- [Amended by Order number O.061-2020]
- (2) A revocation or suspension under this regulation must be made in writing, signed by the Director and served on the licensee or delivered to the contact address provided in the licence application.
- (3) No licensee will engage in any business operations or activities or otherwise conduct a business for which a suspension is in effect.

PART 10 – APPEALS AND RECONSIDERATION

Administrative Review

- 28 (1) An applicant or a licensee who wishes reconsideration of a decision of the Director must, within ten business days of receipt of notice of the decision, deliver to the Chief Administrative Officer a written request stating the grounds upon which the request for reconsideration is based, together with any relevant supporting information or evidence.
- (2) The Chief Administrative Officer must consider the request within 30 days of receipt of the notice.
- (3) The Chief Administrative Officer may concur with, modify, or reverse the decision of the Director, and must provide written notification to the applicant or licensee and the Director of the decision.

Appeal

- 29 (1) If the applicant or licensee is dissatisfied with the decision under section 28, he or she may appeal the matter to the Judicial Council no later than 10 business days after the Chief Administrative Officer's written decision is provided to the applicant or licensee.
- (2) Judicial Council will consider the appeal pursuant to the *Administrative Review and Judicial Proceedings Act*.
- (3) The Judicial Council may confirm, modify, or set aside the decision of the Director or the Chief Administrative Officer.
- (4) The decision of the Judicial Council is final.

PART 11 – OFFENCES

Contraventions

- 30 (1) Any person who contravenes, violates or permits any act or thing to be done in contravention of, or neglects or refrains from doing anything required to be done pursuant to the provisions of this regulation, commits a contravention and shall, in addition to any other provisions of this regulation, be liable:

- (a) to a penalty as set out in the Tsawwassen First Nation Ticket Regulation, 2013;
 - (b) if no penalty is set out for the contravention in the Tsawwassen First Nation Ticket Regulation, 2013, then to a fine not exceeding \$2,000;
 - (c) to business licence restrictions, suspension or revocation; or
 - (d) to both business licence restrictions, suspension, or revocation under subsection (c) and either a penalty under subsection (a) or a fine under subsection (b).
- (2) Every day that a contravention continues under this regulation constitutes a separate and distinct contravention.
- (3) Contraventions of this regulation are designated for enforcement under the *Community Governance Act* (Tsawwassen) or the *Laws Enforcement Act* (Tsawwassen).

PART 12 – COMING INTO FORCE

Effective Date

31 This regulation comes into force on the date of its enactment by Executive Council.

Schedules

32 Schedules A to this regulation forms a part of this regulation.

[Amended by Order number O.061-2020]

SCHEDULE A – LICENCE CLASSES AND FEE AMOUNTS

Licence Classes	Fees
Basic Fee For All Businesses Not Otherwise Listed	First 2,000 ft ² \$110, and Each additional 1,000 ft ² \$25 per year, subject to a minimum of \$175 per year
Home-Based Business	\$60 per year
Temporary Business	\$50 per 90-day period
Carnival	\$350 per day
Application Fee	\$100 for all licence classes other than temporary business class; \$0 for temporary business class

[Amended by Order number O.068-2019]

[Amended by Order number O.061-2020]