

## KANANASKIS IMPROVEMENT DISTRICT

### ORDER No. 4

## KANANASKIS IMPROVEMENT DISTRICT IN THE PROVINCE OF ALBERTA

#### Title

1. This Order may be cited as the Business License Order.

#### Definitions

2. In this Order:

- (a) "applicant" means a person who applies for a business license or to transfer a business license under this Order;
- (b) "business" means:
  - i. a commercial, merchandising, marketing or industrial activity or undertaking,
  - ii. a profession, trade, occupation, calling or employment, or
  - iii. an activity providing goods or services whether or not for profit and however organized or formed, including a cooperative or association of persons.
- (c) "business license" means a license issued under this Order;
- (d) "business license holder" means a person who holds a valid and subsisting business license under this Order; "carries on or operates" means operate, perform, keep, hold, occupy, deal in or use, for gain whether as principal or agent;
- (e) "Council" means the municipal council for Kananaskis Improvement District and includes the area within the geographic boundaries of KID where the context requires;
- (f) "KID" means Kananaskis Improvement District;
- (g) "License Officer" means the person appointed by the Chief Administrative Officer for Kananaskis Improvement District to carry out the administration and enforcement of this Order and includes, for purposes of this Order, peace officers and Special Constables.
- (h) "non-resident business" means a business that does not qualify as a resident business.
- (i) "not-for-profit organization" means
  - i. a society established under the Societies Act, R.S.A. 1980, c.S-18,
  - ii. a company incorporated under Part 9 of the Companies Act, R.S.A. 1980, c.C-20,
  - iii. a corporation incorporated under Part II of the Canada Corporations Act, R.S.C. 1985, c.C-32; or,
  - iv. any business engaged in entirely charitable activities, or in the promotion of general social welfare within KID, and which does not confer a monetary benefit upon its members or directors.

- (j) "peace officer" includes a conservation officer, a police officer and a member of the Royal Canadian Mounted Police;
- (k) "person" includes an individual, sole proprietorship, corporation, partnership, joint venture, co-operative or society;
- (l) "resident business" means a business which is carried on, in whole or in part, within Kananaskis Improvement District, and which maintains a permanent residence within the Kananaskis Improvement District and is listed on any current tax roll.

### Powers and Responsibilities of License Officer

- 3. (1) The License Officer is hereby appointed the Bylaw Enforcement Officer to administer and enforce the provisions of this Order.
- (2) The powers and responsibilities of the License Officer are:
  - (a) to receive and consider applications for business licenses, including the power to consult with, obtain information from and verify information with other employees or agents of KID, other governments, government agencies or persons;
  - (b) to issue business licenses, impose conditions on business licenses and refuse to issue business licenses;
  - (c) to transfer, revoke and suspend business licenses;
  - (d) to keep a record of all business licenses issued and any particulars of those licenses;
  - (e) to maintain a register of business licenses that is available to all government departments to access for the purpose of administering and enforcing this Order, any other Order of KID or an enactment of Alberta, or Canada;
  - (b) to undertake any inspections of lands or buildings, make any inquiries and enter upon any premises for the purpose of ascertaining if the provisions of this Order are being complied with;
  - (c) to be responsible to the enforcement of this Order;
  - (d) to be responsible for the prosecution of offences under this Order; and,
  - (e) to exercise any other power, responsibility or discretion provided under this Order.

#### Requirement for a Business License

4. (1) A person that carries on or operates a business in KID must hold a valid and subsisting business license issued under this Order.
- (2) Subsection (1) applies whether a person carries on or operates a business as a principal, agent or employee.

#### Exclusions from the Requirement for a Business License

5. Notwithstanding section 4, the following persons may carry on or operate a business in KID without a business license:
  - (a) the Crown in Right of Alberta;
  - (b) the Crown in Right of Canada;
  - (c) a Crown Corporation;
  - (d) KID;
  - (e) a business that is expressly exempted from the requirement of a business license by a statute of the Crown in right of Alberta or Canada; and,
  - (f) any business Council has exempted by resolution.

#### Application for a Business License

6. An applicant for a business license shall obtain and produce written approval from the Development Authority, subject to the Land Use Order, before a business license may be issued with respect to a business carried on or operated from premises within KID.
7. An applicant for a business license shall obtain and produce written approval required by an enactment of Alberta or Canada before a business license may be issued with respect to a business carried on or operated within KID.
8. (1) A person must submit an application for a business license to the License Officer for each business the person intends to carry on in KID.
- (2) The application for a business license must be in the form required by the License Officer and include the following:
  - (a) the applicant's name;
  - (b) the name of the business and any trade names under which the business is to be conducted;
  - (c) the phone number of the business;
  - (d) the operating address of the business;
  - (e) the mailing address of the business;
  - (f) the proper name of the owner of the business, including the corporate access number, if any;
  - (g) the address of the owner of the business;
  - (h) the phone number of the owner of the business;
  - (i) the name and phone number of an emergency contact for the business;

- (j) a description of the nature of the business that includes type of business, the number of employees and the location or locations from which or upon which the business will be carried on within KID;
  - (k) the signature of the applicant or the applicant's agent;
  - (l) a copy of any permit or approval issued pursuant to any other Order of KID or an enactment of Alberta or Canada that may be required in connection with the carrying on of the business;
  - (m) a copy of the development approval, if applicable; and
  - (n) any other information that the License Officer may reasonably require for the purpose of the administration of this Order or that may be required by the applicable Schedule.
- (3) If there is any change to the information provided to the License Officer in the application for a business license during the term of a business license, the license holder must immediately advise the License Officer in writing of the change.

#### License Fees

9. (1) Subject to section 10, a business license shall not be issued by the License Officer until the applicant has paid the license fee set out in Schedule "A".
- (2) A business license fee is not refundable.
- (3) If the business license fee is not paid, the business license is not valid.

#### Exemption from Fees

10. (1) A not for profit organization may apply to the License Officer for an exemption from the business license fee required under Schedule A.
- (2) An application under subsection (1) must be in the form required by the License Officer and must include:
- (a) the name of the not for profit organization;
  - (b) information regarding the corporate structure of the not for profit organization, including a registered charity number;
  - (c) the nature of the business engaged in by the not for profit organization;
  - (d) a description of how the proceeds from the business are or will be used to advance the objects of the not for profit corporation; and,
  - (e) a description of the not for profit activities of the organization in KID and elsewhere.
- (3) After receipt of an application under subsection (2), the License Officer may waive the business license fee in whole or in part if the License Officer considers that such a waiver is in the best interests of KID.
- (4) A waiver under subsection (3) does not relieve the not for profit organization from otherwise complying with the terms of this Order.

### Considering the Application and Issuing the License

11. (1) The License Officer must consider each complete application.
- (2) Subject to subsection (3), the License Officer must grant a business license to the applicant if the applicant meets the requirements of this Order.
- (3) The License Officer may refuse to issue a business license or impose conditions on a business license if the License Officer:
  - (a) has revoked or suspended a business license of the applicant for the same or a similar business within the past 12 months;
  - (b) has reasonable grounds for believing that the applicant does not or will not comply with this Order or another Order of KID or an enactment of Alberta or Canada in relation to the carrying on or operation of the business;
  - (c) has reasonable grounds for believing that the safety, health, or welfare of the public may be at risk due to the issuance of a business license to the applicant; or,
  - (d) an applicant is convicted twice in any 12 month period of a breach of any of the provisions of this Order.
- (4) In addition to conditions under subsection (5), the License Officer may impose conditions on a business license that are, in the opinion of the License Officer, necessary for the effective administration of this Order and regulation of the business or as authorized by this Order.
- (5) The License Officer must specify on the business license:
  - (a) the name of the business license holder and each name under which the business is to be conducted;
  - (b) a description of the type of business for which the license is issued;
  - (c) the Schedule, if any, applicable to the regulation of the business;
  - (d) the location or locations where the business is to be conducted;
  - (e) the date or dates the business may be conducted;
  - (f) the date of issuance, term and expiry date of the business license; and,
  - (g) the other types of permits or approvals required under any other Order of KID or an enactment of Alberta or Canada relating to the carrying on or operation of the business.

### Effect of and Limitation on a Business License

12. (1) Subject to subsection (3), a business license allows the business license holder to operate or carry on the business described in the business license.
- (2) A business license remains the property of KID.

- (3) A business license does not relieve the business license holder from the obligation to obtain any other permit or approval that may be required under another Order of KID or an enactment of Alberta or Canada in relation to the carrying on or operation of the business.

#### Transfer of Business License

13. (1) Unless otherwise provided in this Order, any valid and subsisting business license issued under this Order may be transferred upon application to the License Officer and payment of the fee set out in Schedule "A".
  - (2) An application under subsection (1) must:
    - (a) furnish evidence of a transfer or assignment of the interests of the existing business license holder to the applicant;
    - (b) be signed by the business license holder and the person to whom the business is transferred; and,
    - (c) include all or any of the information required under Section 8 and 10 that the License Officer requires; and,
    - (d) must be made within 5 business days of the transfer or assignment referred to in (a).
  - (3) If an application for a transfer is not made within the time specified under subsection 13(2)(d), the business license is revoked on the 6<sup>th</sup> business day following the transfer of the business.

#### Term of Business License

14. Every business license issued under this Order shall terminate at midnight on the 31<sup>st</sup> of December of the year in which the license was issued unless:
  - (a) the terms of this Order provide otherwise;
  - (b) the terms of the business license provides otherwise; or,
  - (c) the business license has been sooner cancelled or suspended.

#### Obligations of Business License Holder

15. (1) A business license holder must ensure that the business conducted under a business license complies with:
  - (a) this Order;
  - (b) any conditions imposed on the business license; and,
  - (c) any license, permit or authorization issued under the Provincial Parks Act, and
  - (d) any other Order or enactment of Alberta or Canada applicable to the business or the premises where the business is located.
- (2) A business license holder must:

- (a) post the business license in a conspicuous place in the premises or location where the business under the license is carried on or operated. For those businesses that are not carried on at a fixed location, the business license must be carried on the person or in the vehicle from which the business is carried on or operated; and,
  - (b) produce the business license to the License Officer and any peace officer or their assistants upon demand.
- (3) A business license holder must give access to the premises specified in the business license to the License Officer, peace officer and their assistants for the purpose of inspection or for the purpose of ascertaining if the provisions of this Order are being complied with.
- (4) A business license holder shall be responsible for the acts of its principals, agents, or employees in carrying on of the business in the same manner and to the same extent as though the acts were done by the business license holder.

#### Cancellation of Business License by a Business License Holder

16. (1) A business license holder may cancel a business license by providing a written notice to the License Officer.
- (2) If a business license is cancelled under subsection (1), the business license fee is not refundable.

#### Revocation or Suspension of Business License by the License Officer

17. (1) If the business carried on or operated under a business license does not comply with:
- (a) this Order;
  - (b) any condition imposed on the business license; or,
  - (c) any other Order or enactment of Alberta or Canada applicable to the business or the premises where the business is located;
  - (d) the business has changed to the extent that a new application for a business license would be refused; or,
  - (e) there are reasonable grounds for believing that the business poses a danger to the safety, health, and welfare of the public;

the License Officer may revoke the business license or suspend the business license for the period that the License Officer considers appropriate.

- (2) If an applicant for a business license provides inaccurate or misleading information in an application for a business license, the License Officer may revoke the business license or suspend the business license for the period that the License Officer considers appropriate.
- (3) The License Officer must give written notice of the revocation or suspension, setting out in general terms the reason for the revocation or

suspension, and in the case of suspension the period of the suspension, to the business license holder or applicant.

- (4) The revocation or suspension of a business license under subsection (1) is effective:
  - (a) 24 hours after delivery if the written notice is delivered personally to the business license holder or the registered office of an incorporated license holder;
  - (b) 72 hours after posting if the written notice is posted in a conspicuous place at the premises specified in the license where the business is to be carried on or operated, or
  - (c) 7 days after mailing if the written notice is mailed by ordinary mail to the mailing address provided in the application for a business license or the address subsequently provided in writing under Section 8,whichever is earliest.
- (5) A business license holder must cease carrying on or operating a business immediately once a suspension or revocation is effective.

#### Proof of Business

18. (1) Proof of one transaction or offer to transact in a business is sufficient to establish that the business is being carried on in KID.
- (2) Any advertising of the business in KID is sufficient to establish that the person advertising is carrying on the business in KID.

#### Appeals

19. (1) If the License Officer:
  - (a) refuses to issue a business license;
  - (b) revokes or suspends a business license;
  - (c) imposes a condition on a business license; or,
  - (d) refuses to waive a fee for a not for profit organization,the applicant or business license holder may appeal the decision to Council.
- (2) An appeal must:
  - (a) be in writing;
  - (b) be accompanied by the appeal fee set out in Schedule "A"; and,
  - (c) be delivered to the office of the chief administrative officer (Municipal Office Kananaskis Improvement District) within 7 days of the date that the business license holder is first notified of the decision of the inspector.
- (3) The Council will render a decision within 30 days of receipt of the request to review.



- (4) The Council may uphold the decision of the License Officer, vary the decision of the License Officer or substitute its own decision, or return the matter to the License Officer for reconsideration.

#### Offences and Penalties

20. (1) It is an offence to carry on or operate a business in KID:
  - (a) without a business license under this Order, unless an exclusion under Section 5 applies;
  - (b) in breach of a condition imposed on a business license, or
  - (c) in breach of any provision of this Order.
- (2) A business license holder is liable for a contravention of:
  - (a) this Order, or
  - (b) any conditions imposed on the business license,committed with the express or implied consent of the business license holder by a person employed or supervised by the business license holder or by an agent of the business license holder.
21. A person who is found guilty of an offence under Section 20 is liable to a fine of \$100.00 for a first offence, \$250.00 for a second offence, and \$500.00 for a third or subsequent offence.
22. A License Officer is hereby authorized and empowered to issue a Violation Tag to any person who the License Officer has reasonable and probable grounds to believe has contravened any provision of this Order.
23. A Violation Tag may be issued to such person:
  - (a) personally; or,
  - (b) by mailing a copy to the person or business at the address provided pursuant to section 8.
24. The Violation Tag shall be in a form approved by the License Officer and shall state:
  - (a) the name of the person believed to have contravened this Order,
  - (b) the nature of the offence;
  - (c) the appropriate penalty for the offence as specified in this Order;
  - (d) that the penalty shall be paid within 30 days of the issuance of the Violation Tag;
  - (e) any other information that may be required by the License Officer.
25. Where a contravention of this Order is of a continuing nature, further Violation Tags may be issued by the License Officer, provided that no more than one Violation Tag shall be issued for each day that the contravention occurs for any business license

26. Where a Violation Tag is issued, the person to whom the Violation Tag is issued may, in lieu of being prosecuted for the offence, pay to Kananaskis Improvement District the penalty specified on the Violation Tag.
27. Nothing in this Order shall prevent the License Officer from immediately issuing a Violation Tag.
28. In those cases where a Violation Tag has been issued and the penalty specified has not been paid within the prescribed time, then the License Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to Part II of the *Provincial Offences Procedure Act*, R.S.A. 2000, Ch. P-34.
29. Notwithstanding anything to the contrary, a License Officer is hereby authorized and empowered to immediately issue a Violation Ticket pursuant to Part II of the *Provincial Offences Procedure Act*, R.S.A. 2000, Ch. P-34 to any person who the License Officer has reasonable and probable grounds to believe has contravened any provision of this Order.
30. Nothing in this Order in any way prohibits or otherwise affects the ability of KID to utilize the enforcement provisions contained in Part 13, Division 4 and 5 of the *Municipal Government Act*, R.S.A. 2000, Ch. M-26.
31. Nothing in this Order shall prevent a License Officer from immediately issuing a Violation Ticket.
32. The documents attached to this Order marked Schedule "A" shall form part of this Order and may be revised from time to time as deemed necessary by the KID Budget and Audit Committee and as approved by the KID Council.
33. Each provision of this Order is independent of all other provisions. If any provision is declared invalid for any other reason by a court of competent jurisdiction, all other provisions of this Order shall remain valid and enforceable.
34. This Order shall come into force on April 01, 2002 or on the date of third reading whichever is later.

Read a first time this 05<sup>th</sup> day of March 2002.

Read a second time this 05<sup>th</sup> day of March 2002.

Read a third time this 05<sup>th</sup> day of March, 2002.

  
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Chairman

  
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Chief Administrative Officer

**Schedule A – Schedule of Fees**

Type of License Fee	Annual
Resident Business	
(a) Regular	\$ 200
(b) Major Business	\$ 500
Non-Resident Businesses:	
(a) Regular	\$ 350
(b) Special Event	\$ 500
(c) Major Business	\$ 1000
Not for Profit Business	\$ 100
Other Types of Fees	Regular
Duplicate License	\$ 25
Transfer	\$ 25
Appeal	\$ 25

**Explanation of Fees**

For the purposes of this Schedule:

**Resident Business – Regular Business** means any resident business that is not a major business.

**Resident Business – Major Business** means any business that has gross annual revenue of \$ 750 000 or greater.

**Non-Resident Business – Regular Business** means any non resident business that is not a special event or a major business.

**Non-Resident Business – Special Events** means any organized race, festival, competition, show, display or event that is conducted in Kananaskis Improvement District whether or not it is organized by a not-for-profit or charitable organization or is held for the purposes of raising funds for a not-for-profit or charitable cause.

**Non-Resident Business – Major Business** means any business that has gross annual revenue of \$ 750 000 or greater.