

## 27 Licensing

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### Licensing Authority

The *Community Charter* provides BC municipalities with the authority to regulate, prohibit, and impose requirements in relation to a number of broadly stated spheres of jurisdiction. The fundamental regulatory authority of councils is found in section 8 of the *Community Charter*. Areas in which regulatory authority may be exercised include business, public health, protection of the natural environment, animals, buildings and structures. Some spheres, like business, are not subject to all the abilities (to regulate, prohibit or impose) of council. Business may only be regulated, while prohibition is not allowed. Based on having the authority to regulate these spheres, council may, through the authority set out in section 15 of the *Community Charter*, provide for a system of licenses.

### Licensing Powers

Under s.15 of the *Community Charter*, council may, by bylaw:

- prohibit any activity or thing until a license, permit or approval has been granted;
- provide for the effective periods of licenses, permits and approvals;
- provide for the terms and conditions of, or that must be met for obtaining, continuing to hold or renewing a license;
- provide for the granting and refusal of licenses, permits and approvals; and
- provide for the suspension or cancellation of licenses, permits and approvals.

License fees may be charged under section 194 of the *Community Charter*.

Subject to any applicable delegation restrictions contained in the *Community Charter*, and subject to the special rules applicable to business licenses (discussed below), a municipal council may delegate its authority to grant, refuse, suspend or cancel a license to a council member, a council committee, an officer or employee, or to another body established by council [CC s.154].

### System of Licensing

Council may use the general variation authority in section 12 of the *Community Charter* to:

- make different provisions for different areas, times, conditions or circumstances as described by the bylaw;
- establish different classes of persons, places, activities, property or things; and
- make different provisions, including exceptions, for different classes.

## Fees

The authority to impose fees for licensing are set out in the *Community Charter* (CC) s. 194 where a council may, by bylaw, impose a fee payable in respect of all or part of the service or regulatory scheme of the municipality. CC s. 12 and 194 include the authority to base the fee or charge on any factor specified in the bylaw including establishing rates or levels of fees in relationship to different factors; establishing different classes of persons, property, businesses and activities and different fees or charges for different classes; establishing terms and conditions for payment, including discounts, interests and penalties. Municipalities can recover fees due in any court of competent jurisdiction [CC s. 231].

A municipality must make available to the public, on request, a report respecting how a fee or charge imposed under this section was determined [CC s. 194(4)].

## Penalties

For a regulated activity that requires a license in order to operate legally, it is an offence under the *Offence Act* for a person to carry on the activity without a valid license [CC s. 260]. Penalties may apply.

Where compliance with a bylaw is a condition of a license or permit, a local government may suspend the license or permit until the person, or persons, comply. Ultimately, a local government may seek prosecution under the *Offence Act*, apply to the Supreme Court for an injunction or court order to enforce, prevent or restrain the contravention of a local government bylaw, or pursue other means of enforcement such as ticketing.

## Business Licenses: Refusal, Suspension or Cancellation

The general authority for a municipality to regulate and therefore license a business is derived from Sections 8(6) and 15 of the *Community Charter*. However, Part 3, Division 9 of the *Community Charter* outlines some specific requirements which council must meet when dealing with business. While a council may refuse a business license application in any specific case, it must not do so unreasonably [CC s. 60(1)(a)]. If a council refuses a business license application it must, if requested by the applicant, give written reasons for the refusal [CC s. 60(1)(b)].

A business license may be suspended or cancelled for failure to comply with the bylaw or any specified terms and conditions of the license [CC s.15(1)]. In addition, a business license may be suspended or cancelled for reasonable cause under CC s.60(2) but not before the license holder is given notice of the proposed action and an opportunity to be heard [CC s. 60(3)].

If a designated municipal officer or employee exercises authority to grant, refuse, suspend or cancel a business license, the applicant or license holder who is subject to the decision is entitled to have the council reconsider the matter [CC s. 60(5)].

Note that the definition of “business” in the *Community Charter* specifically excludes activities carried on by the provincial government, by corporations owned by the provincial government, by agencies of the provincial government or by the South Coast British Columbia Transportation Authority or any of its subsidiaries. Consequently, municipalities are not authorized to require such entities to obtain business licenses.

### Animal Licenses

The general authority for a municipality to license animals is derived from CC s. 8(3)(k). Part 3, Division 6 of the *Community Charter* outlines some specific actions that a council may take in relation to animal control such as the seizure of animals and the treatment of dangerous dogs. A council, with the authority of CC s. 8 and Part 3, Division 6 may for example, by bylaw regulate the keeping of dogs by requiring persons who own, possess or harbor a dog to hold an annual license for the dog.

The bylaw may require a separate dog licence for each dog, and may vary the amount of the fee according to the sex, age, size or breed of the dog [CC s. 47 and s. 12]. A council has the authority to seize animals in certain situations (for example, where animals are unlicensed or unlawfully at large) [CC s. 48].

Updated November 2022