

By-law 2016-156

A By-law of the City of Greater Sudbury to Amend By-law 2004-350 being a By-law of the City of Greater Sudbury to Provide for the Licensing and Regulation of Various Businesses

Whereas the Council of the City of Greater Sudbury deems it desirable to amend By-law 2004-350 being a By-law of the City of Greater Sudbury to Provide for the Licensing and Regulation of Various Businesses in order to provide for certain additional fees;

Now therefore the Council of the City of Greater Sudbury hereby enacts as follows:

Add Definition

1. By-law 2004-350 being a By-law of the City of Greater Sudbury to Provide for the Licensing and Regulation of Various Businesses, as amended, is hereby further amended by:
 - (a) replacing the period after the definition of "sidewalk" with a semicolon;
 - (b) adding the word "and" after the definition of "sidewalk"; and
 - (c) adding the following definition to section 1, immediately after "sidewalk" and before section 2:

"User Fees By-law" means the City's Miscellaneous User Fee By-law in effect from time to time, being By-law 2015-266, as amended or replaced from time to time."

Enact Subsections 2(12.1) and 2(12.2)

2. By-law 2004-350 being a By-law of the City of Greater Sudbury to Provide for the Licensing and Regulation of Various Businesses, as amended, is hereby further amended by enacting subsections 2(12.1) and 2(12.2) immediately after subsection 2(12) and before subsection 2(13):

"2(12.1) An enforcement attendance fee in an amount determined in accordance with the User Fee By-law shall be payable on a time spent basis:

- (a) for the second and each subsequent inspection conducted by a person designated by Council to enforce this By-law, to ascertain compliance with a notice, direction or order pursuant to this By-law, which is conducted after the specified date for compliance; and
- (b) in the event that any person designated by Council to enforce this By-law attends any remediation directed by or conducted by the City, pursuant to

this By-law as a result of a failure to comply with an order made pursuant to this By-law.

2(12.2) Any fee under subsection 2(12.1) shall be payable:

- (a) in accordance with the provisions of the User Fee By-law; and
- (b) in addition to any fine levied upon conviction of an offence under this By-law, and whether or not there is a charge laid, and whether or not any charge laid leads to a conviction.”

Enact Subsections 2(18.1) to 2(18.3)

3. By-law 2004-350 being a By-law of the City of Greater Sudbury to Provide for the Licensing and Regulation of Various Businesses, as amended, is hereby further amended by enacting the following subsections 2(18.1) to 2(18.3) inclusive, immediately after subsection 2(18) and before subsection 2(19):

“2(18.1) Except as provided to the contrary in subsection 2(18.3), where a person holding a licence issued under this By-law fails to renew the licence by the expiry date of the licence, the person may be permitted to renew the licence provided the person:

- (a) submits the application for renewal within ninety (90) days after the expiry date in the licence;
- (b) is otherwise entitled to a renewal under this By-law; and
- (c) pays a late renewal administrative fee, in an amount determined in accordance with the User Fee By-law, in addition to the renewal fee otherwise payable.

2(18.2) Where a person holding a licence issued under this By-law fails to renew the licence within ninety (90) days of the expiry date in accordance with subsection 2(18.1), the person shall no longer be entitled to renew the licence and shall be required to apply for a new licence, subject to the payment of such fees as may be required for a new application.

2(18.3) Subsection 2(18.1) shall not apply to:

- (a) a street sale permit, pursuant to Part III of this By-law;
- (b) a licence issued under Part V of this By-law, required of Hawkers, Pedlars, Itinerant Auction Events, Craft Shows, Antique Shows, Special Sales;
- (c) a licence issued under Part VI of this By-law, required of Places of Amusement – Circuses and Midways, Public Presentation – Not Theatre;

- (d) a licence issued under Part XI of this By-law, required for Motor Vehicle Racing/Motorcycle Racing; or
- (e) a licence issued under Part XIIA of this By-law, required of Itinerant Gold Purchasers.”

Repeal and Replace Subsection 2(22) and 2(23)

4. By-law 2004-350 being a By-law of the City of Greater Sudbury to Provide for the Licensing and Regulation of Various Businesses, as amended, is hereby further amended by repealing subsections 2(22) and 2(23) and enacting the following subsections 2(22) and 2(23) in its place and stead:

“2(22) Any applicant, whose application for a licence or renewal of a licence is refused by the Issuer of Licences, may appeal the decision to the Hearing Committee by submitting a written request to the Issuer of Licences and paying an administrative fee in an amount determined in accordance with the User Fee By-law. Upon receipt of the fee and written request, the Issuer of Licences shall notify the City Clerk to schedule a hearing. Notice of the day, time and place of the hearing shall be provided in writing to the applicant at the address in the application for the licence or renewal of the licence. For the purposes of this By-law, the “Hearing Committee” shall refer to the Hearing Committee authorized by the City’s Procedure By-law 2011-235, as amended or replaced.

2(23) On a hearing before the Hearing Committee, the Hearing Committee may direct the Issuer of Licences to issue or renew the licence, or to not issue or renew the licence based on the requirements of this By-law. The decision of the Hearing Committee shall be final.”

Add Subsection 13.1

5. By-law 2004-350 being a By-law of the City of Greater Sudbury to Provide for the Licensing and Regulation of Various Businesses, as amended, is hereby further amended by enacting section 13.1 below immediately after section 13 and before section 14:

“Order to Comply

13.1-(1) A by-law enforcement officer may enter on private property at all reasonable times to ascertain whether there is compliance with:

- (a) the provisions of this By-law;
- (b) a direction or order or notice given under this By-law; or

- (c) the conditions of a Licence issued under this By-law.

(2) Where a by-law enforcement officer is satisfied that a contravention of this By-law has occurred, the by-law enforcement officer may make an order requiring the person who contravened this By-law or who caused or permitted the contravention to discontinue the contravening activity. The order shall set out reasonable particulars of the contravention, and where applicable, the location of the land on which the contravention is occurring and the date by which there must be compliance.

(3) Where the by-law enforcement officer is satisfied that a contravention of this By-law has occurred, an order may be made requiring the person who contravened this By-law or who caused or permitted the contravention to correct the contravention. The order shall set out:

- (a) reasonable particulars of the contravention;
- (b) particulars of the location where the contravention occurred;
- (c) any work to be done or steps to be taken to comply with this By-law;
- (d) the date by which the work must be done or steps taken; and
- (e) provide that, if any work specified is not completed by the date specified to the satisfaction of the Issuer of Licences, the Issuer of Licences may cause the work to be done at the expense of the licence holder.

(4) Pursuant to subsection 445(3) of the *Municipal Act, 2001*, as amended, an order pursuant to subsection 13.1(2) or 13.1(3) may require the work to be done even though the facts which constitute the contravention of the By-law were present before this By-law making them a contravention came into force.

(5) Service of an order issued under this by-law shall be given to each person, by delivering personally to the person or by mailing by registered mail at the address recorded for that licence holder in the records of the Issuer of Licences.

(6) Every person who is served with an order under this By-law shall comply with the requirements of the order within the time period specified in the order.

(7) An attendance fee in an amount determined in accordance with the User Fee By-law shall be payable on a time spent basis:

- (a) for the second and each subsequent inspection conducted by a by-law enforcement officer to ascertain compliance with a notice, direction or order pursuant to this By-law, which is conducted after the specified date for compliance; and

- (b) in the event that a by-law enforcement officer attends any remediation directed by or conducted by the City, pursuant to this By-law as a result of a failure to comply with an order made pursuant to this By-law.

(8) Any fee under subsection (7) shall be payable:

- (a) in accordance with the provisions of the User Fee By-law; and
- (b) in addition to any fine levied upon conviction of an offence under this By-law, and whether or not there is a charge laid, and whether or not any charge laid leads to a conviction.

(9) For the purposes of this section 13.1, "by-law enforcement officer" includes the Issuer of Licences, any person appointed by Council for the enforcement of this by-law and a duly sworn member of the Greater Sudbury Police Service."

Transition

6. Where a part of a by-law is repealed by this By-law, the repeal does not:
- (a) affect the previous operation of the part of the by-law so repealed;
 - (b) affect any right, privilege, obligation or liability acquired, accrued, accruing, or incurred under the part of the by-law so repealed; or
 - (c) affect any offence committed against any part of the by-law so repealed or any penalty or forfeiture or punishment incurred in respect thereof; or affect any investigation, legal proceeding or remedy in respect of such privilege, obligation, liability, penalty, forfeiture or punishment.

Effective

7. This By-law shall come into full force and effect upon passage.

Read and Passed in Open Council this 9th day of August, 2016



Mayor



Deputy
Clerk