

BY-LAW NO. 341-88

BEING A BY-LAW OF THE TOWN OF FOX CREEK, IN THE PROVINCE OF ALBERTA TO PROVIDE FOR THE LICENSING AND REGULATING OF CERTAIN BUSINESSES, CALLINGS, TRADES, OCCUPATIONS, AND EMPLOYMENTS.

WHEREAS Council of the Town of Fox Creek, in the Province of Alberta, under the authority of the Municipal Government Act, being Chapter M-26 of the Revised Statutes of Alberta and amendments thereto, may pass by-laws for the purpose of regulating and controlling businesses being carried on within the Town of Fox Creek in the Province of Alberta.

NOW THEREFORE, THE MUNICIPAL COUNCIL OF THE TOWN OF FOX CREEK DULY ASSEMBLED ENACTS AS FOLLOWS:

1. TITLE

This By-law may be cited as the "License By-law".

2. DEFINITIONS

In this By-law unless the context otherwise requires:

- (a) "Act" shall mean the Municipal Government Act, Chapter M-26, R.S.A., 1980 as amended or replaced from time to time;
- (b) "applicant" shall mean a person who applies for a license for a renewal of a license required by this By-law;
- (c) "business" shall mean any business, occupation, activity, amusement, entertainment, trade, employment, profession, or calling;
- (d) "carry on" shall mean carry on, operate, perform, keep, hold, occupy, deal in or use, for gain, whether as principal or agent;
- (e) "charitable or non-profit organization" shall mean a person, association of persons, or a corporation, acting for charity or in the promotion of general social welfare which cannot at any time distribute any dividend or profit to its members and includes:
 - (i) a religious society or organization;
 - (ii) a service club;
 - (iii) a community, veterans' or youth organization;
 - (iv) a social, sport or fraternal organization or club; and
 - (v) an employers' or employees' organization.
- (f) "town" shall mean the Town of Fox Creek, a municipal corporation of the Province of Alberta, and where the context so requires, means the area contained within the corporate boundaries of the said municipality;

- (g) "Town Manager" shall mean the Town Manager of Fox Creek as appointed by Council;
- (h) "Council" shall mean the Municipal Council of the Town of Fox Creek;
- (i) "license" shall mean a license granted by the Town of Fox Creek entitling the person to whom it is granted to carry on an activity therein specified in the Town of Fox Creek. The said license shall be in the form of a written permit and showing thereon the type of business engaged in;
- (j) "License Appeal Board" shall be composed of the Council;
- (k) "Licensee" shall mean a person holding a valid and subsisting license issued pursuant to the provisions of this By-law;
- (l) "License Inspector" shall mean the person so designated herein and includes any inspector designated by the Town Manager to perform such duties, and anyone acting or authorized to act on his behalf, including any member of the Royal Canadian Mounted Police in the enforcement of this By-law;
- (m) "home occupation" shall mean any person, firm or corporation carrying on any business from a residence within the Town of Fox Creek where the business is not the principal occupation of the person operating the business, and does not employ individuals other than the person owning the business;
- (n) "motor vehicle" shall mean an automobile, truck, or motorcycle;
- (o) "non-resident" shall mean any person who does not permanently reside or have a place of business in the town;
- (p) "person" shall mean a natural person or a body corporate and includes a partnership, a group of persons acting in concert or an association unless the context explicitly or by necessary implication otherwise requires;
- (q) "Planning By-laws" shall mean Land Use By-law No. 239-80 as amended or replaced and all other statutory plans and by-laws as have been made or may be passed by the town;
- (r) "Police" shall mean any member of the Royal Canadian Mounted Police, or any Peace Officer or By-law Enforcement Officer, appointed by the Town of Fox Creek;
- (s) "premises" shall mean store, office, warehouse, factory, building, enclosure, yard, or other place occupied, or capable of being occupied, by any person for the purpose of any business; and
- (t) "resident business" shall mean any person, firm, or corporation carrying on business in the Town of Fox Creek and assessable for business tax.

3. APPOINTMENT OF LICENSE INSPECTOR

The Town Manager shall be appointed as the License Inspector and may appoint such assistants as may be required to carry out the terms of this By-law.

4. POWERS AND DUTIES OF LICENSE INSPECTOR

The powers and duties of the License Inspector are as follows:

- (a) to receive and deal with all applications for licenses and transfers thereof including the collection of money payable under this By-Law;
- (b) to ascertain that all information furnished by an applicant in connection with an application for a license or transfer of a license is true in substance and in fact;
- (c) to prosecute violations and infractions of this By-law and to administer this By-law and as far as practical, see that each person concerned conform to its provisions; and
- (d) to keep records of all applications for licenses.

5. EXEMPTIONS FROM LICENSING

The Town of Fox Creek, its employees and agents while acting within the scope and course of their employment are exempt from any and all items and provisions of this By-law;

6. NECESSITY FOR LICENSE

- (a) no person shall within the town:
 - (i) carry on or operate any of the businesses, callings, trades, or occupations referred to in this By-law; or
 - (ii) carry on any undertaking, do any act, or use or have any article for which a license is required;

unless he holds a valid license from the Town of Fox Creek obtained in accordance with the provisions of this By-law;

- (b) any advertising of the businesses, callings, trades, or occupations shall be deemed to be prima facie proof of the fact that the person advertising is carrying on or operating any such business, calling, trade, or occupation; and
- (c) where a business subject to licensing is carried on or intended to be carried on in more than one location, a license shall be required in respect of each place as though the business carried on in each place were a separate business.

7. LICENSE FEE

- (a) no person shall carry on or operate any business, calling, trade, or occupation within or partly within the town without first paying to the License Inspector the license fee prescribed in this By-law;
- (b) (i) (A) the license fee for all non-resident businesses shall be \$250.00 per annum; or

- (B) where any person, firm, or corporation expects to operate for a very short period of time and qualifies for a business license, a daily license fee of \$50.00 shall be paid for each day the business operates within the town. This provision shall be subject to a maximum license fee which would be payable for the business if it were to operate for an extended period of time as set out immediately following.
- (ii) the license fee for all home occupations shall be \$100.00 per annum; and
- (iii) the license fee for all resident businesses shall be \$100.00 per annum.

8. EXEMPTION FROM FEES

- (a) where any charitable or non-profit organization wishes to be exempted from the requirements of this By-law to pay a license fee, it shall apply in writing to the License Inspector for such exemption, providing the License Inspector with:
- (i) the name of the organization, the Articles or Memorandum of Incorporation, and such other information as the License Inspector requires to determine that the organization is a charitable or non-profit organization as defined by this By-law; and
- (ii) a description of the business which the organization wishes to carry on and the time and place where it is to be carried on.
- (b) the License Inspector may grant any exemption applied for pursuant to this section with or without conditions, or may refuse to grant any such exemption; and
- (c) where an exemption is granted to an organization pursuant to this section, unless the exemption when granted specifically otherwise provides, the organization shall comply with the provisions of this By-law relating to the business to be carried on, other than the requirement to pay a license fee.

9. APPLICATION FORM

An applicant for a license shall make application to the License Inspector on a form supplied by the License Inspector, furnishing such information as the form shall require and such additional information as the License Inspector may from time to time require, including the following:

- (a) a statutory declaration, where required by the License Inspector, substantiating the information contained in the form;
- (b) every federal or provincial certificate, authority, license, or other document or qualification that may be required in connection with the carrying on of a business;
- (c) a provincial license where required under any Provincial Act;
- (d) any certificate or other approval required by any provision of this By-law in respect of the business; and
- (e) the license fee payable in respect of the business as set out in this By-law.

10. HOME OCCUPATION

No license shall be issued for a home occupation until the applicant is in possession of a valid development permit issued under the provisions of the town's Land Use By-law.

11. COMPLIANCE

- (a) whenever an applicant for a license has complied with the terms of this By-law and of any other by-laws applicable, he shall be entitled to the license applied for upon payment of the proper fee; and
- (b) all licenses are granted subject to the provisions of any Planning By-laws of the Town of Fox Creek and the issuance of a license shall not be deemed as approval to carry on a business in or on any premises in contravention of the provisions of the Planning By-laws.

12. APPEAL

- (a) where an application for a license or for a transfer of a license has been refused or has been authorized subject to conditions, or where a license has been revoked, the applicant or Licensee may appeal to the License Appeal Board;
- (b) after hearing the applicant and the evidence adduced, the License Appeal Board may confirm such refusal or conditional approval or may direct that the license be issued either conditionally or unconditionally as may be deemed expedient in the public interest, and the decision of the License Appeal Board is final; and
- (c) every such appeal shall be made in writing within thirty (30) days after a license has been refused or revoked, otherwise the right of appeal shall be barred and extinguished.

13. PRODUCTION

Every Licensee who holds a license under this By-law which is not limited to specific premises, shall, so long as the license is in force, have immediately available the license or duly authorized copy thereof and such Licensee shall, upon request, forthwith produce same to a Police Officer, a License Inspector, or any person with whom he is doing business to which the license relates.

14. INSPECTION

Where a business involves the occupation of a specific building or a specific location and such business is reasonably believed to require a license under this By-law a Police Officer, a License Inspector, or any other authorized person may inspect the building or location for any purpose under this By-law at all reasonable times during the license year.

15. REVOCAION AND REFUSAL

- (a) where, on inspection, a business which is subject to an inspection by or on behalf of the Medical Officer of Health is found to contravene any provision of the Public Health Act R.S.A., Chapter P-27 1980 and any regulations made thereunder, and amendments or substitutions therefor or any town by-law respecting health, the Medical Officer of Health may revoke the license in respect thereof;

- (b) where, on inspection, a business which is subject to an inspection by or on behalf of the Fire Marshall or the Planning Department is found to contravene the provisions of:
- (i) the Fire Prevention Act, Chapter F-101, R.S.A., 1980 or as amended or replaced from time to time; and
 - (ii) the Planning Act, Chapter P-9, R.S.A., 1980 or a Planning By-law as replaced or amended from time to time;
- the Fire Chief or the Planning Department shall report the contravention to the License Inspector who may revoke the license therefor.
- (c) the License Inspector may revoke or refuse to grant any license on any grounds which, in his opinion, are just and reasonable. All revocations or refusals made under this Section 15(c) shall be subject to the appeal process set out in Section 16 of this By-law; and
- (d) upon a license being revoked as hereinbefore provided, the License Inspector shall notify the Licensee thereof:
- (i) by delivering a notice to him personally; or
 - (ii) by mailing a double registered letter to his place of business or residence as shown on his license, and shall have been deemed to have been received five (5) days after the date of mailing;
- and after the delivery or deemed receipt of such notice his business or occupation, as the case may be, shall not be carried on until such time as a new license is issued.

16. DURATION

Every license issued under the provisions of this By-law shall terminate at midnight on the 31st day of December of the year in which said license was issued unless:

- (a) the license provides otherwise; or
- (b) the license has been sooner cancelled or forfeited.

17. FEES

- (a) where a fee required has been paid by the tender of an uncertified cheque, the license:
- (i) is issued subject to the cheque being accepted and cashed by the bank without any mention of this condition being made on the license; and
 - (ii) is automatically revoked if the cheque is not accepted and cashed by the bank on which it is issued.
- (b) Part Year:
- (i) the License Inspector may, after September 1 of any license year, issue a license for one-half the annual fee set out in Section 7 hereof; and

(ii) where a license is surrendered or revoked, the town shall refund to the Licensee, prior to September 1 of any license year, one-half the annual fee therefor, but this provision shall not apply to any license issued for a period of less than the full license year.

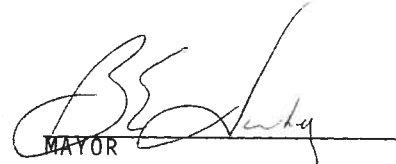
18. PENALTY

- (a) any person contravening any provision of this By-law shall be liable upon conviction therefor to a fine of not less than \$250.00 and not more than \$1,000.00 exclusive of costs, and in case of non-payment of the fine and costs so imposed, the person shall be imprisoned for a period of time not to exceed six (6) months unless the fine and costs including the cost for committal are sooner paid; and
- (b) where the offence is non-payment of any license fee payable hereunder, the payment of the license fee shall be in addition to the fine imposed.

19. GENERAL

- (a) By-law No. 222-78 and all amendments thereto are hereby repealed; and
- (b) this By-law shall come into force on January 1, 1989.

READ A FIRST TIME this 8th day of November, A.D., 1988.




 MAYOR



 SECRETARY-TREASURER

READ A SECOND TIME this 13th day of December, A.D., 1988.




 MAYOR



 SECRETARY-TREASURER

READ A THIRD TIME AND FINALLY PASSED this 13th day of
December, A.D., 1988.


MAYOR


SECRETARY-TREASURER