

## BY-LAW NO. 721-98

Being a by-law relating to the licensing and regulation of certain businesses, occupations, and properties with the Town of Smoky Lake, in the Province of Alberta.

Pursuant to the provisions of the Municipal Government Act of Alberta, R.S.A., 1980, Chapter M-26, and amendments thereto, the Municipal Council of the Town of Smoky Lake hereby ENACTS AS FOLLOWS:

### Title

1. This by-law may be cited as "The Business License By-Law."

### Definitions

2. In this by-law, unless the context otherwise requires:
  - (a) "Act" means the Municipal Government Act, Chapter M-26, R.S.A., 1995 as amended or replaced from time to time.
  - (b) "applicant" means a person who applies for a license or a renewal of a license required by this by-law.
  - (c) "carry on" means carry on, operate, perform, keep, hold, occupy, deal in or use, for gain, whether as principal or agent.
  - (d) "charitable or non-profit organization" means 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;
    - (v) an employers' or employees' organization;
  - (e) "Council" means the Municipal Council of the Town of Smoky Lake.
  - (f) "License" means a license granted by the Town of Smoky Lake entitling the person to whom it is granted to carry on business therein specified in the Town of Smoky Lake.
  - (g) "License Appeal Board" shall be composed of the Council.
  - (h) "licensee" means a person holding a valid and subsisting license issued pursuant to the provisions of this by-law.
  - (i) "License Inspector" means the person so designated herein.
  - (j) "local non-resident" means any person, firm or corporation whose permanent base for their business is within the boundaries of the County of Smoky Lake including the urban municipalities of the Villages of Vilna, Warspite, and Waskatenau.
  - (k) "non-resident" means any person, firm, or corporation whose permanent base for their business is beyond the boundaries of the County of Smoky Lake.
  - (l) "person" means 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.
  - (m) "Police" means any member of the R.C.M.P., or any Peace Officer, or By-law Enforcement Officer, appointed by the Town of Smoky Lake.
  - (n) "premises" include the 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.
  - (o) "resident business" means any person, firm or corporation carrying on business in the Town of Smoky Lake.
  - (p) "Supplier" means a business, corporation and/or individual that supplies goods for resale to the holder of a Town Business license. Notwithstanding this, if a business, corporation and/or individual supplies a service to equipment required for the operation of a holder of a Town Business license, they may be exempted from requiring a license.
  - (q) "Town" means the Town of Smoky Lake, a municipal corporation in the Province of Alberta.

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3. Council shall appoint a License Inspector to carry out the terms of this by-law.

#### Powers and Duties

4. The powers and duties of the License Inspector are:
- (a) to receive and deal with all applications for licenses 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 is true in substance and in fact;
  - (c) to prosecute violations and infractions of this by-law.

#### Necessity for License

5. (a) No person shall, within the Town of Smoky Lake:
- (i) carry on or operate any of the business, 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 Smoky Lake obtained in accordance with the provisions of this by-law.
- (b) Notwithstanding subsection (a), no license shall be required:
- (i) for a business carried on or operated by the Town or at a location operated by an official or employee of the Town acting on behalf of the Town in his capacity as such official or employee;
  - (ii) by an official or an employee of the Town carrying out any act in his official capacity;
  - (iii) for such other business as Council, by resolution, may from time exempt.
- (c) Notwithstanding any other provision in this by-law a license shall not be required of a business carried on by the Governments of the Province of Alberta or Canada nor shall a license be required by any person or business if any statute of Canada or the Province of Alberta exempts such person or business ~~from~~ requirements of municipal licensing.

#### License Fee

6. (a) No person shall carry on or operate any business, calling, trade or occupation within or partly within the Town of Smoky Lake without first paying to the License Inspector, the license fee prescribed in Schedule "A" in this by-law.

#### Exemptions from Fees

7. (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 or 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;
  - (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 an exemption applied for pursuant to this section with or without condition, or may refuse to grant any such exemption.
- (c) Suppliers shall be exempt only while operating as previously defined. As soon as they begin to conduct business with unlicensed individuals a license is required.
- (d) Farmers Markets are also exempted from requiring a license.
- (e) 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.

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### Application Form

8. 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:
- (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;
  - (e) the license fee payable in respect of the business as set out in this by-law.

### Home Occupation

9. (a) 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 of Smoky Lake's Land Use By-law.
- (b) 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 were a separate business.

### Compliance

10. (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.

### Appeal

11. (a) Where an application for a license or for a transfer of a license has been refused or has been authorized subject to conditions, the applicant may appeal to the License Appeal Board.
- (b) After hearing the applicant and the evidence presented, 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.

### Production

12. 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.

### Inspection

13. 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.

### Revocation and Refusal

14. (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-27.1, 1984 and any regulations made thereunder, and amendments or substitutions therefore or any 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 is found to contravene the provisions of:

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(i) the Fire Prevention Act R.S.A. Ch. F-101, 1980 or as amended or replaced from time to time;

(ii) the Municipal Government Act R.S.A. Ch. M-26, 1995 or a Planning By-law as replaced or amended from time to time;

the Fire Chief report the contravention to the License Inspector who may revoke the license therefore.

(c) The License Inspector may revoke or refuse to grant any license on any grounds which, in his opinion, are just and reasonable.

(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 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.

#### Duration

15. 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.

#### Fees

16. (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.

#### Penalty

17. (a) Any person contravening any provision of this by-law shall be liable upon conviction therefore to a fine of not less than \$250.00 and not more than \$1000.00 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 months unless the fine and costs including the cost for committal are sooner paid.

(b) Where the offense is non-payment of any license fee payable hereunder, the convicting provincial judge may adjudge payment thereof in addition to the fine imposed.

#### Rescind of Past By-laws

18. By-law No. 659-93 shall be rescinded upon the adoption of this by-law.

READ a first time this 3 day of MARCH<sup>64</sup>, 1998, A.D.

READ a second time this 17 day of MARCH, 1998, A.D.

READ a third and final time this 17 day of MARCH, 1998, A.D.

Carle Carpenter  
Carle Carpenter, Mayor

David Sarsfield  
David Sarsfield, Town Manager

**By-law No. 721-98**  
**Schedule "A"**

<u>Category</u>	<u>Yearly Rate</u>	<u>Daily Rate</u>
Local Non-Resident Hawker or Peddler	\$100.00	\$10.00
Non-Resident Hawker or Peddler	\$100.00	\$10.00
Voluntary License	\$25.00	\$10.00

Daily Rate adopted at the December 21, 1999 Council Meeting  
Resolution #537/99

By-law No. 721-98  
Schedule "A"

<u>Category</u>	<u>Amount</u>
Resident	<del>\$25.00</del>
Local Non-Resident	<del>\$50.00</del>
Non-Resident	<del>\$75.00</del>

Amended Schedule A  
as per resolution  
Dec. 21/99 # 537/99.

