

THE CORPORATION OF THE TOWN OF FORT SMITH

BY-LAW NUMBER 504

A BY-LAW OF THE CORPORATION OF THE TOWN OF FORT SMITH, TO PROVIDE FOR THE LICENSING AND REGULATING OF BUSINESS WITHIN THE MUNICIPALITY, PASSED PURSUANT TO SECTIONS 102, 109, 110, 111, 112, 113, 173, 174, 176, 178, 179, 180, 182, AND 187 OF THE CITIES, TOWNS AND VILLAGES ACT, R.S.N.W.T., 1988, C. C-8, AND TO THE BUSINESS LICENCE ACT, R.S.N.W.T., 1988, C. B-4.

WHEREAS, pursuant to section number 1, of the revised regulations of the Northwest Territories 1990, C. B-6, a Business that is carried on within any Municipality having By-laws governing the issuance of Business Licences is exempt from the Business Licence Act;

AND WHEREAS, the Council of the Corporation of the Town of Fort Smith deems it desirable to repeal and replace the Business Licensing By-law;

NOW THEREFORE, the Council of the Town of Fort Smith, in the Northwest Territories, at a duly assembled meeting enacts as follows:

1. This By-law may be cited as "Fort Smith Business Licensing By-law";
2. That By-law number 227 is hereby repealed.
3. DEFINITIONS
 - a) "BUSINESS" means a company, partnership or sole proprietorship which includes:
 1. a profession, trade, manufacture or undertaking of any kind;
 2. an adventure in the nature of trade; and
 3. the sale or offer for sale of goods or services in any public place;but does not include a business that is regulated by an Act of Parliament or any other exempt business prescribed by regulation;
 - b) "CHARITABLE OR NON PROFIT ORGANIZATION" means any religious, charitable, scientific, literary or educational organization which is a registered Canadian charitable organization pursuant to the Income Tax Act of Canada - NOTE: Proof of registration number must be submitted with application;
 - c) "COUNCIL" means the elected Council, or Town Council for the Corporation of the Town of Fort Smith, as designated and set out in the Municipal Act of the Northwest Territories;

- d) **"HAWKER OR PEDDLER"** means any person who, whether as principal or agent, goes from house to house or locates on any street or roadway or elsewhere other than a building which is their permanent place of business, and offers for sale any merchandise to any person or offers to expose for sale to any person by means of samples, patterns, cuts, or blueprint, merchandise to be afterward delivered in or shipped to the Town; but does not include a principal or agent selling to a wholesale or retail dealer in such merchandise;
- e) **"HOME OCCUPATION"** means any business carried on by a person who is an occupant of a residential building as a use secondary to the residential use of the building, and as defined in the zoning and planning by-laws of the Town;
- f) **"INDUSTRY"** means one that employs personnel and capital in manufacturing or provides servicing - a distinct productive unit or profit making enterprise;
- g) **"JUNIOR BUSINESS"** means any business carried on by a person(s) who is/are under sixteen years of age with written consent from parent(s)/guardian(s) and that is a sole proprietorship;
- h) **"LICENSING PERIOD"** means the period between January 1 and December 31 during which a licence is issued;
- i) **"NON-RESIDENT BUSINESS"** means any person as is contemplated in the definition section of this By-law, carrying on business within the corporate limits of the Town of Fort Smith in the Northwest Territories, without having an established or a permanent office or location of operation within the corporate limits of the said Town;
- j) **"PERSON"** means any individual, sole proprietorship, partnership, body corporate, society, or any combination of two or more of the above-mentioned;
- k) **"PRIVATE DWELLING"** means a home, cottage or apartment owned or rented by the occupant or occupants thereof, but occupant does not include a person as herein before defined who occupies such a dwelling as a temporary guest;
- l) **"RESIDENT BUSINESS"** means any person as defined in this definition section, carrying on a business as herein defined, and establishing a permanent office and/or location of operation within the corporate limits of the Town of Fort Smith in the Northwest Territories, subject to terms and conditions defined in Zoning By-law 460 of the Town of Fort Smith;
- m) **"SENIOR ADMINISTRATIVE OFFICER"** means the Senior Administrative Officer of a Municipal Corporation appointed by Council under Section 44 of the Cities, Towns and Villages Act;
- n) **"TELEPHONE AND DESK OPERATION"** means any person who solicits order by telephone, telecopier or other means for the purchase, sale, or trade of merchandise or who offers services for sale or trade;
- o) **"TOWN"** means the Corporation of the Town of Fort Smith in the Northwest Territories;
- p) **"TRADES"** means any business that provides a service, performed by a qualified/certified person;

q) **"WCB CERTIFICATE"** means a Certificate of Compliance or similar document issued annually by the Workers' Compensation Board of the Northwest Territories evidencing compliance with the Workers' Compensation Act, S.N.W.T. 1977(1), Chapter 7, as amended;

4. **LICENCE REQUIREMENTS**

- a) No person shall carry on or operate a business that is either wholly or partly within the Town unless he or she holds a valid and subsisting licence to do so, issued pursuant to this By-law. A licence will be valid and current from the date of issue for the current year unless sooner terminated;
- b) Any person engaged in or carrying on one or more different businesses, either separately or together, shall be required to hold a licence for each type of business;

5. **PROCEDURE FOR APPLICATION**

- a) All applications for a business licence shall complete an application, as per schedule "(A)" attached hereto and forming part of this By-law, and this application shall be accompanied with the fee payable for the issuance of such licence, as set out in schedule "B", attached hereto and forming part of this By-law;
- b) All applications for licences shall give the description in detail of the premises in or upon which the applicant intends to carry on the business in respect of which the applicant had made an application for a licence.
- c) All applications for business licences shall be accompanied by a duly completed "Form One" for Worker's Compensation and no business licence will be issued without verification and acceptance of "Form One" by the representative of the Worker's Compensation Board;
- d) Any person living in rental accommodation and making application for a business licence to operate a business, home occupation, in such rental accommodation must present with the application a letter of consent from the agent or landlord of the premises, granting permission to operate a business out of a rented building. Without the written consent of the agent or landlord, no business licence will be issued;
- e) Persons or groups conducting businesses for charitable purposes require a business licence, for which there will be no charge;
- f) Where the Senior Administrative Officer rules that an application for a business licence for a charitable purpose is, in his/her opinion not a charitable purpose, then the Senior Administrative Officer's decision will prevail as final;
- g) That all Business Licensing Applications or renewals for home occupations must be submitted to Council for approval, and that Council may authorize the issue of a Business Licence for the current operating year;

- h) All licences issued to persons to carry on any business shall designate the premises in or on which the licensee may carry on or engage in the business in respect of which the licence is issued and the licence authorizes the licensee to carry on the licensed business only in or upon the premises designated in such licence and a separate licence shall be obtained for each such location.
- i)
 - (1) Every person carrying on business without obtaining the approval of the Senior Administrative Officer or his designate as set out in Subsection "j)" is guilty of an offense and will, upon the demand of the Senior Administrative Officer, remove themselves, their wares and vehicle(s) from the property immediately;
 - (2) Any person who refuses to remove their business wares and vehicle(s) from the Town owned property when requested to do so by the Senior Administrative Officer will have the business wares and vehicle(s) removed at the owner's expense;
- j)
 - (1) No person will operate a business on public or private property without permission of the owner of the said property;
 - (2) Subject to Section "4" if any person is found operating a business without permission of the property owner, the Senior Administrative Officer may have the business wares and vehicle(s) removed at the owner's expense;
- k) No person to whom a licence has been granted shall carry on such business in or upon any premises other than those set forth on the said application and licence without first making an application pursuant to this By-law for a new licence;
- l) Failure to disclose to the Town any of this information required herein, shall be grounds for cancellation of the business licence pursuant to the procedures set forth in Section "18" of this By-law;
- m) No licence shall furnish false or misleading information regarding any procedure or condition of this By-law;

6. POSTING OF LICENCES

- a) Every licence issued pursuant to this By-law shall be posted a conspicuous place in the business premises and whenever required to do so by the Senior Administrative Officer, the licensee shall produce the licence for inspection purposes;

7. COMPLIANCE

- a) Whenever an applicant for a licence has complied with the terms of this By-law and of any other applicable By-laws, the applicant shall be entitled to the licence, subject to Section "17", applied for upon payment of the proper fee;
- b) A business licence issued to a licensee is not valid unless approved by the Senior Administrative Officer or his designate;

8. TELEPHONE AND DESK OPERATION/HOME OCCUPATIONS

- a) A person applying for a business licence and identifying themselves as being a telephone and desk operation, may be granted a business licence if the business conforms to all requirements under the Zoning By-law.
- b) A person applying for a business licence and identifying themselves as being a home occupation, may be granted a business licence, if the business conforms to all the requirements of a home occupation and the Zoning By-law.
- c) Where a business licence has been issued under Section "8 (a) and (b)" the licence shall indicate a home occupation or telephone and desk operation.

9. LICENCE FEE

- a) Payment of the business licence fee for residents shall be cash, cheque or money order;
- b) Payment of the business licence fee for non-resident shall be cash, certified cheque or money order;
- c) Licence fees are to be paid prior to the licence being issued, with the quantum of fees payable as listed in schedule "B";

10. LICENCE CHANGES

- a) Where a licensee wishes to change any information contained in the application form, other than the specified information recorded on the licence, the licensee shall make application for such a change to the Senior Administrative Officer within thirty days and pay the administrative fee as specified in Schedule "B";

11. ADVERTISING

- a) Subject to Section "18", if the Senior Administrative Officer has reasonable and probable grounds to believe that a business's advertising appears to mislead the public with the intent to distribute or sell their wares, the Senior Administrative Officer can revoke the licence. Any person believed to have committed an offense under this section shall cease conducting business until the procedures under Section "18" are completed;

12. TRADES

- a) (1) The Senior Administrative Officer has the right to ask any applicant to provide proof of Qualification or Certificates that the owner, manager or an employee actively engaged in the company has the proper qualifications for the trades in which the person or company wishes to engage;
- (2) Qualifications must be stated for one particular business;
- (3) Qualifications cannot be used for a second business;

13. HAWKER/PEDLARS

- a) (1) All hawker/pedlars that are required to be bonded and licensed by the Government of the Northwest Territories, will not be permitted to obtain a business licence without first having a valid Direct Sellers Licence;

- (2) No licence shall be issued to a hawker/pedlar until that hawker/pedlar has established his or her identity with the Senior Administrative Officer;
- (3) It shall be a condition of every licence issued to a hawker/pedlar, that business shall only take place between the hours of 900 hours and 2100 hours on Monday to Sunday inclusive;

14. BUSINESS LICENCE RENEWALS

- a) Business licence renewals shall be completed by the fifteenth (15th) day of February in each year;
- b) Provided that a business licence renewal application is date-stamped received prior to February 15 and the prescribed fee has accompanied the application, a period of grace, not exceeding one month, shall be granted to any applicant awaiting response from the Worker's Compensation Board;
- c) A penalty of \$25.00 shall be assessed against a business that submits a business licence renewal application after February 15th, in any year;

15. DISPLAY OF BUSINESS LICENCE

- a) Every business licence issued under this By-law shall be posted in a conspicuous place within business premises, so that it may be inspected by anyone at a reasonable time.
- b) Every business licence issued under this by-law to a non-resident contractor, service agency, hawker, peddler or itinerant sales person, shall be carried by the licensee so that it may be inspected by anyone.

16. BUSINESS LOCATIONS AND OFFICES

- a) All licensed businesses shall have an office and/or a location, the exceptions being outlined in Subsection "C";
- b) Any resident may operate one or more businesses from the same office location, provided that the location of each business conforms to the conditions of the Zoning By-law 460;
- c) Where there is an application for a business licence from a non-resident contractor, service agency, hawker, peddler or itinerant sales person, that Senior Administrative Officer may waive the requirement for an office location within the Municipality;
- d) No business licence shall be issued in which the location of the business has been identified as a vacant lot;

17. REFUSAL

- a) The Senior Administrative Officer will refuse to issue a licence to an applicant who furnishes false or misleading information.
- b) The Senior Administrative Officer may refuse to issue a licence to an applicant if the Senior Administrative Officer has reasonable and probable grounds to believe and does believe that the business or the applicant does not or will not meet the requirements or conditions set out in this By-law.

- c) In every case where an applicant for licence has been refused a licence that person seeking the licence shall be entitled to appeal to Council and Council shall be the final judge of whether the refusal of licence was just and reasonable.
- d) Every such appeal shall be made in writing to the Town Office within thirty (30) days after a licence has been refused, otherwise the right to appeal shall be barred and forever extinguished.
- e) The Notice of Intention to Appeal shall state in concise fashion the grounds upon which the appeal is based.
- f) Council, after hearing an appeal, may:
 - (1) direct a licence be issued without conditions;
 - (2) direct a licence be issued with conditions;
 - (3) uphold the decision of the Inspector on grounds which appear just and reasonable to Council.

18. REVOCATION AND SUSPENSION OF LICENCES

- a) Notwithstanding Section "20" before a licence is suspended or cancelled, the Senior Administrative Officer shall:
 - (1) allow any person affected, or that person's representative, an opportunity to be heard before Council;
 - (2) the hearing must be conducted by Council;
 - (3) notice must be served on any person affected at least three (3) days prior to the date of the hearing;
 - (4) the notice must:
 - (a) set out the time and place of the hearing;
 - (b) advise the person of the purpose of the hearing and the right of the person to attend and make representation.
- b) The notice must be served personally or, where service cannot be effected personally because the address of the person is not known, the notice must be posted in three (3) public places in the municipality.
- c) Where the Council, or such other person as may be authorized to take the action referred to, is of the opinion that there is imminent danger to public health and safety:
 - (1) the period of notice required may be shortened; or
 - (2) the action may be taken without the notice or hearing required.
- d) An appeal must be made no later than thirty days after the decision;
- e) Subject to Subsection "c)", no person shall take any action referred to in Subsection "a)", until after:
 - (1) the period for taking an appeal has expired and no appeal has been taken; or

- (2) any appeal taken has been dismissed by a judge.
- f) If a licensee is convicted twice in any one (1) calendar year of a breach of any of the provisions of this By-law, any licence issued to such licensee pursuant to the provisions of this By-law will be cancelled subject to the procedures set out in Subsection "a) and b)".
- g) The Senior Administrative Officer may recommend a licence be suspended or cancelled if the licensee is convicted of:
 - (1) an offence under the Criminal Code with respect to theft, fraud, embezzlement, false pretences and any offence with respect to bawdy houses or betting or gaming houses; or,
 - (2) of an offence which by its nature is, in the opinion of the Inspector, facilitated by the type of licensed business carried on by the convicted licensee.
- h) The Senior Administrative Officer may recommend to Council that a licence be suspended or cancelled for a specific period or until certain conditions have been met, where he is satisfied that:
 - (1) the licence was issued or renewed in error; or
 - (2) the provisions of any By-law of the Town or any Act of the Northwest Territories have been violated with respect to the operation of any business licensed or of any business required to be licensed.

19. GENERAL PROVISIONS

- a) All business licences issued shall expire as of 12 midnight December 31, in the year the licence was issued.
- b) Business licences issued under this By-law are not transferable and the licence fee shall be payable in full by each applicant at the time of application, irrespective of the prospective term of operation of any business.
- c) No refunds shall be made pro-rata or otherwise on any unexpired licence due to cessation of business activities by the licensee.
- d) If a Business Licence is issued in error, whether due to a misrepresentation or otherwise, may advise the licence holder that his or her licence was issued in error and must be reviewed.

20. "POWERS AND DUTIES OF THE SENIOR ADMINISTRATIVE OFFICER"

- a) The Senior Administrative Officer for the Town of Fort Smith is hereby appointed as administrator of this By-law and he or she may appoint officers of the municipality to assist in his or her duties.
- b) The Power and Duties of the Senior Administrative Officer under this By-law shall be:
 - (1) to receive and deal with all applications for licences.
 - (2) to keep a record of all applications for licences in a form required by Council of the Town.

- (3) to keep on file duplicate counterparts of all licences issued and particulars thereof.
- (4) to ascertain as far as reasonably practicable, that all information furnished by an applicant in connection with an application for a licence is true in substance and in fact.
- (5) to make an inspection of all premises for which a licence is applied for, wherein an inspection by the Senior Administrative Officer is required pursuant to this By-law.
- (6) to prepare all licences pursuant to this By-law and to issue all licences under this By-law.
- (7) to report to the Council of the Town as to the number of licences issued, the number of licences renewed and the amount of money received in connection therewith from time to time as requested by the said Council.
- (8) to administer this By-law and as far as practicable see that all persons concerned conform to its provisions and to prosecute persons who fail to comply therewith.
- (9) to carry out the duties of the Senior Administrative Officer with the assistance of any officers or employees of the Town including any person appointed to enforce the Town By-laws.

c) The Senior Administrative Officer may revoke or refuse to issue a licence under this By-law, subject to the provisions of this By-law, where he or she is satisfied that:

- (1) The person has violated the provisions of this By-law or an Act of the Northwest Territories in respect to any business licensed or requiring to be licensed under this By-law.
- (2) The person, when licensed as a resident, was not resident business within the meaning of the definition section of this By-law.
- (3) The public health is not being upheld.
- (4) The public safety is not being upheld.
- (5) It is not in the public interest in the discretion of the Senior Administrative Officer.

21. INSPECTIONS

- a) The Senior Administrative Officer shall inspect or have inspected any business premises that he or she has reason to believe does not qualify under Section "20" of this By-law.
- b) The inspection referred to in "a" above, is mandatory for business premises where the public frequents.
- c) The Senior Administrative Officer or his/her appointee may inspect all reasonable times any location at which a business licence holder or applicant is operating or is believed to be operating. Refusal to allow said inspection constitutes a contravention of this By-law.

22. PUNISHMENT FOR VIOLATIONS

- a) Any person violating any provision of this By-law is guilty of an offence and is liable upon Summary Conviction:
 - (1) For a first offence during any licencing period,
 - (a) in the case of an individual, to a fine not exceeding five hundred dollars (\$500.00), plus court costs, and
 - (b) in the case of a corporation, to a fine not exceeding one thousand dollars (\$1,000.00), plus court costs, and
 - (2) For each subsequent offence during a licencing period;
 - (a) in the case of an individual, to a fine not exceeding one thousand dollars (\$1,000.00), plus court costs, and
 - (b) in the case of a corporation, to a fine not exceeding five thousand dollars (\$5,000.00), plus court costs, and
 - (3) imprisonment for a period not exceeding six (6) months, in default of payment of any fine imposed.
- b) In the case of an offence contrary to Section "4" herein the justice shall, in addition to any other penalty imposed, order payment of the relevant licence fees in accordance with the provisions of this By-law.
- c) Pursuant to the Summary Conviction Procedures Act, the Senior Administrative Officer may issue a Summary Offence Ticket Information to any person who violates any provisions of this By-law and such person may, pursuant to the said Act, pay to the Town the voluntary penalty for such offence as set out in schedule "C" hereto at any time prior to the court date specified in the Summary Offence Ticket Information.
- d) Any person charged with an offence and who is issued a Summary Offence Ticket Information is not required to appear in court in answer to the summons if, within the time stated therein, he
 - (1) signs the plea of guilty endorsed on the summons, and
 - (2) delivers the summons and the specified penalty to the place stated on the summons,and upon so doing the person charged shall be deemed to be convicted of the offence charged.

23. This By-law shall come into full force and take effect

READ A FIRST TIME THIS 22 DAY OF December 1992, A.D.

READ A SECOND TIME THIS 5 DAY OF January 1993, A.D.

READ A THIRD TIME THIS 5 DAY OF January 1993, A.D.



MAYOR



A/ Johnell D
SENIOR ADMINISTRATIVE OFFICER

THE CORPORATION OF THE TOWN OF FORT SMITH

BY-LAW NO.504

SCHEDULE "B"

LICENSE FEES

1. RESIDENT BUSINESS LICENSE FEE

- A. Commercial establishment located in the Town Centre, Highway Commercial, Light Industrial, Heavy Industrial and Institutional Zones.....\$60.00
- B. Home occupations and/or telephone and desk operations in a residential zone.....\$100.00
- C. Commercial establishment allowed in a Residential Zone as specified in By-Law #673.....\$60.00
- D. Charitable purposes.....N/C
- E. License Change.....\$25.00
- F. Hawker/Peddler.....\$100.00
- G. Junior Business.....\$1.00

NOTE: Any resident business application after September 1st will cost one half the regular price.

2. NON-RESIDENT BUSINESS LICENSE FEE

- A. Non-resident contractors performing a service in any area of the Municipality.....\$175.00
- B. Non-resident hawker/peddler.....\$225.00
- C. Charitable purposes.....N/C

THE CORPORATION OF THE TOWN OF FORT SMITH

BY-LAW NO. 504

SCHEDULE "C"

VOLUNTARY FINES

OPERATING A BUSINESS WITHOUT A VALID LICENSE.....	\$100.00
FAILING TO POST A BUSINESS LICENSE.....	\$50.00
FAILING TO PRODUCE A BUSINESS LICENSE UPON DEMAND.....	\$100.00