



**THE CORPORATION OF THE TOWN OF FOX CREEK, ALBERTA
BY-LAW 780-2016
BUSINESS LICENSE BYLAW**

Being a Bylaw of the Town of Fox Creek, in the Province of Alberta, to provide for licensing of businesses operating within the Town of Fox Creek

WHEREAS the Council of the Town of Fox Creek deems it necessary to provide for the regulation and licensing of all Business carried on within the municipality,

AND WHEREAS Sections 7 and 8 of the Municipal Government Act, RSA 2000, Chapter M-26 gives the Council authority to pass such a Bylaw.

AND WHEREAS Section 145 of the Municipal Government Act gives Council authority to pass bylaws in relation to the establishment, functions, procedures and conduct of council committees.

NOW THEREFORE, the Council of the Town of Fox Creek, in the Province of Alberta, duly assembled, enacts as follows:

SECTION 1 – TITLE

1.0 This Bylaw shall be known as “The Business License Bylaw”

SECTION 2 – DEFINITIONS

2.0 “Administration” means the Chief Administration Officer or Development Officer or any other officer appointed by Council.

2.1 “Applicant” means a person who applies for a License or the renewal of a License required by this Bylaw.

2.2 “Application” means a written Application for a Business License or renewal thereof required under this Bylaw.

2.3 “Business” means

- a) a commercial, merchandising or industrial activity or undertaking
- b) a profession, trade, occupation, calling or employment, or
- c) an activity providing goods or services,

whether or not for profit and however organized or formed, including a co-operative or association of persons.

2.4 “Business License and License, Licensed and Licensing” means a License issued pursuant to this Bylaw.

2.5 “Business Premises” includes a store, office, dwelling, warehouse, yard, building, enclosure or other place occupied, or capable of being occupied, for the purpose of carrying on a Business and in which place the carrying on of a Business is a permitted or discretionary use under the Town’s Land Use Bylaw.

2.6 “Business Sector and Business Sectors” means any one of the following: lodging, restaurants/bars, retail, transportation/attractions/entertainment, or service.

- 2.7 **“Bylaw Officer”** means an employee of the Town who has been appointed to the position of Bylaw Enforcement.
- 2.8 **“Carry on, carrying on, carried on and carries on”** means to conduct, operate, perform, keep, hold, occupy, deal in or use, for a fee or exchange of benefits, whether as principal or agent.
- 2.9 **“Charitable Organization”** means:
- a) any incorporated or unincorporated organization that is formed for a charitable purpose, including a philanthropic, benevolent, educational, health, human, religious, cultural, artistic or recreational purpose, so long as the purpose is not part of a Business, or
 - b) a person who makes solicitations for contributions to be used for a charitable purpose and who is not connected to any incorporated or unincorporated organization that is formed for the charitable purpose for which the solicitation is made.
- 2.10 **“Development Officer”** means a person appointed as Development Officer by resolution of Council to fulfil the duties specified in the Town of Fox Creek Land Use Bylaw.
- 2.11 **“Hawker”** means any person who:
- a) goes from house to house selling or offering for sale any merchandise or services, or both, to any person, and who is not a wholesale or retail dealer and direct seller in that merchandise or service, and not having a permanent place of business in the municipality, or
 - b) sells merchandise or a service, or both, on the streets or roads or elsewhere than at a building that is his permanent place of business.
- 2.12 **“Home Occupation”** means any occupation, trade, profession or craft carried on by an occupant of a residential building as a use secondary to the residential use of the building, and for which a home occupation development permit has been approved under the provision of the Land-Use Bylaw.
- 2.13 **“Licensee”** means the holder of a valid and subsisting License issued pursuant to the provisions of this Bylaw.
- 2.14 **“Lodging”** means a person, corporation or organization resident in Fox Creek engaged in the rental of accommodation on a short term basis, including hotels, motels, hostels, and bed & breakfasts.
- 2.15 **“Non-Profit Organization”** means a club, society, or association that’s organized and operated solely for social welfare, civic improvement, pleasure or recreation, or any other purpose except profit.
- 2.16 **“Non-Resident Business”** means a Business that is carried on, in whole or in part, within the Town, but neither maintains a permanent place of Business within the incorporated boundaries of the Town nor is listed on any current Town tax assessment roll.
- 2.17 **“Resident Business”** means any Business that locates or maintains a permanent place of Business within the incorporated boundaries of the Town, including commercial operations, licensed home occupations and bed and breakfast operations.
- 2.18 **“Restaurant/Bar”** means a person, corporation or organization resident in Fox Creek engaged in the retail sale of food or beverage to the public for consumption within the premises or off the site, and, without limiting the foregoing, includes licensed drinking establishments, restaurants, cafes, ice cream shops, tea rooms, lunchrooms and take-out restaurants.

- 2.19 **“Retail”** means the sale of offering for sale of tangible personal property from a premises in the Town of Fox Creek to a consumer for purposes of use and not for resale, and without limiting the forgoing includes the retail sale of groceries, beverages, baked goods, household goods, clothing, jewellery, furniture and appliances, hardware, printed matter, confectionery, gifts and souvenirs, tobacco, pharmaceutical and personal care items, automotive parts and accessories, office equipment, stationery and similar goods, minor public services, such as postal services and film processing depots, and convenience retail stores from within an enclosed building.
- 2.20 **“Service”** means a person, corporation or organization engaged in the operation of a business in Fox Creek which primarily serves residents or businesses defined as Lodging, Restaurants/Bars, Retail, Attraction/Entertainment; and without limiting the forgoing includes; agency sales or distributors, automotive, banks, full service banking machines (when no local branch), brokerages, business support services, car washes, cleaning services, contractors, currency exchanges, educational services, financial institutions, garages, laundry and linen supplies, newspapers, personal services including massage and spa, printing businesses including publishers, designers and websites, property development firms, property management companies, repair services, service stations, towing companies, trades, travel agencies, and wholesalers.
- 2.21 **“Town”** means the Corporation of the Town of Fox Creek and, where the context requires, the land included within the boundaries of the Town of Fox Creek.
- 2.22 **“Temporary Sales”** means the selling of goods or services, including food and beverages from a temporary location in any place where the public has an expected right of access, but not including sales to a wholesale or retail dealer in any such goods.
- 2.23 **“Violation Ticket”** means any ticket or tag in a form approved by the Town of Fox Creek, authorized under the Provincial Offences Procedures Act, issued for any offence for which a penalty may be paid out of court in lieu of appearing to answer a summons.

SECTION 3 – LICENSING REQUIREMENTS

- 3.0 Except as otherwise provided for in this Bylaw, a License is required to carry on or operate any of the following Businesses:
- a) Resident Business
 - b) Non-Resident Business
- 3.1 The following conditions are sufficient to establish that a Business is being carried on:
- a) Proof of one transaction or offer to transact, or
 - b) Any advertising of a Business.
- 3.2 Residents and non-residents of the Town shall be entitled to equal rights in all matters relating to the issuance of Licenses.
- 3.3 Separate Licenses are required if two or more owners are operating Businesses from the same Business Premises.
- 3.4 No License shall be required to carry on or operate any Business that is exempt under the provisions of any Statute of Canada or the Province of Alberta. The onus of proving that a Business is exempt from requiring a License is on the Business alleging the exemption.
- 3.5 No License shall be required by the operator or participants to carry on or operate a craft sale, a rummage sale, a flea market or a residential garage sale where the duration of the activity is less than seven consecutive days.

- 3.6 No License shall be issued until such time as the Applicant holds current and valid Municipal, Provincial or Federal permits, approvals licenses or clearances as required by the relevant Municipal, Provincial, or Federal bylaws, statutes or regulations, including a valid Town of Fox Creek development permit.

SECTION 4 – LICENSE APPLICATION AND FEES

- 4.0 Every Applicant for a License, for renewal of a License, or for a transfer of License:
- a) Must provide the following information, in the form prescribed by Administration:
 - i) The civic and legal address for the proposed place of Business;
 - ii) The Trade name under which the proposed Business will operate;
 - iii) Where the Applicant is a sole proprietorship or partnership, the full name, mailing address and telephone number of the Applicant or Applicants;
 - iv) Where the Applicant is a corporation, the full name and mailing address of the principal managing employee or employees and the telephone number of the Business;
 - v) Any certificate, authority, License or other document of qualification under this or any other Bylaw, or under any Statute of Canada or the Province of Alberta that may be required in connection with the carrying on of the Business;
 - vi) Such other information as Administration may reasonably require.
- 4.1 Any Non-Resident Business in the Service sector may be issued up to two (2) temporary Business Licenses per calendar year, which shall be valid for thirty (30) consecutive days from issue, upon approval from Administration for a License fee set out in Schedule "A".
- 4.2 Any Non-Resident Business who has held a temporary Business License in accordance with section 4.1 and who subsequently applies for an annual License within the same calendar year shall be credited with the fee amount already received.
- 4.3 All Business License fees are due and payable:
- a) For all Businesses thirty days after the date invoices are sent to Licensees.
 - I. Notwithstanding section 4.3 (a), all Businesses may enter into a payment plan with the Town to make three equal payments due on March 31, June 20, and September 30 of each calendar year, providing:
 - a) The Licensee's account with the Town is in good standing, and
 - b) The Business License for which the fee is due is active from January 1 to December 31 of the calendar year.
 - II. If a Licensee who has entered the payment plan in accordance with section 4.3 (a)(I) fails to make two consecutive payments, the full amount owing is due and payable and the Licensee is ineligible for the payment plan for the next calendar year
- 4.4 Charitable, Non-Profit Organizations and Family Day Homes as defined in this Bylaw, are exempt from all requirements of this Bylaw.
- 4.5 Any Resident or Non-Resident Business which commences business or operation after January 1st and has not previously been in operation in that calendar year shall pay pro-rated amount of the appropriate License fees provided for in this bylaw, which amount shall be pro-rated on a quarterly basis.
- 4.8 Administration may, in its absolute discretion allow any Business closed for a renovation for which a development permit or a building permit has been issued, pay a prorated License Fee, based on the period of time the Business is closed due to the renovations.

- 4.9 License fees must be paid in full by the due date with cash or cheque. Post-dated cheques must be valid the date on which payment is due. A License fee is non-refundable. Unpaid License fees are a debt owed to the Town.
- 4.10 Where a License fee has been paid by an uncertified cheque, the License;
- a) may be issued subject to the cheque being accepted and cashed by the bank, and
 - b) will be automatically revoked if the cheque is not accepted and cashed by the bank on which it is issued.
- 4.11 The fee to replace a lost license is \$25.00
- 4.12 A Licensee may transfer a License issued to him to another person or to another Business Premises, or change the information contained on the License upon approval of Administration.
- 4.13 No person shall commence to, or shall carry on or engage in the business of a Hawker or Peddler on public property within the Town unless and until such person is the holder of a business license issued pursuant to this Bylaw.
- 4.14 All License fees shall be used:
- a) For the administration and enforcement of this Bylaw, for Infrastructure development and improvements

SECTION 5 – TERMS OF LICENSE

- 5.0 Every annual License issued under the provisions of this Bylaw, unless revoked, cancelled or surrendered, shall terminate at midnight on the 31st day of December of the year in which said License was issued.
- 5.1 Notwithstanding section 5.0, unless the Town is notified in writing of surrender or cancellation, a Business holding a valid License on December 31st is deemed to wish to renew that License for a subsequent year, and the Town will issue an invoice to that Business for the fee owing in accordance with this bylaw. If the License fee is not received by the Town within the time periods provided in Section 4.3 and Schedule A, the fee will be subject to monthly interest charges, until such time that it is paid or is determined by Administration that the license is surrendered or cancelled. Where interest is charged, it shall be charged on the outstanding balance each month and the monthly rate of interest used to calculate the interest owing shall be one and one half percent (1.5%).
- 5.2 Where the Town has approved a quarterly payment structure for Business License fees, the License will be considered surrendered if any of the four payments is not received in full by the Town within thirty days of the due date provided for in this Bylaw.

SECTION 6 – POSTING OR PRODUCTION OF LICENSE

- 6.0 A Licensee shall:
- a) Post the License in a prominent visible location in the Business Premises; or
 - b) If it is not practical to post the License, produce the License forthwith upon demand by Administration.

SECTION 7 – CONSULTATIONS

- 7.0 Administration may consult, prior to issuing or renewing a License, with the Province of Alberta, the RCMP, and any Town Department to determine whether they are in possession of information which, in the opinion of Administration, renders it inappropriate for an Applicant to be issued a License.

- 7.1 Administration may determine that it is inappropriate to issue a License to an Applicant where the safety, health or welfare of the public may be at risk due to the issuance of a License.
- 7.2 Subject to the provisions of this Bylaw, upon receipt of an Application for a License, Administration may:
 - a) grant a License, or
 - b) refuse a License, if the Applicant is in breach of this or any other Bylaw of the Town, does not have an occupancy permit (if required pursuant to the Town's Building Permit Bylaw), has not met the requirements of this Bylaw, or in the Administration's opinion, there are other just and reasonable grounds for the refusal of the Application.

SECTION 8 – INSPECTIONS

- 8.0 Where a Business requires a Business License or is Licensed, then the Business Premises and surrounding lot may be inspected by a Bylaw Officer, who shall at all reasonable times have the right to enter upon any Business Premises required to be Licensed under the provisions of this Bylaw for the purpose of inspection or for the purpose of ascertaining if the provisions of this or any other Bylaw of the Town are being complied with.
- 8.1 A Bylaw Officer may inspect a Business Premises or site at which a contractor is working for the purpose of ascertaining if the provisions of this or any other Bylaw of the Town are being complied with.
- 8.2 A person whom a Bylaw Officer reasonably believes is carrying on a Business requiring a Business License, or who is an Applicant, shall,
 - a) permit and assist in all inspections requested by a Bylaw Officer;
 - b) furnish to a Bylaw Officer all identification, information, or documentation related to the inspection or Licensing requirements; and
 - c) not provide a Bylaw Officer false or misleading information or information intended to mislead with regard to any matter or things arising in connection with the Licensing of the Business.
- 8.3 No person shall attempt to prevent, obstruct or hinder a Bylaw Officer from making an inspection authorized by this Bylaw.
- 8.4 During an inspection authorized under this Bylaw, a Bylaw Officer may examine any Business record or document for the purpose of enforcing this Bylaw, remove any relevant record or document from the Business Premises for the purpose of copying it, and will provide a receipt for any document or record so removed.

SECTION 9 – REFUSAL, REVOCATION, SUSPENSION

- 9.0 Administration shall refuse an Application if, in the opinion of a Bylaw Officer, any Licensing requirements of this bylaw have not been met or a Bylaw Officer has reasonable grounds to believe that operation of the Business poses a danger to the safety, health or welfare of the public.
- 9.1 Administration may suspend or revoke a License if:
 - a) The Licensee fails to comply with the Licensing requirements of this bylaw; or
 - b) Administration has reasonable grounds to believe that operation of the Business poses a danger to the safety, health or welfare of the public.
- 9.2 Administration may make inquiries and receive information, including information from the Applicant, to determine whether there are just and reasonable grounds for the refusal of an Application, or a revocation, or a suspension of a License.

- 9.3 A suspension of a License may be:
- a) for a period of time not exceeding the unexpired term of the License; or
 - b) where the suspension is for non-compliance with the licensing requirements of this bylaw, until the holder of the suspended License proves compliance to the satisfaction of the Administration.
- 9.4 A License may be revoked or suspended for non-compliance with any law or regulation notwithstanding, that the holder of the License has not been prosecuted for a contravention of that law, where the Administration or a Bylaw Officer has reasonable grounds to believe that the Licensee poses a danger to the safety, health or welfare of the public, to the protection of property.
- 9.5 When an Application for a License is refused, or when a License is revoked or suspended, Administration shall notify the Applicant or Licensee, in writing, of the refusal, revocation or suspension and the reasons for it:
- a) by delivering a notice to the Applicant or Licensee personally; or
 - b) by delivering a notice by registered mail to the Applicant's or Licensee's most recent place of Business or residence as shown on the License or Application.
- 9.6 After the delivery of a notice of the refusal of an Application or suspension or revocation of a License, the Business shall not be carried on until such time as a License is issued or the suspended License is reinstated.

SECTION 10 – APPEALS

- 10.0 Where an Application for a License has been refused, a License revoked or suspended or an exemption has been refused, the Application may appeal the decision to Council. All appeals shall be made in writing addressed to the Administration of the Town, and received by the Town within 45 days of the date of issue of refusal, revocation or suspension.
- 10.1 Any Applicant for a License may appeal to Council the License fee imposed or the Business Sector of Business applied to the Applicant. All appeals of License fee or Business Sector shall be made in writing addressed to the Administration of the Town and received by the Town, on or before the due date for payment of the License fee.
- 10.2 Upon receipt of any appeal under Section 10.0 or 10.1 Council, or a Committee appointed by Council, shall:
- a) Schedule and hold an appeal hearing not more than thirty days from following receipt of appeal;
 - b) Advertise the date, time and details of the appeal hearing at least once a week for two consecutive weeks in at least one newspaper or other publication circulating in the area to which the appeal relates;
 - c) Allow any third party to make written or oral representation in support of or in opposition to the appeal at its first regular meeting following receipt of the recommendation;
 - d) If a committee hears the appeal, the committee shall make a written recommendation to Council within fifteen days of the hearing following which Council shall make a decision upon the appeal;
 - e) If Council hears an appeal, Council shall make a decision on the appeal.
- 10.3 Council may extend the time frames referred to in this Bylaw, but any such extension shall not exceed fifteen (15) days in total.

SECTION 11 – VIOLATIONS

- 11.0 Any Person who contravenes a provision of this bylaw or the terms of any permit issued pursuant to this bylaw is guilty of an offence and is liable for the penalty set out in Schedule “B”, or if no penalty is specified in Schedule “B” for the particular offence, for the penalty in accordance with Section 11.4 of this bylaw.
- 11.1 When a corporation commits an offence under this bylaw, every principal, director, manager, employer or agent of the corporation who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence whether or not the corporation has been prosecuted for the offence.
- 11.2 If a partnership is guilty of an offence under this bylaw, each partner in the partnership who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence.
- 11.3 Violation tickets:
- a) Where Administration reasonably believes that a person has contravened any provision of this bylaw, a Bylaw Officer may serve upon the person a Violation Ticket, allowing payment of the specified penalty set out in Schedule “B” for the offence, and the recording of such payment by the Court shall constitute acceptance of a guilty plea and the imposition of a fine in the amount of the specified penalty.
 - b) This section shall not prevent Administration from issuing a ticket requiring a court appearance of the defendant, pursuant to the provisions of the Provincial Offences Procedure Act or from laying an information in lieu of issuing a Violation Ticket.
- 11.4 Except as otherwise provided in this Bylaw, a person who is guilty of an offence under this Bylaw for which a penalty is not otherwise provided, is liable to a fine of not less than \$200.00 and not more than \$500.00.
- 11.5 The imposition of a fine either by issuance of a Violation Ticket or by summary conviction in court shall not relieve any person so fined from any debt owing to the Town for an unpaid Business License.

SECTION 12 – TRANSITION

- 12.0 If any clause in this Bylaw is found to be invalid, it shall be severed from the remainder of the Bylaw and shall not invalidate the whole Bylaw.

NOW THEREFORE, the Council of Fox Creek duly assemble and pursuant to the provisions of the said Municipal Government Act and the amendments thereto, enacts as follows:

That upon third and final reading of Bylaw 780-2016 – Business License Bylaw shall come into effect, furthermore upon passing thereof and upon taking effect, Bylaw 736-2014 and any amendments thereto are hereby repealed.

READ A FIRST TIME IN COUNCIL THIS 12 DAY OF September, 2016

READ A SECOND TIME IN COUNCIL THIS 12 DAY OF September, 2016

READ A THIRD TIME IN COUNCIL AND FINALLY PASSED THIS 12 DAY OF September, 2016



James Ahn, Mayor



Roy Dell, Chief Administrative Officer

SCHEDULE A – BUSINESS LICENSE FEES

Business License Application Fee \$20.00

License Fees:

Per year unless designated otherwise.

Home Occupation (if business is registered as a proprietorship)	\$25.00
Home Occupation (if business is registered as a LTD company)	\$125.00
Downtown Commercial	\$75.00
Industrial	\$75.00
Service (banks, utility companies, cable, apartments, multi-family, rental properties, mobile home parks, and non-government run health care facilities)	\$75.00
Lodging	\$75.00
Multi Commercial	\$150.00

Refunds:

Where a Business License is surrendered, revoked or cancelled, the Town of Fox Creek shall refund the license fee as follows:

- If surrendered, revoked or cancelled prior to September 1 of the current calendar year, the Town of Fox Creek shall refund to the licensee ½ (one half) of the annual fee therefore, but this provision shall not apply for an license issues for a period of less than the full license year
- If surrendered, revoked or cancelled after September 1 of the current calendar year, the Town of Fox Creek shall not be liable to refund all or any portion thereof of the license fee

SCHEDULE B – FINES

Description	Amount
Carrying on or operating a Business within or partially within the Town without a valid and subsisting Business License	\$500.00 plus \$100.00 per day for each day the offence continues after the conviction
Refusing Administration or the Bylaw Officer from conducting any inspection authorized by this Bylaw	\$500.00
Failing to post the Business License in a conspicuous place on the Business premises of the Licensee	\$200.00
Late fees and penalties for the non-payment on the Business License Account	Until April 1 - \$25.00 Until July 1 - \$50.00 Until October 1 - \$75.00 Until December 31 - \$100.00