

BY-LAW NO. 1530

OF THE TOWN OF FORT MACLEOD IN THE PROVINCE OF ALBERTA

A By-Law of the Town of Fort Macleod for the **Regulating and Licensing of Businesses, Trades, Occupations and Property.**

Whereas, pursuant to the Municipal Government Act - Chapter M-26, RSA 1980, and amendments thereto, the Council of a Town may pass By-Laws for the purpose of peace, order and good government of the municipality.

Now Therefore the Municipal Council of the Town of Fort Macleod, duly assembled, enacts as follows:

PART I

SHORT TITLE AND DEFINITIONS

101. This By-Law may be cited as "The Fort Macleod Business License By-Law".
102. In this By-Law, unless the context otherwise requires:
 1. "business" includes any trade, profession, industry, occupation, employment or calling and the providing of goods and/or services.
 2. "charitable or non-profit organization" shall mean a person acting for charity or in the promotion of general social welfare of others and includes:
 - a) religious society or organization
 - b) service club
 - c) community, veteran's or youth organization
 - d) social, sport or fraternal organization or club
 - e) any organization able to produce documentation that it is non-profit, by way of a Provincial Non-profit Registration Number issued by the Province of Alberta.
 3. "Council" shall mean the Municipal Council of the Town of Fort Macleod.
 4. "Home Occupation" shall mean any resident business that is undertaken in a building which is principally used as a dwelling, and where the property has a residential classification in the Municipal Land - Use By-Law.
 5. "License Inspector" shall mean a person so designated, or a Peace Officer under the Provincial Police Act, and authorized by Council to carry out the provisions of the bylaw.
 6. "Non-Resident Business" shall mean a business that is not a resident business as defined in this By-Law.
 7. "Person" shall mean an individual, agent, corporation, partnership, association, or other similar co-operative organization.
 8. "Premises" shall mean a 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.
 9. "Resident Business" shall mean a business that is established on commercial property within corporate limits of the Town of Fort Macleod.

10. "Transient Commercial Agent" shall mean any person in the business of selling goods or services, or entering into an agreement(s) for the sale of goods or services, where the seller or his agent solicits, negotiates or concludes the sale(s) or agreement(s) by phone, or in person at any place other than the premises from which the seller operates; and without limiting the foregoing, shall include any person whether principal or agent, who:
- a) goes from house to house or from place to place selling, or offering for sale, any merchandise or services, or both to any person, and who is not a Wholesaler selling to a Retailer and not having a permanent place of business in the municipality or;
 - b) offers and exposes for sale to any person by means of: samples, patterns, cuts or blueprints, merchandise or services, or both, to be afterwards delivered in, and/or shipped into the municipality, or;
 - c) sells or offers for sale, merchandise or services, or both, whether on private property or not, and is deemed not to be a wholesale agent, selling to a direct related retailer, the determination of which lies with the License Inspector. Or sells or offers for sale, from a kiosk or vehicle as defined in Provincial Statutes or elsewhere than at a premise that is his permanent place of business, but does not include any person selling:
 1. a) meat, fruit or other farm produce that has been produced, raised or grown by himself in the Province of Alberta.
 2. a) fish of his own catching in Alberta;

the onus of which lies with the agent to produce documentation proof that the produce was raised or grown by himself in the Province of Alberta, or catch was caught by himself.
11. "Transient Contractor" means any person that does not maintain business premises within corporate limits, and such person enters into a contract(s) for the erection, alteration, cleaning, moving, repair or demolition of buildings or structures, whether contracted by a local business within corporate limits and, without limiting the generality of the foregoing, includes a person who carries on any one or more of the following business(es):
- a) construction or carpenters;
 - b) excavator, concrete, sidewalk, road, bridge or paving contractor;
 - c) roofing, siding, stucco, glass installer or insulating contractor;
 - d) linoleum, floor finishing, rug installation;
 - e) painting, decorating, paper hanging, terrazzo or tile contractors;
 - f) brick or stone mason, structural steel contractor or welding contractor;
 - g) landscaping or ditching;
 - h) janitor service(s), window washing contractor, rug, furnace or chimney cleaner.
12. "Transient Trades Contractor" shall mean any person or agent that does not maintain business premises within corporate limits, and such person, whether contracted by a local business within corporate limits and, such person enters into a contract(s) for the erection or alteration of any building or structure within corporate limits, wherein a Masters trades designation is required and without limiting the generality of the foregoing, includes a person who carries on any one or more of the following business(es):
- a) Electrician
 - b) Gas and Steam Fitting
 - c) Plumbing
13. "Transient Exhibitions" shall include circus, circus riding, menageries, hippodromes, waxworks, exhibitions, freak shows, sideshows, midways, carnivals, and other entertainment's usually carried on by showmen.

14. "Transient Professional" shall mean any person that does not maintain a business premises within corporate limits and such person or agent is required to hold a professional license issued by a duly recognized governing body and, without limiting the generality of the foregoing, includes a person who carries on any one or more of the following business(es):
- a) accountants or bookkeepers;
15. "Town" shall mean the Municipal Corporation of the Town of Fort Macleod.

PART II

APPLICATION OF BY-LAW

201. Subject to the Provisions of this By-Law, every licensee shall conform to this By-Law and any other bylaw applicable to the business, activity or matter in respect of which such license was issued.

PART-III

APPOINTMENT, POWERS AND DUTIES OF LICENSE INSPECTOR

301. The By-Law Enforcement Officer, or Municipal Special Constable by virtue of his/her position is the License Inspector. In the absence of the officer or constable, the Town Manager shall be deemed to be the License Inspector.
302. The powers and duties of the License Inspector are as follows:
1. To receive and deal with all applications for licenses and transfer thereof, through the normal channels of administration at the Town Office.
 2. To keep a record of all applications for licenses and transfers of licenses in a form required by council.
 3. To keep on file duplicate counterparts of all licenses issued and particulars.
 4. To ascertain as far as practicable that all information furnished by the applicant in connection with an application for a license or transfer is true in substance and in fact.
 5. To make an inspection of all premises for which a license has been applied for, where an inspection by the License Inspector is required by the terms of this By-Law.
 6. As often as necessary, to inspect all premises licensed or required to be licensed pursuant to the provisions of the By-Law in order to ascertain that such premises comply with said provisions.
 7. To administer this By-Law and as far as practicable, see that all persons concerned conform to its provisions and to prosecute person(s) who fail to comply with those provisions.
 8. To issue violation ticket(s) subject to the provisions of Section 417 of this By-Law.

PART-IV

NECESSITY OF LICENSE

401.

1. No Person shall within corporate limits:
 - a) carry on or operate any of the businesses, callings, trades or occupations referred to in this By-Law or in Schedule "A" hereto attached, which said Schedule "A" is hereby declared to be a part of this By-Law, or;
 - b) carry on any undertaking, or do any act, or use, or have any article, for which a license is required under the provisions of this By-Law or Schedule "A" unless he/she holds a valid and subsisting business license to do so pursuant to the provisions of this bylaw.
2. Any advertising of the business(es), callings, trades or occupations referred to in this By-Law or in the said Schedule "A" shall be deemed to be Prima Facia proof of the fact that the person advertising is carrying on or operating any such business(es), callings, trades or occupation(s).

LICENSE FEE(S)

402.

1. No Person SHALL carry on or operate any business(es), callings, trades or occupation(s) within or partly within and partly without the corporate limits of Fort Macleod, mentioned or referred to in this By-Law or said Schedule "A": without first paying to the License Inspector the License Fee(s) prescribed in this By-Law or in said Schedule "A" for the business(es), callings, trades or occupation(s) concerned. A License, if issued, SHALL be null and void if the payment therefore was made by means of a Non-negotiable document (i.e. N.S.F. Cheque).
2. A Non-profit charitable organization able to produce documentation proof of a Provincial Number for Non-profit group(s) as far as the provisions of this By-Law are concerned SHALL not be subject to any Administrative Fee or License Fee. However the Organization SHALL comply with the provisions of this By-Law relating to the business to be carried on.

LICENSE APPLICATION

403.

1. Applications for a license, for renewal of license, or for a transfer of license SHALL be made in writing, on the form to be provided by the License Inspector (and, unless otherwise provided, in person at the office of the License Inspector).
2. An Application for License for any business or occupation of a type mentioned in this By-Law SHALL be made jointly by all the persons who will be actively engaged in the management and control of the business and by those persons only. If, in the course of any license year, persons are added to those sharing the management and control of the licensed operation, then their names SHALL be forthwith given to the License Inspector. Failure to disclose to the Town any information required herein SHALL be grounds for immediate cancellation of the License, if issued, and the forfeiture of any fee paid for the License.

LICENSE SUBJECT TO LAND-USE REGULATIONS

404. An applicant for a License SHALL obtain and produce for the License Inspector written approval from the Development Officer subject to the provisions of the Land-Use By-Law before making application for a Business License. This provision SHALL not apply to annual License renewal.

APPROVAL OF TOWN DEPARTMENTS

405.

1. Except as provided in subsection 2 of this Section the License Inspector SHALL refer all applicants for a Business License or for Transfer of License for any business(es), trade or occupation that is deemed necessary and SHALL not issue any License or any Transfer of the License until the Town Dept. Superintendent(s) concerned have reported on the application.

If an unfavorable report is received or if a report favors the issue of a License, subject to proposed conditions, the License Inspector SHALL notify the applicant:

- a) that the application is refused and state briefly the reason for such refusal; or;
 - b) that the license will be issued, subject to the proposed conditions; and;
 - c) that the applicant has to right of appeal as provided in Section 407 hereof as the case may be.
2. The provisions of Subsection 1 of this Section SHALL not apply to an annual application renewal of the License in respect of the same premises and for the same type of License, except in cases where the License Inspector has confirmed information that the applicant has been charged and convicted the previous year for an offense against the provisions of this By-Law or has information unfavorable to the issue of such renewal, in which case(s) the License Inspector SHALL notify the applicant of the refusal to issue a renewal of the License and the grounds for such refusal.

COMPLIANCE

406.

1. Whenever an applicant for a License has complied with the terms, and conditions of this By-Law and of any other By-Law(s) applicable and conditions imposed by the License Inspector, he SHALL be entitled to the License applied for upon full payment of the proper fee.
2. In any case where an applicant is unable, directly to comply with the terms, or conditions as imposed, or any other By-Law(s) applicable and such non-compliance is of a minor nature (to be determined by the License Inspector), does not involve danger to life or health and will not prejudicially affect other persons, a License MAY be issued to the applicant subject to such conditions as the License Inspector May require and such License MAY be canceled should the licensee fail to meet the condition(s) imposed.

REFUSAL OF LICENSE

407.

1. Where an applicant for a license or for a transfer of a license has been refused or has been authorized subject to condition(s), the applicant MAY appeal:
 - a) In case of refusal or of conditional approval of the Development Officer for the Town of Fort Macleod - to the Municipal Planning Commission for the Town of Fort Macleod.
 - b) In case of refusal or conditional approval by the Superintendent(s) of other depts. or the License Inspector - to the Town Council via the Municipal Manager.
2. After hearing the applicant and the Town officials concerned and the evidence adduced, the said Boards or the said Council, as the case may be, 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.
3. In every case where an applicant for a license has been refused a license or where a license has been revoked, the person seeking the license SHALL be entitled to appeal to Council and Council SHALL be the final judge of whether the refusal of the license was just and reasonable.

407. Refusal of License (cont'd.)

4. Every such appeal SHALL be made in writing within fifteen (15) days after a license has been refused or revoked, and addressed to the Municipal Manager, otherwise the right of appeal SHALL be barred and extinguished.

CONDITIONAL LICENSES

408.

1. Where the License Inspector issued a license, subject to certain conditions, he SHALL endorse on the license the particulars of such conditions.

LOCATION OF CERTAIN BUSINESS TO BE STATED

409.

1. Except those businesses listed in Subsection 2 of this section, all licenses issued to persons to carry on any business, trade or occupation SHALL designate the premises in or on which the licensee may carry on or engage in the business calling, trade or occupation in respect of which the license is issued and the license authorize the licensee, only in or upon the premises designated in such license and a separate license SHALL be obtained for each location.
2. Business entities providing slot machines at one or more than one location within the Town SHALL be required to supply a Statutory declaration listing the location(s) of all equipment to be licensed subject to Schedule "A" herein contained and SHALL only be issued ONE license certificate specifying the number of machine(s) declared, to be posted at the Main business office.

POSTING OF LICENSE ON PREMISES

410.

1. Every license issued under this By-Law SHALL be posted by the Licensee in an Area visible by the General Public at all times, and whenever required to do so by the License Inspector, designate, or peace officer, the licensee SHALL produce said license for inspection purposes. Failing to produce said License as requested by a Peace Officer, License Inspector, or to have license clearly posted, the licensee SHALL be guilty of an offense against this by-law.

INSPECTION/OBSTRUCTION OF INSPECTOR

411.

1. Any premises or place of business is subject to inspection by the License Inspector, during normal hours of operation, without a warrant, for the purpose of verifying that the Licensee is conducting the business as stated on the business license issued.
2. Any person(s) who after a demand for inspection of business, by a Peace Officer or License Inspector to see current business license and operation of the business refuses admittance to the premises or place of which such person has charge or control, or obstructs such Peace Officer, SHALL be subject to prosecution for such offense by way of Provincial Offenses Procedures Act of Alberta or penalty as per Schedule "A" of this by-law.
3. Any licensee who, on occasion of such inspection or otherwise, furnishes to the License Inspector, officer, Peace Officer, or authorized person, false or misleading information with regard to the business or its operation is guilty of an offense against the provisions of this by-law.

DURATION OF LICENSE

412.

1. Every License issued under the provisions of this By-Law SHALL terminate at Midnight on the last day of business in December of the year in which the license was issued unless:
 - a) the terms of this By-Law otherwise expressly provide; or
 - b) the License provides otherwise; or
 - c) the License has been canceled or forfeited.
2. The fee payable for a License issued between the 1st day of January and the 31st day of December in any year SHALL be the full price as listed in Schedule "A".
 - a) *The license fee for Home Occupation, Principal shall be reduced by fifty per cent (50%) after July 31st.*

AMENDMENT BYLAW 1576

TRANSFER OF LICENSE

413.

1. Unless otherwise provided herein, any current subsisting license issued under this By-Law MAY be authorized for transfer upon application to the License Inspector and payment of the prescribed fee(s) are paid, providing that the applicant has the required qualifications and furnishes documentation releasing the rights and interests of the previous owner.

LICENSE CHANGES

414.

1. Where a Licensee wishes to change any item(s) listed on his current business license, he SHALL make application to the License Inspector for such change(s) and pay the Administration fee as identified in Schedule "A".

REFUNDS

415.

1. License fee(s) and administration fee(s) paid by the Licensee are Non-refundable.

REVOCATION AND SUSPENSION OF LICENSE

416.

1. The License Inspector MAY refuse to grant a license or MAY revoke or suspend any license, if on reasonable and probable grounds, the License Inspector in his opinion feels that the license should be revoked, suspended, or refused. The applicant has the right to file for an appeal within fifteen (15) days of notification from the License Inspector to Town council who SHALL make a final determination on the status of the license.
2. The License Inspector MAY revoke or suspend any license for non-compliance with this by-law or any related by-law (Land-Use),(Street Vendors), notwithstanding that the license holder has not been prosecuted and convicted of any breach of the by-law.
3. Upon request from the Local Health Unit Officer, the License Inspector SHALL suspend, revoke, or cancel, the license of any licensed premises concerned and SHALL not re-instate such license until the Local Health Unit Officer certifies that the premises concerned are again fit for public usage.

PENALTIES

417.

1. Any person(s) violating any provision(s) of this By-Law SHALL be guilty of an offense and liable to a penalty as provided for in Schedule "B", which forms part of this By-Law, unless another penalty is provided in a Statute of the Province of Alberta, that has special application to a business licensed hereunder in which case the provincial penalty SHALL apply.
2. Where the offense is non-payment of any license fee(s) the offender(s) SHALL be guilty of an offense under this By-Law and subject to a penalty as provided for in Schedule "B" of this By-Law.
3. The License Inspector MAY enforce the provision(s) of this By-Law and MAY issue an offense violation ticket to any person(s) alleged to have committed any breach of the provision(s) of this By-Law. The Violation Ticket SHALL state all particulars of the offense - date, time, place, etc. and the penalty as stated in Schedule "B" forming part of this By-Law.

FALSE INFORMATION

418.

1. No person SHALL offer or furnish false or misleading information of any kind concerning a business or its operation, or about its owner.

HOME OCCUPATIONS

419.

1. All income(s) earned or derived from a Home Occupation as defined by this By-Law SHALL be either classified as: a) Principal or b) Supplementary income.
2. In each Dwelling Unit (Home), where there is another income greater than the Home Occupation, the Home Occupation income SHALL be classified as Supplementary.
3. If the Home Occupation is classified as Principal income the License fee is collectable as such under Schedule "A".
4. If the Home Occupation is Secondary income the License fee is collectable as such under Schedule "A", in addition a Statutory declaration of the applicant is required at the time of application, in the form as contained in Schedule "C".
5. No person SHALL carry on or operate any Home Occupation within Corporate Limits without first obtaining a Home Occupation license and paying the prescribed fee as in Schedule "A" and in accordance with Section 402 of this By-Law.

PART V

REPEAL OF BY-LAW

420.

1. By-Law No.1306 including all amendments thereto are hereby repealed.

READ A FIRST TIME THIS 25TH DAY OF MAY 1993 A.D.

MAYOR

MUNICIPAL MANAGER

READ A SECOND TIME THIS 14TH DAY OF JUNE 1993 A.D.

MAYOR

MUNICIPAL MANAGER

READ A THIRD TIME AND FINALLY DECLARED PASSED BY COUNCIL THIS

14TH DAY OF JUNE 1993 A.D.

MAYOR

MUNICIPAL MANAGER

SCHEDULE "A"
TO BY-LAW NO. 1576

Administration Fee	\$ 10.00
Application to Planning Commission (Home Occupations only)	\$ 50.00

LICENSE	ONE JOB/ONE DAY/SHOW FEE SCHEDULE	ANNUAL FEE
1. Charitable, Non-Profit Organization	Nil.	Nil.
2. Home Occupation a) Principal	\$ 175.00
b) Supplementary	\$ 75.00
3. Resident Business	\$ 50.00
4. Non-Resident Business	\$ 125.00	\$ 225.00
5. Transient Commercial Agent	\$ 125.00	\$ 325.00
6. Transient Contractor	\$ 125.00	\$ 225.00
7. Transient Contractor (Trades)	\$ 175.00	\$ 325.00
8. Transient Exhibitions	\$ 125.00/day	N/A
9. Transient Professional	\$ 225.00

AMENDING BYLAW 1576

SCHEDULE "B"

1. A penalty of One Hundred (\$100.00) dollars shall be levied against and paid by any person(s) who commits a breach of any Section(s) of the provisions of this By-Law.
2. A penalty of One hundred and Fifty (\$150.00) dollars shall be levied against and paid by any person who commits a breach of the provisions of this by-law, a second time within six (6) months of committing the first offence.
3. A penalty of Two Hundred (\$200.00) dollars shall be levied for consecutive offences, providing the offence(s) occur within six (6) months of committing the second offence.

MUNICIPALITY OF THE
TOWN OF FORT MACLEOD

STATUTORY DECLARATION

(PURSUANT TO SECTION 421 OF BY-LAW 1530 OF THE
MUNICIPALITY OF THE TOWN OF FORT MACLEOD)

I, _____

of _____ Town of Fort Macleod in (Street
Address) (Box No.)

the Province of Alberta, TOL OZO.

DO SOLEMNLY DECLARE THAT:

- ___ 1. I am the owner/operator of a "Home Occupation" located at my residence within the Town of Fort Macleod.
- ___ 2. Pursuant to By-Law No. 1530 of the Municipality of the Town of Fort Macleod, being the Business License By-Law, the income earned from my "Home Occupation" is a supplementary income.
- ___ 3. Within my household unit there is another source of income that is principle income.

AND I MAKE THIS SOLEMN DECLARATION CONSCIENTIOUSLY BELIEVING IT TO BE TRUE AND KNOWING THAT IT IS OF THE SAME FORCE AND EFFECT AS IF MADE UNDER OATH.

Declared before me, _____

at the Town of Fort Macleod, in the Province of Alberta

this _____ day of _____ 20 _____

(Owner's Signature)

A Commissioner for Oaths in and for
the Province of Alberta