

APPENDIX A - DRAFT BUSINESS LICENCE BYLAW

BYLAW XX/2022

BEING A BYLAW OF FOOTHILLS COUNTY, IN THE PROVINCE OF ALBERTA FOR THE PURPOSE OF REGULATING THE LICENSING OF BUSINESSES CARRIED ON WITHIN THE MUNICIPALITY

WHEREAS Pursuant to the Provisions of Section 8 of the Municipal Government Act, being Chapter M26, R.S.A. 2000 and amendments thereto, Council may pass a Bylaw providing for a system of licences, permits or approvals including prohibiting any activity, industry or Business until a licence has been granted; and

WHEREAS Council deems it desirable and in the best interests of Foothills County to require Businesses operating in the County to obtain a licence; and

WHEREAS Council wishes to establish a system for enforcement regarding Business Licences including processes, fines and penalties.

NOW THEREFORE THE COUNCIL OF FOOTHILLS COUNTY, IN THE PROVINCE OF ALBERTA, DULY ASSEMBLED, ENACTS AS FOLLOWS:

1. SHORT TITLE

This Bylaw may be known as the "Business Licence Bylaw".

2. INTERPRETATION

- 2.1 The owner of a property is responsible for all activities on the property which may constitute a contravention of this Bylaw.
- 2.2 Nothing in this Bylaw relieves a Person from complying with any federal or provincial law or regulation, other bylaw or any requirements of any lawful permit, order or licence.
- 2.3 Any heading or sub-heading in this Bylaw are included for guidance purposes and convenience only and shall not form part of this Bylaw.
- 2.4 Where this Bylaw refers to another Act, Bylaw, Regulation or Agency, it includes reference to any Act, Bylaw, Regulation or Agency that may amend or be substituted, therefore.

3. DEFINITIONS

- 3.1 In this Bylaw, the following words shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the past and future; words in the plural, include the singular; words in the singular include the plural; words in the masculine gender, include feminine and neutral genders; words in the feminine and neutral genders include the masculine gender. The word "shall" is always mandatory and not merely directory:
 - a. **Advertise** means to describe, make known, or call attention to a product, service, or event in a public medium in order to promote sales or attendance.
 - b. **Applicant** means a Person who applies for a licence, or a renewal of a licence required by this Bylaw, and shall also mean a Person who is appealing the refusal, revocation or suspension of a licence.
 - c. **Business** means
 - i. a commercial, merchandising, or industrial activity or undertaking,
 - ii. a profession, trade, occupation calling or employment or
 - iii. an activity providing goods and/or serviceswhether or not for profit and however organized or formed, including a co-operative or association of Persons, as defined in the Municipal Government Act, Revised Statutes of Alberta 2000, Chapter M-26 and amendments thereto.
 - d. **Business Licence** means a licence issued by the Municipality pursuant to this Bylaw which entitles a Person to carry on Business within the County.

- e. **Business Licence Certificate** means the certificate issued by the Municipality as proof of holding a Business Licence.
- f. **Carry 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.
- g. **Chief Administrative Officer (CAO)** means the Person appointed by Council to the position of Chief Administrative Officer which is established by bylaw under Section 205 of the Municipal Government Act.
- h. **Council** means the Council of Foothills County.
- i. **Fee Bylaw** means the Foothills County Fee Bylaw as amended or replaced.
- j. **Licence Year** means the period commencing January 1 and ending on the following December 31.
- k. **Licensee** means a Person or entity that holds a current Business Licence issued pursuant to the provisions of this Bylaw.
- l. **Licensing Officer** means that Person or Persons appointed by the Chief Administration Officer to issue licences and assist in the administration and enforcement of this Bylaw.
- m. **Municipal Government Act** means the Municipal Government Act, RSA 2000, C. M-26 as amended or replaced from time to time.
- n. **Municipality** means Foothills County, a municipal corporation in the Province of Alberta, and where the context so requires, means the area contained within the corporate boundaries of said Municipality.
- o. **Non-Resident Business** means any Business that does not maintain a permanent place of Business within the corporate limits of the County but which Carries-on any Business partly within and partly outside the County.
- p. **Peace Officer** means a Person engaged by the Municipality as a Community Peace Officer, a Bylaw Enforcement Officer, a Licensing Officer or a member of the Royal Canadian Mounted Police, to carry out the provisions of this Bylaw. For the purpose of inspection and enforcement under this Bylaw, a Peace Officer is a designated officer of the Municipality.
- q. **Person** means a natural person, firm, corporation, association, partnership, society or legal entity.
- r. **Premises** means a store, office, warehouse, factory, building, enclosure, parcel or other place occupied or capable of being occupied by any Person for the purpose of carrying on a Business.
- s. **Provincial Offences Procedures Act** means the Provincial Offences Procedures Act, RSA 2000, C. P-34 and Regulations thereof, as amended or replaced from time to time.
- t. **Remedial Order** means an order written pursuant to Section 545 of the Municipal Government Act.
- u. **Resident** means a Person who either resides principally in the Municipality or has an established Premises within the Municipality from which to carry on a Business.
- v. **Subsequent Offence** means any offence under this Bylaw committed by a Person after that Person has already been convicted of an offence under this Bylaw or has voluntarily paid a fine for such an offence.
- w. **Violation Ticket** means a ticket issued pursuant to the provisions of the *Provincial Offences Procedure Act*.

4. NECESSITY FOR LICENCE

- 4.1 Any Person Carrying on or operating a Business within the County, unless specifically exempted under the provisions of this Bylaw or Provincial or Federal legislation, is required to obtain a Business Licence.

- 4.2 Pursuant to S. 564 of the Municipal Government Act, in a prosecution for contravention of Section 4.1, proof of one transaction in the Business or that the Business has been Advertised is sufficient to establish that a Person is carrying on or operating the Business.
- 4.3 When a Person carries on two or more Businesses whether on the same Premises or on separate Premises, then separate licences shall be required.
- 4.4 Where a Business subject to licensing is carried on or intended to be carried on in more than one location within the Municipality, only one licence shall be required.
- 4.5 The Business Licence Certificate shall be posted in a conspicuous location on the Business Premises of the Licensee, so that it is clearly visible to the public.
- 4.6 For Businesses that are not carried on at a fixed location, the Business Licence Certificate must be carried on the Person of the Licensee; or carried in or on the vehicle or apparatus from which the Business is conducted.
- 4.7 Every Business Licence holder must present a valid Business Licence Certificate should a Peace Officer request it. A paper copy or digital image may be accepted as proof of a valid Licence at the Officer's discretion.

5. EXEMPTION FROM LICENSING OR FEES

- 5.1 Notwithstanding Section 4.1, no licence shall be required for:
 - a. A Business carried on or operated by the Municipality or at a location operated by an official or employee of the Municipality acting on behalf of the Municipality in his or her capacity as such official or employee.
 - b. A Business carried on by the Governments of the Province of Alberta or of Canada.
 - c. Any Person or Business if any Statute of Alberta or Canada exempts such Person or Business from requirements of municipal licensing. The Person or Business must submit proof of exemption to the satisfaction of the Licensing Officer. A list of relevant statutes is provided in Schedule B of the Bylaw.
 - d. Any Person under the age of 18 years of age providing individual light duty occasional services such as snow shoveling, child minding, yard work, or newspaper delivery.
 - e. The participants of a Farmer's Market or Tradeshow, with the appropriate Provincial approvals, however, the Farmer's Market or Tradeshow may require municipal approval through the development permit process and will require a licence, though that licence may be temporary.
 - f. A Person carrying on the Business of raising or producing crops, livestock, or poultry within the County shall **not** be required to obtain a Licence under this Bylaw **unless** they are also carrying on a Business that requires that they obtain a Development Permit and a condition of the Development Permit is to obtain a Business Licence.
 - g. Non-Resident Businesses whose only Business activity is:
 - i. the supply or delivery of wholesale or bulk goods to a Resident Business that is licensed or exempt from requiring a licence; or
 - ii. delivery of materials or goods provided that the transaction or negotiation to purchase those items takes place outside of the County.
 - h. Such other Businesses as Council by Resolution may from time to time exempt.
- 5.2 Charitable or Non-profit organizations, recreational societies, etc. which are registered under the Alberta Societies Act are not required to obtain a Business Licence. Such organizations may obtain a Licence by submitting a completed Business licence application and the Articles or Memorandum of Incorporation but are not subject to Business licensing fees.
- 5.3 A Business that is not required to obtain a Licence may obtain a Business Licence by submitting a completed Business Licence application and paying the applicable fee.
- 5.4 An insurance Business that holds a licence under the Insurance Act must obtain a Business Licence to operate in the County, but is exempt from licensing fees as per section 59 of that Act.

6. LICENSING OFFICER

- 6.1 The Chief Administrative Officer of the County may appoint one or more Licensing Officers to carry out the provisions of this Bylaw.
- 6.2 The duties of the Licensing Officer shall include the following:
- a) to receive, evaluate, approve, or refuse, applications for Business Licences;
 - b) to keep a record of all applications for Business Licences and maintain a database of licensed Businesses;
 - c) to conduct investigations with regard to proposed applications where necessary;
 - d) to assist Foothills County Peace Officers with investigations or conduct investigations including the inspection of Businesses when necessary to determine compliance with this Bylaw;
 - e) to revoke, cancel or suspend Business Licences, subject to an appeal.

7. PREREQUISITES FOR A BUSINESS LICENCE

- 7.1 Any Business requiring any other permit(s) related to ensuring the suitability of the proposed Business location, which may include but not be limited to a Development Permit under the Municipality's Land Use Bylaw or permit(s) under the Safety Codes Act, must obtain these permit(s) prior to the issuance of a Business Licence.
- 7.2 Food truck operators shall be required to provide proof of Alberta Health Services and County Fire Department inspection approvals prior to being granted a business licence.
- 7.3 The Licensing Officer may request any other information or involve any agency, authorities or department deemed necessary to issue a Business Licence in accordance with this Bylaw.

8. PROCEDURES FOR ISSUANCE OF LICENCES

- 8.1 All applications for licences shall be made in writing to the Municipality, on the prescribed form, giving all information and particulars as requested thereon.
- 8.2 A Licensing Officer may issue an annual licence or may issue a temporary licence by the week or month.
- 8.3 Every licence issued under this Bylaw shall be made out and delivered, emailed or mailed to the Licensee, who shall post the same in a conspicuous place on the Business Premises (or on the person or in the vehicle of a mobile business) and whenever required to do so by a Licensing Officer or other authorized officer of the Municipality, shall produce the licence for inspection purposes.
- 8.4 Every annual licence granted under the provisions of this Bylaw is valid for the Licence Year and shall terminate on the 31st day of December in the year in which said licence was issued, unless expressly stated to be for a shorter period, or the licence has been cancelled or forfeited.
- 8.5 Temporary Licences issued under the provisions of this Bylaw will be valid for the period stated on the licence.
- 8.6 Licences issued under this Bylaw shall not be transferred except to a Person who at the same time purchases the Business in respect of which the licence was issued.

9. LICENCE FEES

- 9.1 No licence shall be issued until the applicable licence fee set out in Foothills County's Fee Bylaw, as may be amended from time to time, has been paid to the Municipality unless the Business is not required to pay the licensing fee under Section 5 of this Bylaw.
- 9.2 In the case of an initial application for a licence, the fee required by Section 9.1 shall accompany the application for the licence. In the case of renewal of a licence, the applicable fee shall be paid no later than 30 days following the mailing of a licence renewal notice, failing which the licence is

automatically deactivated.

- 9.3 Where a licence fee has been paid by the tender of an uncertified cheque, the licence is automatically suspended if the bank upon which the cheque is drawn returns it unpaid. The suspension will remain in effect until the licence fee is received. At the expiration of 30 days, if the licence fee has not been received, the licence shall be deactivated.
- 9.4 The Licensing Officer may issue a new annual licence after April 1st of any year for three-quarters of the annual fee set out in the County's Fee Bylaw and may issue a new annual licence after July 1st of any year for one-half the annual fee as set out in the County's Fee Bylaw and may issue a new annual licence after October 1st of any year for one-quarter of the annual fee set out in the County's Fee Bylaw. This prorated discounting of fees does not apply to licence renewals or temporary licences.
- 9.5 The Licensing Officer may issue a temporary licence on a weekly or monthly basis for businesses that intend to operate within the County for a limited period of time.
- 9.6 Should the application for a Business Licence be refused, the Municipality will reimburse the licence fee paid.
- 9.7 The Municipality will reimburse licence fees for an annual licence on a monthly prorated basis upon receipt of a written request along with proof that the Business is no longer operating within the Municipality.
- 9.8 The licence fees will be reviewed in conjunction with the review of Foothills County's Fee Bylaw.

10. REFUSAL, REVOCATION OR SUSPENSION OF LICENCE

- 10.1 Subject to an appeal to the Council, the Licensing Officer may refuse, or revoke or suspend any licence required or issued pursuant to this Bylaw if, in the opinion of the Licensing Officer, there are just and reasonable grounds for the refusal of the application or for revocation or suspension of the licence including, but not limited to the following:
 - a) the Applicant or Licensee does not meet or no longer meets the requirements of this Bylaw with respect to the Licence applied for or held;
 - b) the Applicant or Licensee or any of its officers or employees furnishes false information or misrepresents any fact or circumstance to a Peace Officer or the Licensing Officer;
 - c) the Applicant has contravened a Foothills County bylaw, or Provincial or Federal regulation, statute, order or directive in the course of carrying on the Business to which the licence applies; or
 - d) in the opinion of the Licensing Officer, the safety, health or welfare of the public may be at risk.
- 10.2 A suspension of a licence may be:
 - a) for a period of time not exceeding the unexpired term of the licence; or
 - b) where the suspension is for non-compliance with a bylaw, regulation, statute, order or directive until the holder of the suspended licence, in the opinion of the licensing officer, complies with that bylaw, regulation, statute, order or directive.
- 10.3 Upon a licence being refused, revoked or suspended, the Licensing Officer shall notify the applicant or Licensee thereof:
 - a) by serving a notice to them personally; or
 - b) by sending the notice via registered mail to their place of Business or residence as shown on the licence; or
 - c) by sending the notice via email to the email address noted on file.

After service of such notice, the Business shall not be carried on until such time as a new licence is issued, or the revoked or suspended licence is reinstated.

- 10.4 A notice of suspension or revocation of a Business licence shall be deemed to be served on the date of service unless it is only set by mail in which case it shall be deemed to be served seven (7) working days after the date it is mailed.
- 10.5 An applicant who has had an application for a Business Licence refused or a licence holder who has had a licence revoked or suspended may appeal the Licensing Officer's decision to Foothills County Council.
- 10.6 To be considered valid, an appeal shall be made in writing on the appropriate form and be received by the County's Legislative Services Department within 30 days after service of notice under Section 10.3
- 10.7 Upon hearing an appeal under Section 10.5 Council may:
 - a) confirm the refusal, revocation or suspension,
 - b) direct that the licence be issued,
 - c) reinstate the revoked licence, or
 - d) remove or vary the suspension.

Decisions of Council shall be final, and binding. No further appeal is available.

- 10.8 Where an appeal against a revocation or suspension of a licence has been received, the Licensing Officer shall stay the revocation or suspension pending the decision of Council, unless the Licensing Officer is of the opinion that the continued operation of the Business will present a danger to public safety or welfare.

11. INSPECTIONS

- 11.1 Where a Business has made an application for a licence or is licensed, the Premises and surrounding lot may be inspected by a Peace Officer or the Licensing Officer.
- 11.2 A Person who a Peace Officer or Licensing Officer reasonably believes is carrying on a Business requiring a licence, an applicant for a Business Licence or a Licensee shall:
 - a. Permit and assist in all inspections requested by the Peace Officer or Licensing Officer;
 - b. Furnish upon demand to the Peace Officer or Licensing Officer, all information or documentation related to the inspection or the County's licensing requirements.
- 11.3 When undertaking inspections under Section 11.2 for businesses that maintain a storefront type operation that is attended by the public such as retail businesses, an inspection may occur any time during regular business hours without the need to provide notice.
- 11.4 When undertaking an inspection under Section 11.2 for a home-based business operated from a residence or a non-storefront type business, the municipality shall provide notice pursuant to the provisions of Section 542 of the Municipal Government Act as may be amended or replaced from time to time.
- 11.5 During an inspection a Peace Officer or the Licensing Officer may examine any Business record or document for the purpose of enforcing this Bylaw and remove any relevant record or document from the Premises for the purpose of copying it. A receipt will be provided for any document or record so removed.

12. OBSTRUCTION

- 12.1 No Person shall interfere with or obstruct the Licensing Officer or a Peace Officer conducting an investigation or taking any action under the authority of this Bylaw or the Municipal Government Act.
- 12.2 The Municipality may, in addition to issuing violation ticket(s), make application to the Court of Queen's Bench to seek an Order pursuant to Section 543 of the Municipal Government Act, should a Person obstruct a Peace Officer lawfully exercising their authorities pursuant to the Municipal Government Act or this Bylaw.

13 OFFENCES AND PENALTIES

- 13.1 Any Person who contravenes any provision of this Bylaw by:
- a. doing any act or thing which the Person is prohibited from doing; or
 - b. failing to do any act or thing the Person is required to do,
- is guilty of an offence.
- 13.2 Any Person who is convicted of an offence pursuant to this Bylaw is liable on summary conviction to a fine not exceeding ten thousand dollars (\$10,000.00) and in default of payment of any fine imposed, to imprisonment for not more than one (1) year.

14 VIOLATION TICKETS AND PENALTIES

- 14.1 Where a Peace Officer believes that a Person has contravened any provision of this Bylaw, they may commence proceedings by issuing a violation ticket in accordance with the Provincial Offences Procedure Act.
- 14.2 The specified penalty payable in respect of a contravention of any provision of this Bylaw is the amount shown in Schedule 'A' of this Bylaw in respect of that provision.
- 14.3 The minimum penalty payable in respect of a contravention of any provision of this Bylaw is the amount shown in Schedule 'A' of this Bylaw in respect of that provision.
- 14.4 Notwithstanding Section 14.2:
- (a) where any Person has been in contravention of the same provision of this Bylaw twice within one (1) twelve (12) month period the specified penalty payable in respect of the second offence is double the amount shown in Schedule 'A' of this Bylaw in respect of that provision; and
 - (b) where any Person has been in contravention of the same provision of this Bylaw three (3) or more times within one (1) twelve (12) month period, the specified penalty payable in respect of the third or subsequent offence is triple the amount shown in Schedule 'A' of this Bylaw in respect of that provision.
- 14.5 Notwithstanding Section 14.3:
- (a) where any Person has been in contravention of the same provision of this Bylaw twice within one (1) twelve (12) month period, the minimum penalty payable in respect of the second offence is double the amount shown in Schedule 'A' of this Bylaw in respect of that provision; and
 - (b) where any Person has been in contravention of the same provision of this Bylaw three (3) or more times within one (1) twelve (12) month period, the minimum penalty payable in respect of the third or subsequent offence is triple the amount shown in Schedule 'A' of this Bylaw in respect of that provision.

15. CONTINUING OFFENCES

- 15.1 In the case of an offence that is of a continuing nature, a contravention constitutes a separate offence in respect of each day, or part of a day, on which the offence continues.

16. MANDATORY COURT OR INFORMATION

- 16.1 No provision of this Bylaw shall prevent any Peace Officer from issuing a violation ticket requiring the court appearance of the defendant, pursuant to the provisions of the Provincial Offences Procedure Act, or from laying an information instead of issuing a violation ticket.

17. LIABILITY FOR COSTS

17.1 The levying and payment of any fine or the imprisonment for any period provided in this Bylaw shall not relieve a Person from the necessity of paying any fees, charges or costs from which he is liable under the provisions of this Bylaw or the Municipal Government Act.

18. CERTIFIED COPY OF RECORDS

18.1 A copy of a record of the Municipality, certified by the Person duly appointed as the Licensing Officer for the same as a true copy of the original, shall be admitted evidence as prima facie proof of the facts stated in the record without proof of the appointment or signature of the Person signing it.

19. GENERAL

- 19.1 Schedule 'A' and Schedule 'B' as attached, form a part of this Bylaw.
- 19.2 It is the intention of the Council of the Municipality that each section of this Bylaw should be considered as being separate and severable from all other sections. Should any section or part be found invalid by a court of competent jurisdiction, it is intended that the invalid section or part shall be severable, and the remainder of the Bylaw will remain in effect.
- 19.3 It is the intention of the Council of the Municipality that all offences created pursuant to this Bylaw be construed and considered as being Strict Liability Offences.
- 19.4 This Bylaw shall come into full force and effect upon the date of the third and final reading and Bylaw 1018 is hereby repealed upon this Bylaw coming into effect.

First Reading: _____

Reeve

CAO

Second Reading: _____

Reeve

CAO

Third Reading, _____

Reeve

CAO

SCHEDULE "A"
TO BYLAW NO. XX/XXXX

OFFENCE PENALTIES

SECTION	OFFENCE	MINIMUM PENALTY	SPECIFIED PENALTY
4.1	Carrying on a Business without a Business Licence when said Business is required to obtain a licence	\$300.00	\$500.00
4.3	Carrying on an additional Business without an additional licence when said Business is required to obtain a licence	\$300.00	\$500.00
4.5	Failing to display a Business Licence Certificate on the Business Premises	\$50.00	\$75.00
4.6	Failing to carry a Business Licence Certificate, on the Person of the Licensee; or in or on the vehicle or apparatus from which the Business is conducted, for a Business that is not carried on at a fixed location.	\$50.00	\$75.00
4.7	Failing to produce a Business Licence Certificate when requested by a Peace Officer	\$50.00	\$75.00
10.3	Carrying on a Business for which a Business Licence is required when the Licence has been revoked or suspended and has not been reinstated and for which an appeal has not been received by the County.	\$300.00	\$500.00
11.1	Failing to allow or obstructing a Licencing Officer or Peace Officer's inspection of the Premises and/or surrounding lot where a Business that is Licenced or has made an application for a Business Licence is being Carried on.	\$300.00	\$500.00
11.2	Failing to permit and / or assist in an inspection of a Business requested by a Licensing Officer or Peace Officer or Failing to furnish information or documentation related to an inspection or the County's licensing requirements.	\$300.00	\$500.00
12.1	Interfering or obstructing the Licensing Officer or a Peace Officer while they are conducting an investigation or taking any action under the authority of this Bylaw or the Municipal Government Act	\$300.00	\$500.00

**SCHEDULE “B”
TO BYLAW NO. XX/XXXX**

BUSINESS LICENCE EXEMPTIONS LIST

Regulated members or persons licensed under the following statutes are exempt from the requirement to obtain a business licence.

Agrology Profession Act - Statutes of Alberta 2005, Chapter A-13.5

Architect’s Act - Revised Statutes of Alberta 2000 Chapter A-44

Engineering and Geoscience Professions Act - Revised Statutes of Alberta 2000, Chapter E-11

Health Professions Act - Revised Statutes of Alberta 2000, Chapter H-7

Land Surveyors Act - Revised Statutes of Alberta 2000, Chapter L-3

Legal Profession Act - Revised Statutes of Alberta 2000, Chapter L-8

Professional and Occupational Associations Registration Act - Revised Statutes of Alberta 2000, Chapter P-26. It is Section 40

Regulated Accounting Profession Act - Revised Statutes of Alberta 2000, Chapter R-12

Regulated Forest Management Profession Act - Revised Statutes of Alberta 2000, Chapter R-13

Veterinary Profession Act - Revised Statutes of Alberta 2000 Chapter V-2

***Note:** This may not be an exhaustive list, A business may provide evidence of other legislation that provides an exemption to the requirement to obtain a municipal business licence to the Licensing Officer who will abide by existing federal or provincial legislation.*