

**The Corporation of the City of Cornwall
By-law #184-2005**

Being a By-law of the Corporation of the City of Cornwall
to provide for licensing, regulating, governing
and inspecting Christmas Tree Vendors

WHEREAS Section 150 of the Municipal Act 2001 authorizes Council to pass By-laws for licensing, regulating, inspecting and governing local business.

AND WHEREAS Section 150 of the Act authorizes Council to pass By-laws for the licensing, regulating, governing, classifying and inspecting of tree vendors, and classes thereof and for the revoking or suspending any such licenses to be granted.

AND WHEREAS the Corporation of the City of Cornwall deems it advisable, having regard among other matters to the potential for health and safety and nuisance, has enacted a By-law to govern total class of tree vendors.

THEREFORE the Council of the Corporation of the City of Cornwall enacts as follows:

DEFINITIONS AND INTERPRETATIONS

1. For the purpose of this By-law:

Applicant. - shall mean a person applying for the issuance or renewal of a license.

Board. - shall mean the Police Services Board for the Corporation of the City of Cornwall.

Board of Health. - shall mean the Eastern Ontario Health Unit.

Business. - includes a trade, calling or occupation.

Certificates of Proof of Age. -shall mean a Driver's License issued by the Province of Ontario with a photograph of the person to whom the license is issued; a Canadian Passport; a Canadian Citizenship Card with a photograph of the person to whom the card is issued; a Canadian Armed forces Identification Card; or a Photo Card issued by the Liquor License Board of Ontario.

Chief Building Official. - shall mean the authority having jurisdiction over the Building Permits and By-law Enforcement Section, Department of Planning and Housing Services, and administer the related By-laws of the Corporation of the City of Cornwall under the direction of the Manager of Planning Services.

Chief of Police. - shall mean the Chief of Police for the Corporation of the City of Cornwall or his/her appointee.

Christmas Tree Vendor. - means the owner or operator of a place, premise or location wherein the sale of Christmas Trees (Evergreen, Spruce, Pine Balsam, Jack Pine, Norfolk Pine, or any type thereof) occurs.

City. - shall mean the Corporation of the City of Cornwall.

Enforcement Officer. - shall mean a police officer, By-law enforcement officer, a special constable or any other public officer engaged in the enforcement of this By-law.

Fire Chief. - shall mean the municipal Chief Fire Official for the Corporation of the City of Cornwall or a member or members of the Fire Department designated by the municipal Fire Chief or a person appointed by the Fire Marshall of Ontario.

Licensing. - shall mean a license issued under this By-law.

Licensing Officer. - shall mean the Chief Building official, also known as Issuer of Licenses, and/or his/her appointees for the Corporation of the City of Cornwall.

Municipal Law Enforcement Officer. - shall mean the person or persons authorized by the Council of the Corporation of the City of Cornwall to enforce all By-laws under its jurisdiction.

Municipality. - shall mean the Corporation of the City of Cornwall.

Non-Resident. - shall mean a person or persons or their agent's who's address is not within the boundaries of the municipality.

Owner. - shall mean any person who operates or conducts a business, trade or calling under which the municipality has the power to license.

Parks. - shall mean the land under the jurisdiction and control of the Corporation of the City of Cornwall.

Police Department. - shall mean the Chief of Police of the Cornwall Police Service or his/her appointee.

Zoning Inspector. - shall mean an officer or agent employed by the Corporation of the City of Cornwall for the purpose of enforcing and regulating the uses of its Zoning By-law.

LICENSES

2. a) No person shall carry on within the City of Cornwall any of the trades, callings, businesses or occupations listed herein and forming part of this By-law, unless he/she has obtained from the Corporation a license authorizing him/her to carry on the trade, calling, business or occupation.
- b) Every person who holds a license shall, in carrying on or engaging in the trade, calling, business, or occupation for which the license is issued, comply with this By-law and the regulations herein this By-law that relate to the person or the persons trade, calling, business, or occupation.

APPLICATION

3. Every person who requires a license under the provisions of this By-law for any trade, calling, business, or occupation shall:
 - a) apply to the Chief Building Official upon such form or forms as shall be prescribed by the Corporation;
 - b) provide any documents required under the applicable By-law;
 - c) pay, by cash or cheque, the applicable license and non-refundable application fee set out in the City of Cornwall By-law establishing licensing fees. (By-law #203-2005 and any amendments hereto)
4.
 - a) the license fee referred to in Section 3(c) shall not be reduced or prorated.
5.
 - a) where a partnership or an association applies for a license, the names and addresses of each member of the partnership or association shall be set out in the application;
 - b) the applicant shall include the name, address and contact information of the registered owner of the property where the business is being operated.

PROCESSING AND ISSUANCE

6. The Chief Building Official shall, upon receipt of the application referred to in Section 3, make or cause to be made all investigations considered necessary or which are required by law or by the Corporation relative to the application.

REFUSAL TO ISSUE

7. The issue of a license shall be refused by the Chief Building Official until it has been determined that the licensee has complied with:
 - a) the regulations under the jurisdiction of the Board of Health;
 - b) this or any other By-laws of the Corporation, or which shall be contrary to the law;
 - c) any other Federal or Provincial statutes and regulations.

EXPIRY

8. The licenses for the several trades, callings, businesses or occupations set out herein this By-law shall, unless they are expressed to be for a shorter or longer time, be for one year and unless they are sooner forfeited or revoked shall in each case expire on January 31st of the year which succeeds the year the license was issued for.

RENEWAL

9. The Chief Building Official shall renew an existing license if the licensee:
 - a) meets all of the requirements of this By-law; and
 - b) pays by cash or cheque the applicable license fee set out in the City of Cornwall By-law establishing licensing fees. (A late fee shall be levied, as per that By-law, for all annual licenses due February 1 that are not obtained by May 1).

REFUSAL TO RENEW

10. A license shall not be renewed by the Chief Building Official until it has been determined that the licensee has complied with:
 - a) the regulations under the jurisdiction of the Board of Health;
 - b) this or any other By-laws of the Corporation, which shall be contrary to the law;
 - c) any other Federal or Provincial statutes and regulations.
11. The Chief Building Official shall refuse to renew the license if the licensee does not meet all of the requirements for renewal as set out in Section 10 of this By-law.
12. If the Chief Building Official refused to renew the license, the licensee shall receive notice of refusal in writing, said notice to be served personally upon or sent by prepaid registered mail to the licensee.
13. If the licensee is not satisfied with the terms of the notice referred to in Section 13 of this By-law, he/she shall appeal to the Chief Building Official within thirty (30) days after service of the notice of refusal.

TRANSFERS

14. No license shall be transferable.
15. No person owning or operating a licensed premise under this By-law shall move from one location to another within the City of Cornwall without first paying the initial application fee set out in the By-law establishing fees and fulfilling the requirements for a license application as set out in this By-law.

GENERAL PROVISIONS

16. Every person obtaining a license under this By-law:
 - a) Shall keep his/her license posted up in a conspicuous place on the premises in respect to which the license is issued;
 - b) Where the license does not apply to a premise, shall keep on his/her person the license issued.
17. Every person applying for or holding a license under this By-law shall comply with the regulations set out herein this By-law.
18. A license is issued subject to the condition that the holder of the license indemnifies and saves harmless the Corporation and the employees, contractors and agents of the Corporation from all loss, damage, legal action, costs and expenses arising from the carrying on of the business, trade, calling or occupation for which the license was issued.
19. No person shall enjoy vested right in the continuance of a license and upon the issue, renewal, cancellation or suspension thereof, the value of the license shall be the property of the Corporation of the City of Cornwall.
20. No person licensed under this By-law shall refuse entry to a person with a service dog as provided for in the Health Protection and Promotion Act - O.Reg. 74/04.

INSPECTIONS

21. A Municipal Law Enforcement Officer or any other municipal official shall with the owners approval:
 1. At all reasonable times, inspect the building, place or premise that is used for a trade, calling, business or occupation for which a person is licensed or is required to be licensed; and,
 2. When deemed necessary by the said officer, inspect the books, records or other documents of the trade, calling, business or occupation.
22. No person who is licensed or required to be licensed, shall hinder or obstruct inspections referred to in this section, or cause the inspections to be hindered or obstructed.
23. Every person who obtains a license under this By-law shall produce the license when requested to do so by a Municipal Law Enforcement Officer or a Police Officer.

REVOCAION AND SUSPENSION

24. a) Where the Chief Building Official refuses to issue, suspends, or revokes a licence, the procedure as set out in By-law #204-2005 (A By-law Respecting Appeal Procedure for Municipal Licensing) shall be followed.
- b) Upon suspension or revocation of a license issued under this By-law, the licensee shall return to the Corporation all licenses and all plates where applicably issued by the Council with reference to such license, and the person authorized by Council shall have access to any premises, vehicle or other property for the purpose of receiving or taking the plates, and no person shall refuse to deliver the plates to such persons authorized by the Council or shall, in any way, prevent or hinder such persons from receiving or taking the same.

REGULATIONS

25. No person shall sell Christmas Trees of any type or size without first obtaining a Christmas Tree Vendor license from the Corporation to do so, and paying the license fee for required for a Christmas Tree Vendor as set out in the Business Licensing Fees By-law.

APPROVALS

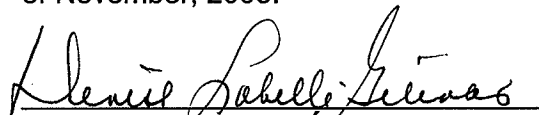
26. a) The issuance of a Christmas Tree Vendor license, shall be subject to the written approvals of the following:
1. Zoning Administrator;
 2. Owner of premises where sale of trees is to occur; and
 3. Fire Prevention Officer
27. a) No person shall store or keep Christmas trees in such a manner that they shall cause or endanger any building by fire.
- b) No person shall store or keep Christmas trees within twenty (20) feet of any building.
- c) No person shall store or keep Christmas trees within twenty (20) feet of any gasoline pump or other receptacle containing combustible material.
- d) That all Christmas Trees sold must display the provided "For Firesafe Christmas" tag.
- e) No Christmas Tree Vendor will begin to sell Christmas trees prior to November 1st of each year and will not sell after December 31st of that year.

- f) The Chief Building Official or designate, Fire Department Inspector, or Zoning Administrator shall require by written report that the license take any steps which is considered to be in the interest of public safety, with regard to the construction, maintenance and operation of a Christmas Tree Vendor By-law and any other Municipal By-law applicable.

PENALTY

28. Any person who contravenes the provisions of this By-law, including every person who fails to perform a duty imposed herein or who performs an act prohibited herein and every director or officer of a corporation who concurs in such a contravention is guilty of an offence and, upon conviction pursuant to the provisions of the Provincial Offences Act (as amended), is liable to:
- a) a penalty in the case of persons, other than a corporation, not to exceed \$25,000.00 or imprisonment for a term not to exceed one year or both;
 - b) a penalty in the case of a corporation, not to exceed \$50,000.00; and
 - c) an order closing the premises which are the subject of the contravention for a period not to exceed two years.
29. Where a provision of this By-law conflicts with a provision of another By-law in force in the City of Cornwall, provisions that establish the higher standards shall prevail in order to protect the health, safety and welfare of the general public.
30. A Municipal Law Enforcement Officer or a Cornwall Police Services Officer of the Corporation of the City of Cornwall shall enforce the provisions of this By-law.
31. It is the declared intention of the Council of the Corporation of the City of Cornwall that any section or part of a section of this By-law which shall subsequently be held to be illegal shall be severable from the remainder of the By-law and shall not be deemed to have persuaded or influenced the Council to pass the remainder of the By-law.
32. That By-law #111-1998 and #143-2002 and all other By-laws or parts of By-laws inconsistent with this By-law are hereby repealed. All licenses previously issued shall, during the period for which the same have been issued, remain in full force and effect, unless for other reasons the same are forfeited or revoked.
33. This By-law shall come into force and take effect on January 1, 2006.

Read a first, second and third time, signed and sealed, in open Council, this 14th day of November, 2005.


DENISE LABELLE-GÉLINAS
CITY CLERK


MAYOR PHIL POIRIER

ATTACHMENT "A"

**The Corporation of the City of Cornwall
#203-2005**

A to Establish Licence Fees
for the City of Cornwall

WHEREAS Section 150 of the Municipal Act 2001 permits municipalities to license, regulate and govern any business wholly or partly carried on within the municipality;

WHEREAS except as otherwise provided, a municipality may only exercise its licensing powers under this section, including imposing conditions, for one or more of the following purposes - health and safety, nuisance control, consumer protection;

WHEREAS a licensing or imposing any condition shall include an explanation as to the reason the municipality is licensing it or imposing the conditions and how that reason related to the purposed under the Municipal Act, 2001, Section 150, subsection (2);

WHEREAS it has been determined that it is appropriate to license, regulated and govern certain businesses for the purpose of:

- Health and Safety - being an activity or undertaking that could result in hazardous conditions, injury or loss, and/or
- Nuisance control - being an activity that adversely affects, or could possibly adversely affect, the 'quality of life' of any person(s), and/or,
- Consumer protection - being the prevention of unfair or potentially unfair business practice(s) that could result in loss(es) on the part of the consumer;

WHEREAS the report of the Chief Building Office dated October 17, 2005 includes an explanation as to the reason the municipality is licensing or imposing the conditions and how that reason related to the purposes under the Municipal Act, 2001, Section 150, subsection (2);

WHEREAS it has been determined that it is appropriate to license, regulate and govern businesses for the purposes and reasons as contained in Appendix 1 attached hereto;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF CORNWALL ENACTS AS FOLLOWS:

1. No person may carry on those business included in Appendix 1 attached hereto in the City of Cornwall without application for, obtaining and maintaining in good standing a licence, pursuant to the terms of the specific .
2. The fees for individual businesses, owners, operators and attendants are listed in Appendix 1 attached hereto.
3. This will take effect and come into force on January 1, 2006 and remain in force until December 31, 2010.

Read a first, second and third time, signed and sealed, in open Council, this 14th day of November, 2005.


DENISE LABELLE-GÉLINAS
CITY CLERK


MAYOR PHIL POIRIER

APPENDIX I

PROPOSED LICENSING S AND FEES

Licensing	Initial Description	Purpose for Licence	Additional Information	Initial Fee	Renewal Fee	Renewal Fee after May 1st
Adult Entertainment Attendant	License & Regulate	- Health & Safety - Nuisance		\$ 100.00	SAME AS	INITIAL
Adult Entertainment Establishment	License & Regulate	- Health & Safety - Nuisance	Owner/Operator (includes travelling shows)	\$ 1,400.00	\$ 1,200.00	\$ 1,250.00
Adult Entertainment Retail	Sale of Goods	- Health & Safety - Nuisance		\$ 300.00	\$ 200.00	\$ 215.00
Amusement Exhibition	License & Inspect	- Health & Safety - Nuisance	Tent	\$ 180.00	SAME AS	INITIAL
			Open Air	\$ 132.00	SAME AS	INITIAL
Amusement Place	License & Inspect	- Health & Safety - Nuisance		\$ 220.00	\$ 45.00	\$ 60.00
Auctioneer	License & Regulate	- Consumer Protection		\$ 15.00	SAME AS	INITIAL
Auto Repair & Public Garages	License & Inspect	- Health & Safety - Nuisance		\$ 150.00	\$ 41.00	\$ 56.00
Bed & Breakfast	License & Inspect	- Health & Safety - Nuisance		\$ 150.00	\$ 60.00	\$ 75.00
Body Rub Parlour	License & Inspect	- Health & Safety - Nuisance	Owner/Operator	\$ 1,400.00	\$ 1,200.00	\$ 1,250.00
			Attendant	\$ 60.00	SAME AS	INITIAL
Christmas Tree Vendor	License & Inspect	- Health & Safety - Nuisance		\$ 35.00	SAME AS	INITIAL
Dry Cleaning Depot	License & Inspect	- Health & Safety		\$ 60.00	\$ 35.00	\$ 50.00

Licensing	Initial Description	Purpose for Licence	Additional Information	Initial Fee	Renewal Fee	Renewal Fee after May 1st
Eating Establishment	License & Inspect	- Health & Safety		\$ 140.00	\$ 37.00	\$ 52.00
Escort Service & Escort Attendant	License & Regulate	- Health & Safety - Nuisance	Owner/Operator	\$ 1,400.00	\$ 1,200.00	\$ 1,250.00
			Attendant	\$ 50.00	SAME AS	INITIAL
Food Premises	License & Inspect	- Health & Safety		\$ 30.00	\$ 26.00	\$ 41.00
Hair Dressing Establishment	License & Inspect	- Health & Safety	First Chair	\$ 95.00	\$ 20.00	\$ 35.00
			Additional Chair	\$ 10.00	\$ 10.00	\$ 11.00
NOTE: If this license is combined with a "Personal Facility" license, then only half of this fee shall be paid for both initial and renewal licenses.						
Hobby Exhibition	License & Inspect	- Health & Safety - Consumer Protection	Tent - Open Air	\$ 40.00	SAME AS	INITIAL
			Indoor	\$ 38.00	SAME AS	INITIAL
Holistic Practitioners	License & Inspect	- Health & Safety		\$ 100.00	\$ 60.00	\$ 75.00
			Mobile Food Premises	\$ 130.00	SAME AS	INITIAL
			Hot Dogs	\$ 85.00	SAME AS	INITIAL
Pawnbroker	License & Inspect	- Health & Safety - Consumer Protection	Ice Cream Wagon	\$ 85.00	SAME AS	INITIAL
				\$ 200.00	\$ 115.00	\$ 130.00
Personal Service Facility	License & Inspect	- Health & Safety - Consumer Protection		\$ 80.00	\$ 30.00	\$ 45.00

Licensing	Initial Description	Purpose for Licence	Additional Information	Initial Fee	Renewal Fee	Renewal Fee after May 1st
Pet Stores	License & Regulate	- Health & Safety		\$ 70.00	\$ 30.00	\$ 45.00
Recycling Facility	License & Inspect	- Health & Safety - Nuisance - Consumer Protection		\$ 135.00	\$ 35.00	\$ 50.00
Rickshaw	License & Regulate	- Health & Safety - Consumer Protection		\$ 20.00	SAME AS	INITIAL
Salesperson (resident)	License & Regulate	- Health & Safety - Consumer Protection	Stationary	\$ 110.00	SAME AS	INITIAL
			Place to Place	\$ 50.00	SAME AS	INITIAL
Salesperson (non-resident)	License & Regulate	- Health & Safety - Consumer Protection	Place to Place	\$ 160.00	SAME AS	INITIAL
			30 Day - Stationary	\$ 130.00	SAME AS	INITIAL
Salesperson (non-resident)	License & Regulate	Health & Safety - Consumer Protection	New Business	\$ 140.00	SAME AS	INITIAL
Seasonal Stationary Food Premises	License & Inspect	- Health & Safety		\$ 175.00	\$ 135.00	\$ 150.00
Second Hand Goods	License & Inspect	-Health& Safety - Consumer Protection		\$ 175.00	\$ 150.00	\$ 165.00
Tobacco	License & Inspect	- Health & Safety - Consumer Protection		\$ 40.00	SAME AS	INITIAL
Transient Photographer	License & Regulate	- Consumer Protection		\$ 100.00	SAME AS	INITIAL

ATTACHMENT "B"

**The Corporation of the City of Cornwall
By-law #204-2005**

Respecting Appeal Procedure
for Municipal Licensing under Section 150
of the Municipal Act

WHEREAS Section 150 of the Municipal Act 2001 authorizes Council to pass By-laws for licensing, regulating, and governing local business.

AND WHEREAS Section 150 of the Act authorizes Council to pass By-laws for the licensing, regulating, governing, and classifying various classes of business through various By-laws under this section.

AND WHEREAS the Corporation of the City of Cornwall deems it advisable to set out an appeal procedure when the Chief Building Official refuses to issue, suspends, or revokes a license of By-laws passed under Section 150 of the Municipal Act.

NOW THEREFORE the Council of the Corporation of the City of Cornwall enacts as follows:

**NOTICE AND APPEAL PROCEDURE
FOR MUNICIPAL LICENSING**

DEFINITIONS: for the purpose of this By-law the following term is defined as follows:

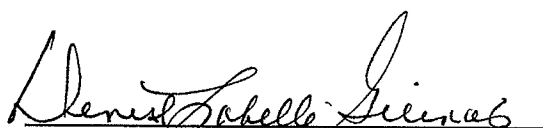
Council. - shall mean Council of the City of Cornwall.

1. Where the Chief Building Official refuses to issue, suspends, or revokes a license, the said Chief Building Official shall notify the applicant in writing of such decision and the said notice shall set out the grounds upon which the issue of the said license is refused and shall state that the Applicant or Licensee may appeal such decision by filing an appeal with the Clerk of the municipality within fifteen (15) days as set out in this By-law.
2. Where the Chief Building Official refuses to grant a license, suspends, or revokes a license under this By-law the Applicant or Licensee may appeal this decision to the Council of the Corporation by filing with the Clerk an appeal, in writing, of the said decision within (15) fifteen days of being notified of the decision of the Issuer of Licenses.
3. Upon receipt of an appeal from the applicant, the Clerk and Council shall follow the procedure set out in this By-law.

4. The Council of the Corporation may, after the appropriate hearing is conducted, grant a license, refuse to grant a license, revoke a license, or suspend a license and may make any suspension of license subject to such terms or conditions as Council may prescribe and a decision made pursuant to the exercise of these powers is final and binding upon the applicant or any licensee.
5. Council, in considering whether or not to grant a license, refuse to grant a license, or to revoke or suspend a license shall have regard to the following:
 - a) whether or not the Applicant or Licensee and the premise, facilities, equipment, vehicles and other personal property used or kept for hire in connection with the carrying on of a business which is licensed or which is required to be licensed, pursuant to this By-law, complies with all requirements of this By-law;
 - b) whether or not the Applicant or Licensee has failed to promptly remedy any reasonable concern with regard to those matters set out in this By-law or has committed past breaches of this By-law;
 - c) whether or not the Applicant or Licensee has failed to comply with any requirements of any other applicable By-law of the City of any Local Board thereof or of any statute, Order-in-Council, or Regulation of the Provincial Legislature or the Parliament of Canada, or of any Agency, Board or Commission thereof, in, upon or in connection with the licensed activity or the premise, facilities, equipment, vehicles and other property used or kept for hire in connection with the licensed activity;
 - d) whether or not the Applicant or Licensee has any outstanding fines imposed under the Provincial Offences Act for the contravention of any provision of this By-law;
 - e) whether or not the applicant/licensee or his tenant has any outstanding taxes owing to the City of Cornwall in respect of the business or premise in question.
6. Council shall comply with the following procedure in granting a license, refusing to grant a license, revoking or suspending any license issued under this By-law;
 - a) where Council wishes to consider whether or not to issue a license or to refuse to grant a license or to suspend or revoke a license issued under this By-law, the Clerk shall fix a date and time for such matter to be considered by Council and shall mail a Notice of Hearing to the Licensee (at his last address as shown in the records of the Chief Building Official or the current year's Assessment Roll) and to any other person who has applied to be heard with regard to the matter;
 - b) such Notice shall be mailed at least (15) fifteen days prior to the date and time fixed for such hearing;
 - c) at such hearing, Council shall receive a report, either verbally or in writing, from the Chief Building Official and from such other officers or employees of the Corporation who may be involved in the matter being considered by Council;

- d) at the hearing before Council, the Licensee, either personally or through his agent or solicitor, shall be afforded an opportunity to present such material and evidence relevant to the issue before Council as he may deem expedient and he may ask questions of any person presenting evidence or a report to Council relevant to the said issue.
7. Council may, in its sole discretion, afford any other person who applied to be heard and who appears to have an interest in the matters under discussion, an opportunity to present material and evidence relevant to the issue before Council and to ask questions of any person presenting evidence or a report to Council relevant to the said issues;
 8. Council may, after having heard all of the evidence and submissions made to it by the Applicant/Licensee, and the Chief Building Official resolve into the Committee of the Whole, to debate the matter and to reach its decision.
 9. The decision made by Council sitting as the Committee of the Whole shall be confirmed in open Council by Resolution immediately following the meeting of the Committee of the Whole and a certified copy of such Resolution and reasons shall be mailed to the Licensee, to any person who has appeared before Council and requested that a copy of the Resolution be provided to them, and to the Chief Building Official.
 10. The decision of Council to keep a license, refuse to issue a license, revoke a license or suspend a license may be subject to such terms as Council shall impose and shall be final.
 11. No person shall engage in, or continue to conduct, or permit any person to engage in or continue to conduct, a business for which a license is required under the By-law while such license is suspended or revoked under the provisions of this By-law.

Read a first, second and third time, signed and sealed, in open Council, this 14th day of November, 2005.


DENISE LABELLE-GÉLINAS
CITY CLERK


MAYOR PHIL POIRIER