

**The Corporation of the City of Cornwall
By-law # 198-2005**

Being a By-law of The Corporation of the City of Cornwall
to provide for licensing, regulating, governing
and inspecting Salespersons

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 salespersons, 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 nuisance and consumer protection has enacted a By-law to govern total class of salespersons.

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.

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.

Flea Market. - as defined in the Retail Exhibition By-law.

Jewellery. - shall mean objects of precious metal often set with gems and worn for personal adornment, and include watches, clocks, precious stones, silverware and costly ornaments.

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.

Pawnbrokers. - shall mean a person who loans money on the security of personal property pledged in his keeping.

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

Retail Exhibition. - shall mean a show which has one or more venders with goods, wares, or merchandise for sale, or who carry and expose samples, patterns, or specimens of any goods, wares, or merchandise that is to be delivered in the City of Cornwall afterwards.

Salesperson. - shall mean any person who goes from place to place or to a particular place with goods, wares or merchandise for sale or who carries and exposes samples, patterns or specimens of any goods, wares or merchandise that is to be delivered in the City of Cornwall afterwards. This also includes flea markets.

Second Hand Goods. - shall mean materials or articles, such as furniture, bottles, bicycles, cards, coins, computers and computer equipment, electronic games, electronic equipment, jewellery clothing, video games and equipment or any other material or article that has been previously owned by the seller or has been purchased by the seller, from a third party, for the purpose of reselling those articles or materials.

Second Hand Goods Shop. - shall mean a building or part of a building, booth, stall or place where second goods are stored, displayed or offered for sale by retail, but does not include a shop where the rental of goods represent the majority of the business.

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 Schedule 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 in 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.

REVOCATION 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.
2. 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 carry on the trade or occupation of a Salesperson within the City of Cornwall without first obtaining a Salesperson license from the Corporation of the City of Cornwall to do so, and paying the license fee required for a Sales person as set out in the business licensing fees By-law.

EXCEPTION

26. No such license is required for hawking, peddling, or selling goods, wares or merchandise:
- (i) to wholesale or retail dealers in similar goods, wares or merchandise, or
 - (ii) if the goods, wares or merchandise are grown, produced or manufactured in Ontario and are hawked, peddled or sold by the grower, producer or manufacturer or its agent or employee having written authority to do so, in the municipality in which the grower, producer or manufacturer resided, or
 - (iii) if the goods, wares, merchandise are grown or produced by a farmer resident in Ontario who offers for sale or sells only the produce of its own farm, or
 - (iv) if the goods wares or merchandise are hawked, peddled or sold by an agent of the grower, producer or manufacturer, acting on behalf of a dealer who operates a business within the City of Cornwall and is recognized within the municipal assessment roll as a business operation.
 - (v) by persons who sell milk or cream or fluid products to the consumer or to any person for resale, or
 - (vi) to persons, organizations, associations or groups who contribute to the enrichment of community life within the City of Cornwall provided that the person, organization, association or group is directly responsible for the retail operation and that all proceeds derived from the sale are used to further the enrichment of community life in the City of Cornwall, or

- (vii) to persons who are licensed under the provisions of the Retail Exhibition By-law.

27. The following licenses shall be issued in respect of a Salesperson:

RESIDENT SALESPERSON, shall mean any person who has continuously resided in the City of Cornwall for at least three (3) months and who are entered on the Municipal Assessment Roll.

- i) **License 'A'** to a Resident Salesperson who offers for sale goods, wares or merchandise from **place to place** within the City of Cornwall.
- ii) **License 'B'** to a Resident Salesperson who offers for sale goods, wares or merchandise from **a particular place** on an intermittent basis. (Refer to Section 4 a) for approvals)

NON-RESIDENT SALESPERSON, shall mean any person commencing business where one or more vendors with goods, wares or merchandise for sale, or who carry and expose samples, patterns or specimens of any goods, wares or merchandise that are to be delivered in the City of Cornwall for at least three months next proceeding the time of such business commencing, whose name is not entered on the Assessment Roll and who offer goods, wares or merchandise for sale.

- iii) **License 'C'** to a non-resident sales person who offers for sale goods, wares or merchandise from place to place within the City of Cornwall yearly.
- iv) **License 'D'** to a non-resident salesperson who offers for sale goods, wares or merchandise from a particular place and has not demonstrated the intent to establish the business in a permanent structure within the City of Cornwall. This license shall be valid for a period of thirty (30) consecutive days only, from the date of purchase.
- v) **License 'E'** to a non-resident salesperson who offers for sale foods, wares or merchandise from a particular place within the City of Cornwall on a yearly basis and has established the business within a permanent structure. The license will be required for the initial year of operation only.

APPROVALS

- 28. a) The issuance of **License 'B'**, shall be subject to the written approvals of the following:
 - 1. Zoning Administrator
 - 2. Fire Prevention Officer
- b) The issuance of **License 'D' and 'E'**, shall be subject to the written approvals of the following:
 - 1. Zoning Administrator
 - 2. Fire Prevention Officer
 - 3. Chief of Police or Designate

- c) The issuance of License 'C', shall be subject to the written approvals of the following:
 - 1. Chief of Police or Designate
- 29. a) The Fire Prevention Officer, or Zoning Administrator shall require by written report that the licensee take any steps which are considered to be in the interest of public safety, with regard to the operation of Salesperson from a particular place in accordance to the Ontario Fire Protection and Prevention Act, Municipal Zoning By-law and any other municipal By-law applicable.
- b) The license issued pursuant to this Schedule is not transferable from person to person or premises to premises.
- c) In a prosecution for a breach of this By-law, the onus of proving that one does not for any reasons mentioned in Section 1(b) require a license is upon the person charged.
- d) The issuance of a license to operate as a Salesperson within the City of Cornwall does not constitute the granting of authority by the Corporation for the operation of salespersons on privately owned property, without the property owner's consent. The liability to obtain such consent rests solely on the licensee.
- e) Any such servant or employee shall exhibit its authority when required to do so by any Municipal Law Enforcement Officer or Peace Officer.
- f) The licensee shall at all times, while carrying on its business, have the licensed issued by the Corporation of the City of Cornwall, and shall upon demand exhibit it to any municipal or peace officer, failure to do so the licensee will be guilty of an offence.
- g) No person shall in any park or facility owned or leased by the Municipality, sell or offer for sale, or expose any merchandise of any nature or kind, for immediate or future delivery without the written permission of the appropriate City of Cornwall department.

PENALTY

- 30. 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.

31. 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.
32. 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.
33. 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.
34. 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.
35. 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