

**The Corporation of the City of Cornwall
By-law #201-2005**

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

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 tobacco, 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 tobacco.

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.

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.

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

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

Tobacco Vendor. - shall mean the owner or operator of any store, shop or other place or premise wherein the sales of tobacco, cigars, or cigarettes are sold by retail.

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; 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.

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 keep a store, shop or other place where tobacco, cigars or cigarettes are sold by retail without first obtaining a Tobacco Vendor license from the Corporation to do so, and paying the license fee required for a Tobacco Vendor as set out in the Business Licensing Fees By-law.

APPROVALS

26. The issuance of a Tobacco Vendor license shall be subject to the written approval of the following:

Initial Only

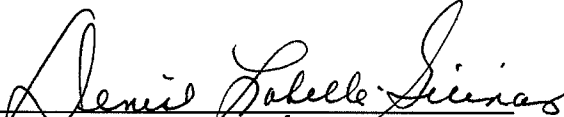
1. Zoning Administrator
 2. The applicant shall submit the required form of the Eastern Ontario Health Unit (E.O.H.U.) filled out and signed by a representative of the E.O.H.U. prior to the issuance of the license.
27. The Chief Building Official or designate, Fire Department Inspector, or Zoning Administrator may require by written report that the licensee take any steps which is considered to be in the interest of public safety, with regard to the construction, maintenance and operation of an Tobacco in accordance to the Ontario Building Code Act, Fire Protection and Prevention Act, Municipal Zoning 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