

**TOWN OF PENHOLD
BYLAW NO. 736/17**

BUSINESS LICENSING BYLAW

Being a Bylaw of the Town of Penhold in the Province of Alberta to provide for the control, regulation and licensing of all businesses within the Town.

WHEREAS: pursuant to the Municipal Government Act, being Chapter M-26, 2000, as amended (The Municipal Government Act MGA) a Council may pass bylaws for the municipal purposes:

- a) Respecting the safety, health and welfare of people and the protection of people and Property; and
- b) Respecting businesses, business activities and persons engaged in business;

And may in such bylaw:

- a) Regulate or prohibit;
- b) Provide for a system of licenses, permits or approvals;

NOW THEREFORE: The Council of the Town of Penhold in the Province of Alberta, duly assembled, HEREBY ENACTS AS FOLLOWS:

SECTION 1 ~ SHORT TITLE:

- 1. This Bylaw may be cited as the "BUSINESS LICENSING BYLAW".

SECTION 2 ~ DEFINITIONS AND INTERPRETATIONS

- 1. In this Bylaw all definitions contained in the Act shall apply.
- 2. Interpretations of this Bylaw shall be consistent with the requirements of the Act.

In this Bylaw:

- 3. "Act" means the Municipal Government Act, being Chapter M-26, 2000, and amendments thereto;



4. "Applicant" means a person who makes an application for a license or renewal of a license under the provisions of this Bylaw, and shall also mean a person who is appealing the refusal, revocation, or suspension of a license.
5. "Auctioneer" means any person who sells or offers for sale, by public or private auction, any real or personal property.
6. "Business" means
 - a) a commercial, merchandising or industrial activity or undertaking;
 - b) a profession, trade, occupation, calling or employment; or
 - c) an activity providing goods or services, however organized or formed, including a cooperative or association of persons.
7. "Business License" means a license to be issued, pursuant to this bylaw, for the purpose of licensing any business operating within the Town.
8. "Business Licensing Officer" means the municipal official appointed by the Chief Administrative Officer to administer and enforce the requirements of this Bylaw.
9. "Business Premises" means the store, office, warehouse, building, enclosure, yard or other space occupied or capable of being occupied by any person for the purpose of any business.
10. "Bylaw" means the Business Licensing Bylaw.
11. "Charitable or Non-Profit Organization" means a person, association of persons, or a corporation, acting for charity, or in the promotion of general social welfare as determined by the Business License Officer, and includes:
 - a) a religious society or organization;
 - b) a service club;
 - c) a community, veteran's or youth organization;
 - d) a social, sport or fraternal organization or club;
 - e) an employer's or employee's organization;
 - f) schools funded by the public, engaged in work or activity for which moneys remain in the school coffers or are donated to charity.
12. "Council" means the Municipal Council of the Town of Penhold, in the Province of Alberta.
13. "Development Permit" means a document authorizing a development issued pursuant to the Town's Land Use Bylaw".
14. "Farmers Market" means the business of conducting a public open market at which various vendors of goods lease a stall or space for the sale of goods directly by the producers, or their representatives who are involved in the production of local, fresh, dried or frozen foods and/or locally prepared and ready to eat foods and local artisan crafts.

15. "General Contractor" means the business of accepting contracts for a service, construction, alteration and repair of buildings or structures of any kind and the person or firm engaged in such business, and is responsible for the day-to-day oversight of the construction site, management of vendors and trades, and communication of information to involved parties throughout the course of a building project.
16. "Home Occupation" and "Home Based Business" means a business carried on as a secondary use of a dwelling unit and/or its accessory building by at least one of the permanent residents of such a dwelling.
17. "Land Use Bylaw" means the Town of Penhold Land Use Bylaw and any amendments to the Land Use Bylaw.
18. "Licensee" means a business license issued by the Business License Officer pursuant of this Bylaw.
19. "License Year" means a calendar year period commencing on January 1st and ending on December 31st.
20. "Non-Resident" means a person who is not a resident of the Town of Penhold.
21. "Non-Resident Business" means any business, which does not ordinarily locate or maintain a permanent place of business with the Town of Penhold.
22. "Sub- Contractor" means the business or person engaged in providing services to a portion of a contract from a General Contractor or another sub-contractor.
23. "Temporary Business" means commercial or industrial business activity, a profession, trade, occupation; or an activity providing goods or services, where the duration of the business activity is equal to or less than seven (7) days.

SECTION 3 ~ APPOINTMENT AND DUTIES OF A BUSINESS LICENSE OFFICER

1. The Business Licensing Officer is appointed by the Chief Administrative Officer and enforces the requirements of this Bylaw.
2. The Business License Officer shall:
 - a) administer and enforce the requirements of this Bylaw;
 - b) receive, review, approve, deny, revoke, renew or refuse renewal of Business License applications under this Bylaw;
 - i. if in his/her opinion, there are just and reasonable grounds for the refusal of the application or for the revocation or suspension of the Business License subject to the right of the applicant to appeal the refusal, revocation or suspension to the Licensing Appeal Board. Where a Business License is revoked or suspended, the Business License Officer shall notify the applicant;

- ii. If a Business License application is refused, revoked or suspended, the applicant may appeal the decision to the Town of Penhold Licensing Appeal Board.
 - c) Provide reports and advises the Chief Administrative Officer on business licensing, in such manner and at such times as required.
3. The Business License Officer may conduct investigations with regard to applications for a business license where necessary.
4. The Business License Officer may conduct inspections of any business to ascertain that the business complies with the requirements of this Bylaw.
5. Every person carrying on or engaged in any business is required by the Act, on the request of the Business License Officer, to give to the Business License Officer all information necessary to enable the Business License Officer the ability to carry out their duties.
6. The Business License Officer may inspect businesses as necessary to ensure compliance with this Bylaw.

SECTION 4 ~ NECESSITY FOR LICENSE:

1. No person shall within or partly within the Town of Penhold corporate limits:
 - a) carry on or operate any of the businesses, callings, trades or occupations, 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 Bylaw unless they hold a valid license issued pursuant to the provisions of this Bylaw.
2. All businesses shall apply for and obtain a business license except as exempted by Section 5.
3. All home-based businesses require a Development Permit approval before a Business License will be issued.
4. No person shall be issued a Business License without a valid development approval(s) issued by the Development Authority under the Land Use Bylaw where necessary.
5. In a prosecution for contravention of this Bylaw against engaging in or operating a business without a license, proof of one transaction in the business or that the business has been advertised is sufficient to establish that a person is engaged in or operates the business.
6. A licensee shall produce copies of the documents described in Section 6 to the Business Licensing Officer upon request.

SECTION 5 ~ BUSINESSES EXEMPTED FROM OBTAINING A BUSINESS LICENSE

1. A business license shall not be required for the following businesses:
 - a) Any Charitable or Non-Profit Organization under the Alberta Societies Act, and amendments thereto;
 - b) an architect's corporation, a joint firm, a registered architect or a visiting project architect under the *Architect's Act, Chapter A-44, R.S.A. 2000* and amendments thereto;
 - c) an Alberta land surveyor, a surveyor's corporation or a surveyor's partnership registered under the *Land Surveyor's Act, Chapter L-3, R.S.A. 2000* and amendments thereto;
 - d) a professional engineer, licensee, permit holder or certificate holder under the *Engineering, Geological and Geophysical Professions Act, Chapter E-11, R.S.A. 2000* and amendments thereto;
 - e) an auctioneer complying with the requirements of Section 5(3) of this Bylaw;
 - f) a business that is to be in operation for less than four months and which is owned and operated by full-time students;
 - g) an insurance agent or adjuster as described in the *Insurance Act, Chapter I-1, R.S.A. 2000* and amendments thereto;
 - h) a registered accountant as described under the *Chartered Accountants Association*;
 - i) a medical doctor who is registered with the *College of Physicians and Surgeons of Alberta*;
 - j) a dentist who is registered under the *Dental Association of Alberta*;
 - k) a barrister or solicitor as registered under the *Law Society of Alberta*;
 - l) a business who is working exclusively for the Town of Penhold;
 - m) a carnival or circus complying with Section 5(3) of this Bylaw;
 - n) newspaper and flyer delivery person who delivers the product to the house or business.
 - o) Residential garage sales, provided that the sale takes place on a residential property where that property owner, or primary resident when referring to residential rental properties, directly supervises and controls the sale to a maximum of four (4) weekends per calendar year.
 - p) Is a concession run by the Town or its employees on behalf of the Town.
 - q) Is carried on by a vendor of goods only as part of the activities of a Farmer's Market.

2. A Business License is not required for the above listed businesses provided that:
 - a) written notice is given to the Business Licensing Officer providing a description of the business, the time and place of the business, and the charitable or non-profit organization responsible,
 - b) that such written notice is provided not less than three (3) days prior to the start of the business,
 - c) that the proposed business complies with all bylaws of the Town of Penhold, and any other statutes or regulations,
 - d) that written approval has been provided by the Business License Officer, and

4. Any business may exhibit or carry on business at the location of a trade show or exhibition recognized by the Business License Officer for a consecutive period not exceeding Three (3) days without a business license being required.

SECTION 6 ~ LICENSE APPLICATION & RENEWAL PROCESS

1. An applicant shall make an application to the Business License Officer, in the form and manner prescribed by the Business License Officer, and shall provide such information as is required by the Business License Officer, including, but not limited to:
 - a) name of the owner of the business; .
 - b) name of the operator of the business;
 - c) name, address and telephone numbers of the applicant;
 - d) a description of the business;
 - e) the location of the business;
 - f) the name of the business; and
 - g) any required Municipal or Provincial approvals.
2. Full payment of all fees required by this Bylaw shall accompany each application for a business license.
3. An applicant for a business regulated by the Licensing of Trades and Businesses Act shall provide evidence, satisfactory to the License Officer, that the applicant is a holder of a license issued pursuant to the Trades and Businesses Act in respect to that business.
4. Where a business changes ownership, changes the form of its business, or changes the name of its business, an application shall be made as required by Section 6(1), accompanied by the fee as shown in Schedule "A".
5. The Business License Officer shall provide, by advertisement and written notice mailed to all current license holders, notice to apply for a license for the next license year. Such advertisement and notice shall be provided on or following December of each license year.
6. License Fees are due and payable prior to January 31.
7. Renewal payments received after the January 31 will incur a penalty as outlined in Schedule B.
8. Renewal of the business license is required for each subsequent calendar year and shall be accompanied by the appropriate fee as set out in Schedule "A" of this Bylaw.
9. Where a business subject to licensing is carried on or is intended to be carried on in more than one location within the Town of Penhold, a license shall be required in respect of each location as though the business carried on were a separate business.

10. All General Contractors are required to submit a list of their sub-contractors to the Town when applying for a Building Permit. General Contractors will pay fee as set out in Schedule "A".

SECTION 7 ~ LAND USE AND DEVELOPMENT CONTROL:

1. The issuance of business license under this bylaw does not constitute development approval under the Town's Land Use Bylaws. The holder of an existing business license or an applicant for a business license is responsible for obtaining such development approval as may be necessary. Where such approval cannot be obtained, the Business License Officer shall forthwith cancel any existing Business License and refuse any applications for license.

SECTION 8 ~ APPROVAL, SUSPENSION, OR REVOCATION OF A BUSINESS LICENSE

1. The Business License Officer may approve and issue a Business License to any business, following the submission of an application as required by this Bylaw, which complies with this Bylaw and all other Bylaws of the Town of Penhold, and any other statutes or regulations.
2. Where a license is issued by the Business License Officer it shall bear:
 - a) the identification of the Town of Penhold;
 - b) the license year;
 - c) the expiry date;
 - d) the classification of the business, as determined by the Business License Officer;
 - e) the name of the business; and
 - f) the location of the business.
3. Each business license issued shall be clearly displayed at the location of the business for which it was issued.
4. All licenses issued shall be conspicuously displayed at or near the main entrance of businesses that are carried on at a fixed location.
5. Every licensee who holds a license under this Bylaw which is not limited to specific premises, shall, so long as the license is in force, carry on the person or have immediately available the license, or a copy authorized by the Business License Officer, and such licensee shall, upon request, forthwith produce same to the R.C.M.P. Officer, a Community Peace Officer, a Business License Officer, a Enforcement Officer or any person with whom he is doing business, to which the license relates.
6. Each license issued shall expire at the end of the current license year.
7. A license is automatically revoked if payment of fees required by this Bylaw is made by cheque or other instrument which is not accepted by the financial institution on which it is issued.



8. The classification of the business, as determined by the Business License Officer, shall include all subsidiary and ancillary uses at that location operated by the same owner and no separate licenses or fees shall be required.
9. The Business License Officer may refuse to issue or renew a Business License, may suspend or revoke a business license and may impose any conditions on a license for the following reasons:
 - a) The applicant does not or no longer meets the requirements of this Bylaw with respect to the license applied for or held;
 - b) The applicant or licensee or any of its employees:
 - i. Furnishes false information or misrepresents any fact or circumstance to a Community Peace Officer or Business License Officer;
 - ii. Has, in the opinion of the Business License Officer based on reasonable grounds, contravened this Bylaw whether or not the contravention has been prosecuted;
 - iii. Fails to pay any fee outstanding required by this Bylaw; or
 - c) In the opinion of the Business License Officer, based on reasonable grounds, it is in the public interest to do so.
10. Where any certificate, authority, license, document or any qualification under this or any other Bylaw or under any Statute of Canada or the Province of Alberta is suspended, cancelled, terminated or surrendered, any license issued under this Bylaw based in whole or in part on such certificate, authority, license, document or qualification shall be revoked automatically forthwith, with no refund.
11. With respect to complaints relating to a business or businesses operation, if, in the sole opinion of the Chief Administrative Officer, or designate municipal resources are being disproportionately allocated to monitor and policing the subject business, that Business License shall be immediately revoked.
12. Where a license is revoked pursuant to Section 8(10) hereof, the licensee shall forthwith:
 - a) return the license to the Town of Penhold Office; or
 - b) furnish the Business License Officer within three (3) days with proof satisfactory to him, of a renewal or re-issuance of any certificate, authority, license, document, or qualification referred to in Section 8(10) hereof at which time the license will be considered for suspension, renewal or re-issuance.
 - i. Where an application for a Business License is refused, the Business License Officer shall forthwith advise the applicant of the reason or reasons for the refusal in writing.

- ii. Where in the opinion of the Business License Officer the loss of qualification under Section 8(10) is temporary, the Business License Officer may immediately suspend the license in question for a period not to exceed thirty (30) days. Re-issuance of the license after suspension shall be without the requirement to apply for a Business License.
- iii. Where a license is revoked or suspended the business shall immediately cease operating, and shall not commence operating until a Business License is approved and issued by the Business License Officer.

SECTION 9 ~ APPEAL

1. Where the Business License Officer refuses an application for a license, or suspends or revokes a license, the applicant may appeal the decision of the Business License Officer.
2. An applicant or licensee wishing to appeal the decision of the Business License Officer shall have five (5) business days from the date of refusal, revocation, suspension or issuance subject to conditions, in which to make a written request to the Chief Administrative Officer stating the basis of the appeal, accompanied by the fee as shown in Schedule "A"; otherwise the right of appeal shall be barred and extinguished.
3. The appeal shall be heard by the Licensing Appeal Board, which shall consist of three (3) members of Council at the time and place set by the Chief Administrative Officer.
4. The Licensing Appeal Board shall hear the appeal within fourteen (14) days of receipt and shall give forty-eight (48) hours notice of the hearing in writing to the applicant.
5. The Licensing Appeal Board may, following a hearing of the appeal;
 - a) confirm the refusal, revocation or suspension;
 - b) direct that the license be issued;
 - c) reinstate the revoked license; or
 - d) remove or vary the suspension.
5. Where the Licensing Appeal Board finds that, in its opinion, that fault does not lie wholly with the applicant, the Licensing Board may refund all or part of the fee required by Section 6(2).
6. A decision made by the Licensing Appeal Board on an appeal is final and binding on all parties.

SECTION 10 ~ LICENSE FEES

1. License fees shall be as prescribed by this Section and as prescribed by Schedule "A" of this Bylaw.
2. Except where a specific fee is provided for in Schedule "A" for that business classification, the general Business License fees prescribed by Schedule "A" shall be paid.
3. Where the Business License Officer determines that the business is a specific classification as shown on Schedule "A" then that fee shall be paid.
4. Where a business makes application for a business licence up to thirty (30) days prior to January 1st that Business Licence will be deemed valid through the next calendar year.

SECTION 11 ~ ENFORCEMENT & PENALTIES

1. Every person who violates any of the provisions of this Bylaw, who suffers or permits any act or thing to be done in contravention or in violation neglects to do or refrains from doing anything required to be done by any of the provisions of this Bylaw, is guilty of an offence against this Bylaw and liable to the penalties thus imposed. Each day that a violation continues to exist shall constitute a separate offence.
2. Any person in contravention of any provision of this Bylaw shall be liable to:
 - a) a penalty of:
 - i. first offence - \$300.00
 - ii. second and subsequent offences - \$500.00
 - b) Where the offence is for non-payment of any license fee payable hereunder, the convicting judge may judge payment of the business license fee in addition to any other costs.
 - c) All businesses operating within the corporate limits of the Town of Penhold must purchase their business license by no later than the 31st of January of that year, or a 15% penalty shall be added onto the outstanding license fees.
 - d) Businesses operating within the corporate limits of the Town of Penhold that have not purchased their yearly business license shall be prosecuted in accordance with Section 11(1).
 - e) A summons shall be served in accordance with the Provincial Procedures Act.
3. No person shall obstruct or hinder any person in the exercise or performance of the person's powers pursuant to this Bylaw.



SECTION 12 ~ GENERAL

1. Bylaw 619/05 and all any other Business License Bylaws and amendments prior to the date of this passing are hereby rescinded.

SECTION 13 ~ AMENDMENTS TO SCHEDULES

Town Council may by motion amend Schedules "A" & "B" from time to time as required.

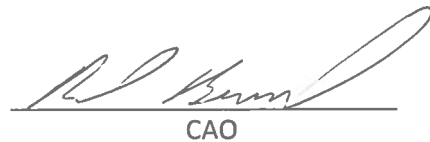
READ A FIRST TIME this 13th day of February, 2017.

READ A SECOND TIME this 27th day of February, 2017.

READ A THIRD TIME AND FINAL TIME this 27th day of February, 2017



Mayor



CAO



**TOWN OF PENHOLD
Bylaw 736/17
SCHEDULE "A"**

General Business License Fees

Resident	\$ 50.00
Non-Resident	\$ 100.00

Specific Classification Business License Fees

General Contractor with all sub-trades and subcontractors Up to eight (8) sub-trades	\$
600.00	

Each additional sub-trade shall be at \$ 50.00 per contractor

It should be noted that the General Contractor must submit a listing of all Sub-trades at the time of making a business license.

Non-Resident Single Contractor less than 7 day contract/ project duration	\$ 50.00
Non-Resident Single Contractor less than 3 month contract/ project duration	\$ 75.00
Non-Resident Temporary License (7 days or less)	\$ 50.00
Seasonal License (4 months or less)	½ the fee

Other Charges

Notice of Change for business Fee	\$ 25.00
Request for Appeal	\$ 100.00
Administrative Costs	\$ 20.00

*Where a Resident Business operates only after June 30th of any License year, the fee charged shall be 50% the fee shown on Schedule "A", with the exception of Temporary licenses, which will be as shown on Schedule "A".

**TOWN OF PENHOLD
Bylaw 736/17
SCHEDULE "B"
Specified Penalties**

SECTION	SPECIFIED PENALTY	PENALTY FEE
4	Engaging in or operating a business without a valid license	\$ 400
4(3,4)	Failure to obtain valid municipal, provincial or federal licenses, permits, approvals, inspections, clearances or insurances	\$ 200
6(7)	Failure to renew business license prior to January 31 deadline	Business License Fee + 15% penalty
8(9)	Failure to produce documents to the Business License Officer as required	\$ 200
10	Obstruct/hinder person in performance of powers	\$ 200

Note: Second and subsequent offenses will see the specified penalty fee doubled in nature