

THE CORPORATION OF THE TOWN OF COCHRANE

BY-LAW NO. 858-2012

BEING A BY-LAW RESPECTING  
THE ISSUANCE OF LICENSES FOR PEDLARS  
IN THE TOWN OF COCHRANE

**WHEREAS** Section 11 (2) of the *Ontario Municipal Legislation 2008* provides that a lower-tier municipality may pass by-laws respecting the following:

1. Economic, social and environmental well-being of the municipality.

**AND WHEREAS** Section 11 (3) of the *Ontario Municipal Legislation 2008* provides that a lower-tier municipality may pass by-laws respecting the following:

1. Economic Development Services
2. Business Licensing

**AND WHEREAS** the Council of The Corporation of the Town of Cochrane deems it desirable to enact a Licensing By-Law respecting Pedlars,

**NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWN OF COCHRANE HEREBY ENACTS AS FOLLOWS:**

**SECTION 1 - DEFINITIONS**

In this By-law:

1. **“Clerk”** means Clerk of the Town of Cochrane.
2. **“Council”** means the Council of the Town of Cochrane.
3. **“Chief of Police”** means the Chief of Police of the Cochrane Police Services.
4. **“Police Services”** means the Cochrane Police Services.
5. **“Enforcement Officer”** means the Clerk or his designate, and any member of the Cochrane Police Services.
6. **“License”** means a license issued by the Clerk or his designate under the terms of this By-law.
7. **“Person”** includes a corporation and the heirs, executors, administrators or other legal representative of a person to whom the context can apply according to law.
8. **“Resident”** means a resident, renting or owning property in the Town of Cochrane.
9. **“Public Hall”** means a building, including a portable building with a seating capacity for over 100 persons, that is offered for use or used as a place of public assembly but does not include a theatre within the meaning of The Theatres Act, or a building, except a tent, used solely for religious purposes.
10. **“Business”** means a trade, business or occupation and includes the sale or hire of goods or services on an intermittent or one-time basis, the showing for the purpose of sale or hire of samples, patterns or specimens of any goods and an activity or thing a local municipality may license under paragraph 6 or 7 section 236 but does not include:
  - (a) a manufacturing activity or an industry, except to the extent that it sells its products or raw material by retail;
  - (b) the selling of goods by wholesale; or

- (c) the generation, exploitation, extraction, harvesting, processing, renewal or transportation of natural resources.

“**Prescribed forms**” means the form set out in Schedule “C” of this by-law.

## **SECTION 2 - GENERAL PROVISIONS**

### **2.1 Licensing powers**

The power to license, regulate and govern a business includes,

- (a) the power to prohibit the carrying on or engaging in the business without a license;
- (b) the power to grant or refuse to grant a license;
- (c) the power to fix the time for which the license shall be in force;
- (d) the power to revoke or suspend a license;
- (e) the power to impose conditions as a requirement of obtaining, continuing to hold or renewing a license, including conditions,
  - i) requiring the payment of license fees;
  - ii) restricting the hours of operation of the business, and
  - iii) requiring the persons carrying on or engaged in the business to allow the municipality at any reasonable time to inspect places or premises used in the carrying on of the business and the equipment, vehicles and other personal property used or kept for hire in connection with the carrying on of the business.
- (g) the power to impose conditions, including special conditions, as a requirement of continuing to hold a license at any time during the term of the license;
- (h) the power to license, regulate or govern the place or premises used in the carrying on of the business and the persons carrying it on or engaged in it;
- (i) the power to regulate or govern the equipment, vehicles and other personal property used or kept for hire in connection with the carrying on of or engaging in the business; and
- (j) the power to exempt any business or person from all or any part of the by-law.

### **2.2 Administration of by-law**

Unless otherwise indicated, the administration of this by-law is assigned to the Clerk or his designate who may be delegate the performance of this functions.

### **2.3 Section 2 applies to all other parts**

All of the regulations contained in this Section of this by-law shall apply to all licenses required under the provisions of this by-law.

### **2.4 License - display**

No person holding a license issued pursuant to this by-law shall fail to:

- (a) with respect to premises, display the license in a conspicuous place in or on the said premises; or

- (b) with respect to a vehicle, display the license in a conspicuous place in or on the said vehicle; or
- (c) with respect to an individual, maintain the license on their person while conducting the activity for which the license was issued.

**2.5 License - application**

Applications for all licenses issued under the provisions of this by-law shall be made 5 business days prior to the event to the Clerk or his designate on prescribed forms provided by the Town of Cochrane.

**2.6 License - application - full information - required**

Every applicant shall provide in full, at the time the application is submitted, all of the information requested on the application form including:

- (a) The full name, residence address, business address and telephone numbers of the applicant and each partner, if any;
- (b) If the applicant is a company, corporation, club or organization, the head office address, business address and telephone numbers as well as the full names, addresses and telephone numbers of the principal officers thereof;
- (c) The names, addresses and telephone numbers of three character references and three business references; as well as:
- (d) payment of the prescribed license fee set out in Schedule "A" of this by-law;
- (e) any other document or information as may be required in any other Part of this by-law.

**2.7 License - application - subject to approval**

Every applicant will be subject to approvals from such municipal or provincial departments or agencies as the Clerk or his designate deems necessary.

**2.8 Contravention - other laws - prohibited**

The issuance or renewal of a license is not intended and shall not be construed as permission or consent by the Corporation for the holder of the license to contravene or to fail to observe or comply with any law of Canada or Ontario or any by-law of the Corporation.

**2.9 Revocation - license - surrendered - voluntarily**

The Clerk or his designate may revoke a license which is voluntarily surrendered by the holder for revocation.

**2.10 License - property of Municipality - transfer - prohibited**

Every license, at all times, is owned by and is the property of the Corporation and is valid only in respect of the person, company, club or organization and the premises and for the nature of business stated in the license, and no license may be sold, purchased, leased, mortgaged, charged, encumbered, assigned, pledged, transferred, seized, distrained or otherwise dealt with.

**2.11 Information - held by the Clerk - open to inspection**

Any application, comment, recommendation, information, document or thing in the possession of the Clerk or his designate pursuant to the provisions of this by-law shall be made available by the Clerk for an inspection:

- (a) by any person employed in the administration or the enforcement of this by-law; and
- (b) by any other person upon the consent, satisfactory to the Clerk, of the person, civic department, board, commission, authority or other agency which produced or submitted the application, comment, recommendation, information, document or thing;

Subject only to the limitations imposed by the *Municipal Freedom of Information and Protection of Privacy Act*.

**2.12 Inspections - Cochrane Police Services - other designated persons**

Subject to section 2.14 of this by-law, any member of the Cochrane Police Services or any person designated by the Council to enforce this by-law may, at all reasonable times and upon producing proper identification, enter and inspect any premises or any part of any premises licensed under the provisions of this by-law.

**2.13 No person - Obstruct - person who enforces**

No person shall obstruct, hinder or in any way interfere with any person designated to enforce this by-law.

**2.14 Inspection - dwelling - police - search warrant**

Except under the authority of a search warrant issued under the *Provincial Offences Act*, a member of the Cochrane Police Services or any person designated by the Council to enforce this by-law shall not enter any room or place actually used as a dwelling without requesting and obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused and entry made only under the authority of a search warrant.

**2.15 Records - to be kept - as required**

No person shall fail to keep any and all of the records required to be kept by the provisions of any section of any Part of this by-law.

**2.16 Deficiencies - specified - notice to applicant**

Where any determination is made that any premises or person named in the application does not receive the approvals required by this by-law, the reasons for the lack of the required approvals shall be specified, and the Clerk shall notify the applicant of all such reasons.

**2.17 License - not to be issued where by-law contravened**

No license shall be issued to any person in respect of any premises in which the carrying on or operation of the trade, calling, business or occupation for which the application is being made is in contravention of any by-law of the Corporation.

**2.18 License - term of expiry**

- a) A license issued under the provisions of this by-law for 'Pedlars' shall be valid only for the period of time for which it was approved. All such licenses shall expire on the date specified in the license.

**2.19 License - address - notification of change**

Every licensee shall notify the Clerk or his designate within seven (7) days of any change in his business or home address.

## 2.20 **License - special events - exemption**

Notwithstanding any other provisions of this by-law, any vendor selling products at special events (Festivals) only and not at any other location in the Municipality shall be exempt from the requirements to obtain a license under the provisions of this by-law.

## 2.21 **Standards - maintained**

No person licensed under the provisions of this by-law shall fail to maintain, on a continuous basis, the standards and requirements which were necessary to obtain the original approval of the license application, or have been imposed since the issuance of the license.

## **SECTION 3 - LICENSED ACTIVITIES**

### 3.1 **Pedlars**

- (a) No person without a license shall go from place to place or to a particular place with goods, wares, or merchandise for sale.
- (b) No person without a license shall carry and expose samples, patterns or specimens of any goods, wares or merchandise which are to be delivered within the Town of Cochrane.

### 3.2 **Exemption**

Section 3 does not apply to a person who peddles or offers for sale goods, wares or merchandise;

- (i) to wholesale or retail dealers in similar goods, wares or merchandise;
- (ii) if the goods, wares or merchandise are grown, produced or manufactured in Cochrane.
- (iii) if the person is selling milk or cream or fluid milk products to the consumer or to any person for resale.
- (iv) If the person, company, club or organization is establish in the Town of Cochrane.

License fees shall be waived for Pedlar offering goods, wares or merchandise for sale at the Cochrane Farmer's Market.

## **SECTION 4 - APPLICATION PROCESS**

### 4.1 **Application**

- (a) A license to engage in any activity listed in Section 3 of this By-law may be applied for by filing a completed application form 5 business days prior to the event, to be furnished by the Town of Cochrane.
- (b) The applicant shall furnish to the Municipality any additional information which the Clerk or his designate may direct to be furnished.

### 4.2 **Investigation**

The Clerk or his designate, upon receipt of a completed application form, shall direct any and all investigations which he/she deems reasonably necessary to determine if the proposed activity is in compliance with the terms and conditions of this By-law.

#### 4.3 **Issue of License**

- (1) After review of the application and any investigation undertaken pursuant to Section 4.2, the Clerk or his designate shall grant the license only if:
  - (a) the license fee and performance bond (return within 60 days), fixed by Section 4.9, and Schedule "A" of this By-law has been paid; and
  - (b) the proposed activity is in compliance with the terms and conditions of this By-law; and
  - (c) the proposed activity is not, nor is it likely to result in a breach of the law; and
  - (d) the proposed activity does not pose an unreasonable risk to public health and safety; and
  - (e) the proposed activity is in no way adverse to public interest.

#### 4.4 **Signature**

The Clerk or his designate, on behalf of the Town of Cochrane, shall sign all licenses issued pursuant to this By-law and such licenses.

#### 4.5 **Partnership**

- (1) Members of a partnership, when applying for a license pursuant to this By-law, shall list the name and address of each member of the partnership.
- (2) A license issued to a partnership pursuant to this By-law may be issued to one partner only.

#### 4.6 **License Personal**

No person shall enjoy a vested right in the continuance of a license and upon the issue, renewal, transfer, cancellation, or suspension thereof, the value of a license shall be the property of the Town of Cochrane.

#### 4.7 **Validity of License**

- (1) No license issued pursuant to this By-law shall be transferred to another person, or be valid at any designated place, except as indicated thereon, except with the written consent of the Clerk or his designate who shall consider Section 5 as well as all other provisions of this By-law, in considering the transfer.
- (2) **Transfer Fee** - The Transfer fee is \$10.00.

#### 4.8 **Expiry**

Any license issued pursuant to this By-law for activities set out in Schedule "A" of this By-law shall, unless the license expressly states otherwise, and unless they are sooner forfeited or revoked, in each case, expires on December 31<sup>st</sup> of each year.

#### 4.9 **Fees**

- (1) The respective sums of money set out in column 2 of Schedule "A" of this By-law, opposite the respective descriptions of licenses in Column 1, are hereby fixed as the amount of the fee for such license and which shall be paid before the issue of renewal or any license provided for herein. Unless otherwise specified, the fees shown are for the current calendar year or the portion thereof unexpired on the date of the application.

## **SECTION 5 - COMPLIANCE**

### **5.1 Posting Up**

- (1) Every person who, pursuant to this By-law, obtains a license which applies to premises, shall post the license in a conspicuous place on the premises in respect of which the license was issued.
- (2) Every person who, pursuant to this By-law, obtains a license shall, upon request from any person duly authorized by the Municipality, produce the license for inspection.

### **5.2 Inspection**

- (1) Any person duly authorized by the Municipality may, at any reasonable time, inspect as much of any house, place, or premises as is used for any activity in respect of which a license has been issued or is required under the terms and conditions of this By-law.
- (2) An inspection under Section 5.2 (1) shall not occur in any room or place actually used as a dwelling without the consent of the occupier except under the authority of a search warrant issued under the Provincial Offences Act.

### **5.3 Application of Schedules**

The regulations set out in Schedule "A" through Schedule "D" inclusive, shall form part of this By-law and every person applying for or holding a license issued pursuant to this By-law shall, in such application or in engaging in the activity in respect of which the license is issued, observe, comply with, and be governed by the regulations which relate to such person or activity.

### **5.4 Revocation**

- (1) Where the Clerk or his designate determines upon reasonable grounds that a holder of a license, issued pursuant to this By-law, has acted in contravention of this By-law, the clerk or his designate may revoke the license where such power to revoke may, pursuant to the Municipal Act or any other Act, be exercised by By-law of the Council of the Town of Cochrane.
- (2) The Clerk or his designate may, in the public interest, revoke any license to be effective immediately upon notice to the license holder.

### **5.5 Notice**

- (1) Notice of revocation of any license shall be signed by the Clerk or his designate and sent by registered letter to the address given by the licensee in his application for the license and upon such notice, the license revoked shall cease and terminate and be of no further effect.
- (2) After notice has been issued under Section 5.5 (1), the licensee shall forfeit possession of the certificate of license to the Clerk or his designate upon demand.

### **5.6 Power of Power**

The exercise of a power under this By-law is in the discretion of the Clerk or his designate and, without limiting such discretion, the Clerk or his designate may exercise its powers if,

- (a) the conduct of the applicant or licensee affords reasonable grounds for belief that the applicant or licensee will not carry on the trade, calling, business or occupation in accordance with the law or with honesty and integrity;

(b) in the case of a corporate applicant or licensee, the conduct of its officers, directors, employees or agents affords reasonable grounds for belief that the trade, calling, business or occupation will not be carried on in accordance with the law or with honesty and integrity.

5.7 The Clerk may at any time on its own initiative review any action taken by it under this by-law and may confirm or vary such action.

5.8 The Clerk shall, at the request of the applicant, licensee or former licensee, give reasons in writing for any action it takes under this section.

5.9 If a business license is revoked under this By-law, the former licensee is entitled to a refund of a part of the license fee proportionate to the un-expired part of the term for which it was granted.

5.10 **Applications - Other By-laws**

The provisions of this By-law and the issuance of a license hereunder shall not be deemed to authorize a contravention of any other By-law of the Town of Cochrane.

5.11 **Penalty**

Every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine equal to the licence fee that he /she should have paid and in addition thereto, a fine as provided for in the Provincial Offences Act.

5.12 **Powers of Arrest**

If a peace officer or police officer demands the production of a license of any person who is peddling, and the demand is not complied with, the officer may, in addition to any other penalty, lay information in the prescribed form and under oath, and requests a warrant for the arrest of such person before a judge.

**READ** a first and second time this 17<sup>th</sup> day of April, 2012.

\_\_\_\_\_  
**MAYOR**

\_\_\_\_\_  
**CLERK**

**READ** a third and final time this 17<sup>th</sup> day of April, 2012.

\_\_\_\_\_  
**MAYOR**

\_\_\_\_\_  
**CLERK**



THE CORPORATION OF THE TOWN OF COCHRANE

SCHEDULE "A" TO BY-LAW NO. 858-2012

LICENSE FEES

Column 1

Description of License

Column 2

Fee

Pedlars: (Sch. "B")

Persons who have not continuously  
resided in Town of Cochrane for one year  
prior to the application

\$500.00 Annum

\$50.00/day

\*\*Performance Bond of \$500 shall be paid and will be returned within 60 days of the event end date.

**THE CORPORATION OF THE TOWN OF COCHRANE**

**SCHEDULE "B" TO BY-LAW NO. 858-2012**

**RELATING TO PEDLARS**

**1. "PEDLAR" INCLUDES:**

- (a) any person who goes from place to place, or to a particular place, with goods, wares or merchandise for sale, or who carries and displays samples, patterns or specimens of any goods, wares or merchandise for which orders are taken and that are to be delivered in the Municipality afterwards; and
- (b) any corporation which has an employee or agent who goes from place to place or to a particular place with goods, wares or merchandise for sale, or who carries and displays samples, patterns or specimens of any goods, wares or merchandise for which orders are taken and that are to be delivered in the Municipality afterwards;
- (c) but excludes a consumer show open to the public or a trade show open by invitation or registration only, the primary purposes of which are the display of goods and products and not the direct sale of them.
- (d) but excludes any person, company, club or organization who is establish in the Town of Cochrane.

**2. Operating - without valid license - prohibited:**

No person shall, in the Municipality:

- (a) carry on the business of pedlar, or
- (b) be engaged in services to the public in connection with the business of a pedlar; or

without holding a current valid license for such business issued under the provisions of this by-law.

**3. License - of employee - transferable**

Notwithstanding section 3 of this by-law, the license of an employee of a pedlar requiring their own license shall be transferable to another employee upon the return of the original license issued by the Clerk or designate and upon the completion of an application form by the new employee.

**4. Exemption - from license - flea market - antique show**

A person who offers for sale or sells goods, wares or merchandise to the public at a flea market or antique show or such an event is not required to be licensed under this By-law.

**5. Exemption - from license - other circumstances**

Notwithstanding Section 3 of this by-law, no Pedlars License shall be required for peddling or selling goods, wares or merchandise:

- (a) to wholesale or retail dealers in similar goods, wares or merchandise; or
- (b) if the goods, wares or merchandise are peddled or sold by an agent of the grower, producer or manufacturer, acting on behalf of a dealer who pays tax in the Municipality in respect of premises used for the sale of such goods, wares or merchandise.

**6. Public park - permit - Corporation**

No person licensed, or required to be licensed, as a “pedlar” shall carry on the business of a pedlar in any public park in the Municipality except under a permit of the Corporation.

THE CORPORATION OF THE TOWN OF COCHRANE  
SCHEDULE "C" TO BY-LAW NO. 858-2012

TOWN OF COCHRANE  
APPLICATION FOR LICENSE

I hereby make application for a license for the year \_\_\_\_\_.

**Pedlar**

- \$500 per annum Starting on: \_\_\_\_\_
- \$50 per day From: \_\_\_\_\_ To: \_\_\_\_\_
- \*\*Performance Bond of \$500 shall be paid and will be returned within 60 days of the event end date.

**Location:** \_\_\_\_\_

<p><b><u>BUSINESS INFORMATION</u></b></p> <p>Name: _____</p> <p>Address: _____</p> <p>City, Postal Code: _____</p> <p>Telephone: _____</p> <p>Contact: _____</p>
--

<p><b><u>OWNER INFORMATION</u></b></p> <p>Name: _____</p> <p>Address: _____</p> <p>City, Postal Code: _____</p>
---

<p><b><u>BUSINESS REFERENCE INFORMATION</u></b></p> <p>Name: _____</p> <p>Address: _____</p> <p>City, Postal Code: _____</p> <p>Telephone: _____</p> <p>Contact: _____</p>
--

<p><b><u>BUSINESS REFERENCE INFORMATION</u></b></p> <p>Name: _____</p> <p>Address: _____</p> <p>City, Postal Code: _____</p> <p>Telephone: _____</p> <p>Contact: _____</p>
--

- Report Attach of Medical Officer of Health (if required).
- Report Attach of Zoning Administrator (if required).
- Report Attach of Chief of Police (if required).

**For office use only:**

- I hereby recommend that the within application be approved and the necessary license be issued to the applicant.
- I hereby recommend that the application within be not approved and that a license be not issued to the within applicant for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
**License Issuer**

\_\_\_\_\_  
**Date License Issued**

\_\_\_\_\_  
**License No.**

**THE CORPORATION OF THE TOWN OF COCHRANE**

**SET FINE SCHEDULE “D” TO BY-LAW 858-2012**

**PART 1 PROVINCIAL OFFENCES ACT**

<b>ITEM</b>	<b>COLUMN 1 SHORT FORM WORDING</b>	<b>COLUMN 2 OFFENCE CREATING PROVISION</b>	<b>COLUMN 3 SET FINE</b>
1	Fail to display licence on premises	Sec. 2.4 (a)	\$ 100.00
2	Fail to display licence on vehicle	Sec. 2.4 (b)	\$ 100.00
3	Fail to maintain licence on person	Sec. 2.4 (c)	\$ 100.00
4	Obstructing/interfering person designated to enforce by-law	Sec. 2.13	\$ 100.00
5	Failure to keep records as required	Sec. 2.15	\$ 100.00
6	Failure to maintain standards/requirements	Sec. 2.21	\$ 100.00
7	Without licence, going from place to place or to a particular place to sell goods	Sec. 3.1 (a)	\$ 100.00
8	Carrying and exposing samples, etc. which are to be delivered within municipality without licence	Sec. 3.1 (b)	\$ 100.00
9	Offer on an intermittent basis, goods etc. without a licence	Sec. 3.3.(1)	\$ 100.00
10	Transferring license to another person	Sec. 4.7 (1)	\$ 100.00
11	Failure to produce licence for inspection	Sec.5.1(2)	\$ 100.00
12	Carrying on business of Hawkers/ Pedlars without license	Sch. “B”, Sec. 3 (a)	\$ 100.00
13	Engaging in services to public in connection with business of Hawker /Pedlar without a license	Sch. “B”, Sec. 3 (b)	\$ 100.00
14	Carrying on business of Transient Trader without license	Sch. “B”, Sec. 3 (c)	\$ 100.00
15	As Transient Trader – Offer goods for sale	Sch. “C” Sec. 1 (a)	\$ 100.00
16	Fail to display licence on premises	Sec. 5.1	\$ 100.00

**NOTE:** Penalty provision for the offences indicated above is Section 5.11 of By-law No. 858-2012 a certified copy of which has been filed.