

	Chronological no.
BAND COUNCIL RESOLUTION	File reference no.

NOTE:

The words "from our Band Funds" "capital" or "revenue", whichever is the case, must appear in all resolutions requesting expenditures from Band Funds

		Cash free balance
The council of the		Capital account \$
Date of duly convened meeting	Province Ontario	Revenue account \$
_____ D M Y		

WHEREAS the people of the _____ have always been a sovereign people, and have historically affirmed and exercised their exclusive jurisdiction over their traditional territory;

WHEREAS the _____ has the authority to make such laws based on its inherent right of self-government and self-determination, as recognized and affirmed in the domestic laws of Canada, including the *Constitution Act, 1982*;

WHEREAS articles 3,4, 18, 20 and 23 of the *United Nations Declaration on the rights of Indigenous Peoples* ("UNDRIP") recognize the rights of Indigenous Peoples to autonomy and self-government in matters relating to their internal and local affairs in the exercise of their right to self-determination, as well as the right to freely pursue and control their economic development;

AND WHEREAS the Chief and Council of the _____ desire to make a bylaw for the licensing of businesses, callings, trades and occupations located on the _____ Nation Reserve;

AND WHEREAS the Chief and Council of the _____, pursuant to paragraphs 83(1) (a.l) of the *Indian Act, R.S.C., 1985, c. I-5*, may, among other things, make bylaws for the licensing of businesses, callings, trades and occupations;

AND WHEREAS the Chief and Council of the _____ deems it necessary that for the orderly conduct and administration of businesses, and for the health, welfare, safety and environment of the inhabitants of the _____ to establish a licensing regime for businesses, callings, trades and occupations;

NOW THEREFORE the Chief and Council of the _____, also known as the _____, hereby enacts the following bylaw:

1 - SHORT TITLE

1.1 This bylaw may be cited as the "_____ Business Licensing Bylaw".

2 - DEFINITIONS

2.1 In this bylaw;

"_____" or "_____" or "_____", as the case may be, means a band, as defined in section 2 of the *Indian Act*.

"Business" means, without limitation, a trade, occupation, employment or profession, vocation, commercial activity, or an enterprise which occupies or engages the time, attention, labour and effort of the licensee or person[s] for the purposes of gain, benefit, advantage, livelihood or profit, or, in which the licensee or person[s] shows willingness to invest time and capital with the anticipation of earning future income.

"Business Day" means any day except any Saturday, any Sunday, any day which is a federal legal holiday in Canada or any day on which banking institutions in the province of Ontario are authorized or required by law or other governmental action to close.

"Council" means the Chief and Council of the_____.

"Councillor" means the Councillor[s] of the_____.

"Effective Date" means the date on which this bylaw comes into force and effect following the enactment of a duly passed Band Council Resolution by Council.

"License" means a license issued under this bylaw.

"Business Licensing Committee" means a committee established by Chief and Council by Band Council Resolution to oversee business development and the business licensing program implemented pursuant to this bylaw.

"Licensee" means a person to whom a license is issued under this bylaw.

"Member" means a member of the_____.

"Occupation" means a business or profession as defined in this bylaw.

"Person" includes both natural and juridical persons, the latter including, but not limited to, corporations, as well as any combination of the two, including, but not limited to, partnerships and/or joint ventures.

"Profession" means a vocation, occupation or calling requiring special, usually advanced, education and skill, and as defined in this bylaw.

“Reserve” means the Reserve set apart for the use and benefit of the_____.

“Review Committee” means a committee established by Chief and Council by Band Council Resolution to serve as an impartial dispute resolution body pursuant to this by-law.

3- INTERPRETATION

3.1 In this bylaw the following rules of interpretation apply unless the contrary intention appears:

- (a) Headings are for convenience only and do not affect the interpretation of this bylaw;
- (b) The singular includes the plural and vice versa;
- (c) Words that are gender neutral or gender specific include each gender;
- (d) Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (e) The words “such as”, “including”, “particularly” and similar expressions are not used as, nor are intended to be interpreted as, words of limitation;
- (f) When the day on which something must be done is not a Business Day, that thing must be done on the following Business Day; and
- (g) In determining the time of day where relevant to this agreement, the relevant time of day is:
 - (i) for the purposes of giving or receiving notices, the time of day where a party receiving a notice is located;
 - (ii) for any other purpose under this bylaw, the time of day in the place where the party required to perform an obligation is located; and
 - (iii) if a period of time is calculated from a particular day, act, or event (such as the giving of a notice), that period is to be calculated exclusive of that day, or the day of that act or event.

4 - REQUIREMENTS OF LICENSE

4.1 Every person conducting or carrying on a business on the Reserve on or after the

Effective Date of this bylaw must hold a valid license issued under this bylaw.

- 4.2 Notwithstanding section 4.1, any person conducting or carrying on a business on the Reserve prior to the Effective Date of this bylaw must acquire a valid license within ninety (90) days of the Effective Date.
- 4.3 Any person carrying on more than one business on the Reserve shall obtain a separate business license for each business.
- 4.4 Where a business is conducted in or from more than one premise, the business conducted in or from each premise will be deemed a separate and distinct business and will require a separate license.
- 4.5 Every License granted under this bylaw will be deemed valid and will permit the licensee to carry on the business in a lawful manner.
- 4.6 The licensee shall at all times keep their license(s) prominently displayed in the location(s) for which the licence(s) is issued, in an area of the business premise to which the public has access.
- 4.7 While conducting or carrying on a business on the Reserve, licensees must at all times hold and maintain public liability insurance coverage of not less than two-million dollars (\$2,000,000.00) with respect to each business for which a license is held. The Business Licensing Committee may at any time request a copy of a valid Certificate of Insurance or other proof of insurance from a licensee(s). Failure to provide proof of insurance may result in the suspension or termination of the licensee's business license.
- 4.8 The Business Licensing Committee shall have discretion to assess each application on a case-by-case basis and, if appropriate, to modify or waive the requirement in section 4.7 herein which requires licensees to hold public liability insurance coverage of not less than two-million dollars (\$2,000,000.00).
- 4.9 All buildings or structures within or upon which licensees conduct or carry on a business must meet or exceed the requirements of provincial and federal building codes in effect at that time. It is the responsibility of the licensee to ensure they are in compliance at all times with the requirements of provincial and federal building codes.
- 4.10 The licensee must notify the Director of the Business Licensing Committee of any significant changes to the business, including, but not limited to:
 - (a) The mailing or business address;
 - (b) The type of business;

- (c) The area of the premises; and
 - (d) Any substantial physical alteration to the premises in which the business is conducted.
- 4.11 Upon the closing of the business, the licensee shall surrender the license to the License Administrator (Director) of the Business Licensing Committee.
- 4.12 A Person shall carry on business only in the name in which the business is licensed.
- 4.13 No Person shall publish or cause to be published any representation that the Person is licensed under this Bylaw if the Person is not so licensed.
- 4.14 For the purpose of this Bylaw, a business shall be deemed to be carried on within the Reserve if any part of the business is carried on in the Reserve, even if the business is being conducted from a location outside the Reserve.

5 - LICENSE APPLICATION

- 5.1 Every person who wishes to conduct a business on the Reserve must apply in writing, using the appended Form 2, to the Director of the Business Licensing Committee.
- 5.2 Every person applying for a license under this bylaw to operate a business that is governed and regulated by a professional body must supply proof of his or her qualifications and of the qualifications of the employees to carry on such a business:
- (a) The granting of a license to a business regulated by a professional body is not an endorsement of the validity of that Person's qualifications.
- 5.3 Where the applicant is a corporation or a partnership, proof of incorporation or partnership must be provided with the completed Form 2.
- 5.4 In the event of a transfer of the business for which a license has been issued, the Director of the Business Licensing Committee may permit the transfer of the license from one premise to another, provided:
- (a) The prospective licensee has completed an application in form 2;
 - (b) The prospective licensee has paid the fee under section 7.1 of this bylaw; and
 - (c) the proposed business premises comply with the terms of this bylaw.

- 5.5 In the event of a sale of the business for which a license has been issued, the Director of the Business Licensing Committee may permit an assignment of the license to the purchaser of the business, provided:
- (a) the proposed assignee has completed an application (Form 2);
 - (b) the proposed assignee has paid the fee under section 7.1 of this bylaw; and
 - (c) the proposed assignee meets the provisions of this bylaw to carry on the business for the licence that was issued.

6 - LICENSES

- 6.1 A license is granted for a two [2] year period commencing on the date it is approved by the Business Licensing Committee. Licenses must be renewed by completing and submitting to the Director of the Business Licensing Committee a Form 2 by the end of the two [2] year period.
- 6.2 Failure to renew the License will cause the license to expire and be suspended. Licenses may be renewed and reinstated from suspension for non-timely renewal in accordance with sections 7.2 of this by law.
- 6.3 It is the responsibility of any business that is professionally regulated to ensure its continued compliance with the applicable regulatory regime in place.
- 6.4 Any business whose professional qualifications expire will be deemed to have had its license revoked effective as of the expiration of the aforesaid professional qualifications.
- 6.5 A license will specify the time period, type and location of the business the licensee is permitted to conduct.
- 6.6 A license will be issued in the Form 1 appended to this document.

7 - FEES

- 7.1 The fee or fees payable for a business license, including but not limited to license renewal, building service and frontage fees, transfer and assignment are prescribed in the enclosed Fee Schedule.
- 7.2 Where a licensee has not renewed the license on or before the expiry date as set out in section 6.1 of this bylaw, the license will be suspended and the licensee will have thirty [30] days after the expiry to renew the license and have the license reinstated by completing application in Form 2 and will pay the license fee described in section 7.1.

- 7.3 Where a suspended license has not renewed the license within the thirty [30] days after the expiry date as set out in section 7.2(a) of this bylaw, the suspended licensee will have another seventy-five [75] days to renew the license and have the license reinstated by completing application in Form 2 and must pay the license fee set out in section 7.1 of this bylaw. The license will be revoked if not renewed at the end of this time.

8 - REFUND

- 8.1 No license fee paid pursuant to this bylaw will be refunded.

9 - ISSUANCE OF LICENSE

- 9.1 The Business Licensing Committee shall, upon receiving an application for a business license, promptly approve and issue a license to the applicant provided that:
- (a) the Business Licensing Committee is satisfied that the applicant's business complies with other _____ bylaws;
 - (b) the application complies with this bylaw;
 - (c) the applicant has disclosed all required information in the application form and the Business Licensing Committee is satisfied under sections 12.1 [c]-[d] of this bylaw;
 - (d) the applicant's business would not be detrimental to the health, welfare, safety and environment of inhabitants on the Reserve;
 - (e) the required fee for the license has been paid;
 - (f) the Business Licensing Committee has posted the application for community review for a period of not less than thirty (30) days, and any issues or objections raised by members have been resolved to the Business Licensing Committee's satisfaction.
- 9.2 Every license granted pursuant to this bylaw will be produced in duplicate with one copy issued to the licensee and the other retained by the Business Licensing Committee and the Band Manager. The license so issued will be deemed a personal license to the licensee.
- 9.3 If the Business Licensing Committee is not reasonable satisfied with information received from the applicant or licensee under section 9.1 of this bylaw, the

Business Licensing Committee shall forthwith serve the applicant notice in Form 3 of the refusal to issue the license.

- 9.4 The notice described in section 9.3 of the bylaw will be served personally or by registered mail to the applicant at the address shown in the license application.

10 - APPEAL

- 10.1 A separate Review Committee shall serve as an impartial dispute resolution body under this by-law.
- 10.2 Chief and Council shall, by Band Council Resolution, appoint the members of the Review Committee, which shall be composed of three (3) band members, none of whom may be currently serving on Council or on the Business Licensing Committee.
- 10.3 Pursuant to section 9, in the event that the Business Licensing Committee refuses to issue or renew a business license, the applicant/licensee may, within thirty [30] days of service of the notice under section 9.4 of this bylaw, apply to the Review Committee for a review of the Business Licensing Committee's decision by completing and filing Form 4 with the Business Licensing Committee.
- 10.4 The Business Licensing Committee, upon receipt of Form 4, shall submit to the Review Committee:
- (a) a copy of the original license application as completed by the applicant and copies of any supporting documentation accompanying the license application;
 - (b) a copy of the applicant's completed Form 4; and
 - (c) a copy of the Business Licensing Committee's refusal and reasons for refusal.
- 10.5 Upon receipt of the material described in section 10.2 of this bylaw, the Review Committee shall determine the time and date of the review hearing, which will be at least fifteen [15] days from the receipt of the material described in section 9.2 of this bylaw, but no more than forty-five [45] days and shall advise the Business Licensing Committee of its decision.
- 10.6 Upon receiving the decision of the Review Committee as described in section 10.3 of this bylaw, the Business Licensing Committee shall forthwith serve notice of the decision in Form 5 on the applicant by personal service or registered mail at the

address shown in the license application.

- 10.7 The Review Committee shall hold the review hearing at the time and date set out in Form 5. The applicant will be given at least seven [7] days' notice of the hearing.
- 10.8 The applicant may be represented at the review hearing by a representative and the applicant or counsel may adduce evidence, submit argument in support of the application for license, answer any objections that may arise, and examine or cross examine witnesses.
- 10.9 At the review hearing, the Business Licensing Committee is entitled to submit arguments in reply to evidence and arguments presented by or on behalf of the applicant.
- 10.10 At the review hearing, the onus will be upon the applicant to show just cause why the license applied for should be granted.
- 10.11 The Review Committee will give its decision in writing to the Business Licensing Committee and the applicant at the time of the completion of the review hearing.
- 10.12 If the applicant agrees at the review hearing to accept conditions upon the license, the Review Committee may render a decision granting the applicant the license applied for upon such conditions as it considers fair and appropriate.
- 10.13 All review hearings will be held in camera. The decision resulting from the review hearing will be made public and any minutes of the review hearing will be available to the public.
- 10.14 If the Review Committee renders a decision granting the applicant the license applied for, the license will be issued upon the applicant complying with this bylaw.
- 10.15 All decisions of the Review Committee shall be final.

11 – APPOINTMENT OF LICENSING COMMITTEE & LICENSE ADMINISTRATOR

- 11.1 Chief and Council shall, by Band Council Resolution, appoint the members of the Business Licensing Committee, which shall be composed of three (3) sitting members of Council and three (3) other band members.
- 11.2 Chief and Council shall, by Band Council Resolution, appoint the Director of Business Licensing Committee to be the license administrator.

12 - DUTIES OF DIRECTOR OF LICENSING COMMITTEE AS LICENSE ADMINISTRATOR

12.1 The Director of the Business Licensing Committee shall:

- (a) receive and process all applications, appeals, renewal, transfers and assignments of licenses to be issued, together with their particulars;
- (b) maintain a record of all application and fees for licenses and retain on file a copy of all licenses issued, together with their particulars;
- (c) ascertain, as far as reasonably practicable, that all information furnished by the applicant in connection with an application for a license is accurate;
- (d) make any investigations required by section 9.1 of this bylaw or by the Chief and Council, relative to an application;
- (e) ensure that all applications are posted for community review for a period of not less than thirty (30) days;
- (f) in response to receipt of a written complaint, with the consent of the licensee [such consent not to be unreasonably withheld] make inquiries and inspect premises to determine whether every holder of a license issued under this bylaw complies with the license issued and the bylaws of the Council, and no licensee shall obstruct or hinder the making or completing of the inspection;
- (g) report annually in writing to the Chief and Council, stating the number of licenses issued, the type of business conducted under each license, and the fees received along with a summary stating the total number of licenses issued and the total amount of money received to date for the current year; and
- (h) perform such other duties as may be requested by Council from time to time to administer the affairs of the Band.

13 – REVOCATION OR SUSPENSION OF LICENSE

13.1 Council shall, by band council resolution, and after giving notice in Form 6 and holding a hearing, [i] suspend for a period not exceeding ninety [90] days, or [ii] revoke, any license issued under this bylaw, where it has come to Council's attention that the licensee:

- (a) has failed to comply with this bylaw;
- (b) is carrying on a business that fails to comply with all provisions in any of the other ____bylaw(s); or

- (c) has conducted the business in a manner that is detrimental to the health, welfare, safety and environment of Aamjiwnaang First Nation members.

13.2 Council shall grant the licensee at least seven [7] days' notice of the hearing referred to in section 13.1 of this bylaw in Form 6 and the Director of Business the Council will serve Form 6 personally or by registered mail to the licensee at the address shown in the license application, but if a licensee who by reasonable efforts of the Council and the Director of Business Licensing Committee Council cannot be found and has not come forward then the notice will be deemed to be duly served and an **ex parte** decision will be issued against the licensee.

13.3 The Director of the Business Licensing Committee shall post the notice of suspension or revocation of a license by the Council upon the premises for which the license was issued and the notice must not be removed until the license is reinstated or the licensee ceases to occupy the premises, or a new business other than the one carried on by the former licensee is licensed on the premises.

14 - CONFLICT OF INTEREST

14.1 The Chief and each Councillor shall declare conflict of interest whenever a conflict of interest situation arises and shall recuse themselves from any decision involving an application made under this bylaw.

15 - ENFORCEMENT

15.1 Any person operating a business without a license may be subject to a fine not to exceed \$100/CDN dollars per day for each day in which the business operates without an authorized license.

15.2 The Council may charge a licensee, whether expired, revoked or suspended, with all reasonable costs which are incurred in the collection of all fees, fines, penalties and other costs imposed by this bylaw.

16 – PRIVACY OF PERSONAL INFORMATION

16.1 Aamjiwnaang First Nation is committed to protecting its members privacy. Aamjiwnaang First Nation respects the privacy of its members and will protect that privacy as vigorously as possible.

16.2 Personal Info Collected – Aamjiwnaang First Nation does not automatically gather any specific personal information from its members, such as name, phone number or email address. All personal information (defined as information about an identifiable individual, excluding business information) held or collected by Aamjiwnaang is protected under the federal Privacy Act. Aamjiwnaang First Nation does not collect information that personally identifies individuals except when

individuals provide such specific information on a voluntary basis. This information is only obtained if provided voluntarily.

- 16.3 Personal Information provided as part of the Business License Application is provided only to the Aamjiwnaang First Nation staff, who requires the information to respond to inquiries and process applications. This information is not used for any other purpose. No information sent to Aamjiwnaang First Nation is used for any other reason than to respond to and maintain a record of the application process. This information is not sent to third parties or retained for mailing list purposes.
- 16.4 Aamjiwnaang First Nation does not sell, trade, or rent personal information to others. Aamjiwnaang First Nation may provide aggregate statistics about businesses, and related site information to relevant committees and internal organizations. These statistics will include no personally identifying information.

17 – PROHIBITED BUSINESSES

- 17.1 The following types of businesses are not eligible to receive business licenses under this bylaw, and are therefore prohibited from operating on the Reserve:
- (a) “Nude encounters” or any synonymous word or phrase: A discussion or interaction session engaged in between a representative of the business and a customer for which a fee is paid to such representative and either one or both parties thereto are unclothed, or any activities substantially similar thereto.
 - (b) "Exotic entertainment" means a nude or semi-nude activity performed for an audience of 1 or more persons, wholly or partially designed to appeal to sexual appetites or inclinations.
 - (c) “Erotic telephone call service” or any synonymous word of phrase: The offering or providing of a discussion of sex in an erotic, lewd, or lascivious manner, such discussion to take place via the telephone and for a fee.
 - (d) "Escort service" means any business which offers to provide or does provide introductions, for a person or persons with another person or persons for a period of companionship for which a fee is charged, levied or otherwise imposed for each occasion an introduction is made.
 - (e) “Dangerous trades” means any business that uses land or erect or use any building for any dangerous trade unless precautions satisfactory to the Band Council have been taken or will be taken to ensure that no danger to health or dangers from fire or explosions will

occur, which precautions may include work or works necessary to prevent any contamination as described in the Environmental Protection Act, Ontario or the Canadian Environmental Protection Act and of their subsequent amendments, whichever is more stringent.

- (f) “Noxious or offensive emission” means any business shall use land or erect or use any building for any business or trade or calling which may be noxious or offensive by reason of the emission or production of odour, dust, refuse matter, wastes, vapour, smoke, gas, vibration or noise.

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FORM 1**BUSINESS LICENSE**

_____ is hereby authorized to conduct a business, calling, trade
(NAME OF LICENSEE)

or occupation in the following _____ on the _____ for
(COMMERCIAL ACTIVITY)

the period commencing _____, 20____, and expiring _____, 20____.
(DATE)

(DATE)

(NAME OF BUSINESS)

(LOCATION OF BUSINESS)

(SIGNATURE OF LICENSE ADMINISTRATOR)

(SIGNATURE OF LICENSEE)

(DATE)

FORM 2

DATE: _____

BUSINESS LICENSE APPLICATION

1. Applicant's Name: _____
2. Applicant's Date of Birth: _____
3. Applicant's Address: _____
(Residence)
4. Name of Company proposed as Licensee: _____
5. Mailing Address: _____
(Partnership/Corporation if different)
6. Phone Number: residence: _____ office: _____
7. Fax Number: residence: _____ office: _____
8. Name of Business to be licensed: _____
9. Address of Business to be licensed: _____
10. Name of Individual in charge at this location: _____
11. Title of Individual in charge: _____
12. Type of Business: _____
13. Have you previously had a business license from this First Nation: Yes___ No___
14. Are you presently registered with the federal government or a self-regulating professional body with respect to the conduct of your business: Yes___ No___
(if yes, applicant must provide proof and give details below)
15. Are you bonded with a bonding agency with respect to the conduct of your business:
(if yes, applicant must provide proof and give details below) Yes___ No___
16. Is the business incorporated: Yes___ No___ Federal___ Provincial___
(if yes, applicant must provide proof and give details below - registration)
17. Is the business administered by a partnership: Yes___ No___
(if yes, applicant must provide proof and give details below - registration)

NOTE: PLEASE READ SECTION 8 OF THIS BYLAW WHICH OUTLINES THE CONDITIONS WHEREBY YOUR LICENSE COULD BE DENIED, REVOKED OR SUSPENDED.

FORM 3

NOTICE OF LICENSE REFUSAL

TO: _____
(NAME OF APPLICANT)

(ADDRESS OF APPLICANT)

RE: _____
(LOCATION OF BUSINESS)

TAKE NOTICE that pursuant to the _____ Business Licensing Bylaw your application to: ___ receive, ___ renew, ___ transfer, ___ assign: a BUSINESS LICENSE is refused for the following reasons:

-
-

AND take NOTICE that you have 30 days from the date of this **NOTICE** within which you may apply for a review by Council by completing and filing Form 4 of the said bylaw.

AND take further NOTICE that if you file a request for review a hearing will be conducted for which you will be notified of the time and place to attend.

Dated at _____ this ____ day of _____, 20__.

LICENSE ADMINISTRATOR

CHIEF

FORM 4

REQUEST FOR REVIEW HEARING

TO: Council of the _____

c/o _____
(BAND ADMINISTRATOR)

PURSUANT to the _____ on Business Licensing Bylaw, I hereby appeal the decision as outlined in the **NOTICE OF LICENSE REFUSAL**, dated the ____ day of _____, 20____ and signed by the License Inspector to refuse to:

____ issue; ____ renew; ____ transfer; ____ assign;

a **BUSINESS LICENSE** for the following business located at:

ON the following grounds:

- 1.
- 2.
- 3.
- 4.

Dated at _____ this ____ day of _____, 20____.

(Printed Name of Appellant)

(Appellant's Signature)

(Address to Which all Notices to Appellant are to be Sent)

FORM 5

NOTICE OF REVIEW HEARING

TO: _____
(NAME OF APPELLANT)

(ADDRESS OF APPELLANT)

RE: _____
(LOCATION OF BUSINESS)

PURSUANT to the _____ Business Licensing Bylaw, Council will hear your Request for Review Hearing dated the ____ day of _____, 20__ relating to the above noted business.

AND take **NOTICE** that this Review Hearing will be held at the hour of ____ (a.m./p.m.) on the ____ day of _____, 20__ at the following location:

AND take further **NOTICE** that you should bring to the hearing all relevant documents pertaining to this matter.

Dated at _____ this ____ day of _____, 20__.

(License Administrator Signature)

MOVED BY: [Councillor]

SECONDED BY: [Councillor]

Quorum

_____	_____	_____
(Councillor)	(Councillor)	(Councillor)
_____	_____	_____
(Councillor)	(Councillor)	(Councillor)
_____	_____	_____
(Councillor)	(Councillor)	(Councillor)

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