

**Memorandum in Support  
of the First Nation  
Business Licensing Law**



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# What is the Purpose?

- Business licensing laws are established to organize business activities and the business owner engaged in business on the First Nation lands.
- Determine what is important for the First Nation to develop a business licensing law. What is the comprehensive community plan and any strategic plan.
- This will provide a framework for the purpose of the law.

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# First Nation Capacities

- Laws are based on issues the First Nation wants to address and what capacities that they have available to manage the issues.
- The law is only part of that system or plan.
- Ideally, the law would have a management plan on which it is based on. The management plan and law can mobilize and coordinate those resources and capacity to address business licensing.

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# Assessing Capacities

- First Nations can assess their resources and capacities to address business licensing.
- Consider training, inspections, testing, lands, building, health and safety, enforcement, and financial support.

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# Roles of Chief and Council

- There are different options that the First Nation can explore;
  - Chief and Council can review all the information and give the final approval for a business licensing;
  - Chief and Council can appoint an individual; or
  - Chief and Council can appoint an advisor committee

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# Roles of Committee

- If your First Nation decides to have a committee with a role in the business licensing approval process, there are some considerations.
- What are the guidelines on what types of authorities the committee has and who comprises the committee in the law;
- Does the committee receive the application and review all the documents with the authority to approve the applications for business licence or make recommendations to Chief and Council

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# Economic Development Officer

- What is the role and authority of the economic development officer?
- Does the economic development officer assist the business owners with applications for the business licence?
- The First Nation Business Licensing Law should consider the role of the Economic Development Officer before including the role in the law

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# Community Zoning

- Does the First Nation have specific zoning for business locations?
- This may be set out in a law or a policy or what is occurring in the First Nation on the ground.
- The law should support that process of locations parameters?
- Does the First Nation have land leases for other possible business ventures?

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# Due Process

- Does process requires that decision about things like approving licences are fair, reasonable, and follows the law?
- Once the law is enacted, the First Nation must provide for things like transparency on the process, notice to the applicant when a decision is to be made about the licence and provide an opportunity to be heard and know the reasons for any denial of the licence.

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# Appeal Process

- An appeal process should be included in the law.
- Does the First Nation already have an appeal process developed?
- The appeal process should be consistent with other appeal processes.

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# Business Licensing Law Template

- Utilizing the business licensing law template, it is important to customize the law for your First Nation.
- Communicate the law in a clear way to the First Nation members and to individuals that will be affected by the law.
- Review the current First Nation Constitution, by-laws, regulations, and laws to ensure consistency with terms, definitions and formats.

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# Business Licensing Law Template

- Determine what a First Nation Business Licensing Law would look like, one should begin with possible options of what benefits would the First Nation want from a Business Licensing Law.
- Be aware of any legislative requirements and consider the *Indian Act*, federal and/or provincial law as well as out treaty and Aboriginal Rights.
- The *First Nation Lands Management Act*, *First Nation Land Code* and the *Indian Act* can provide a legislative framework to recognize or “enable” the First Nations law

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# Other Considerations

- Each First Nation that considers the development of a business licensing law should also make immediate amendment to their existing laws and by-laws to ensure their other laws are not inconsistent with existing community laws including any: zoning by-laws, cannabis laws, tobacco sales, sales of fuel.

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# Independent Legal Advice

- Given the unique circumstances, capacities, goals and objectives, history and rights it is highly recommended that each First Nation obtain independent legal advice before considering the development or enactment of any business licensing law including the drafting based on the template accompanied by this memo.

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