



SHAWANAGA FIRST NATION

BUSINESS LICENCE LAW 2022

**GOVERNING THE USE OF LANDS FOR BUSINESSES
LOCATED ON SHAWANAGA FIRST NATION LANDS**

Schedule "A" to Band Council Resolution No. 22-17-605CM

SHAWANAGA FIRST NATION BUSINESS LICENCE LAW 2022

Short title: “Shawanaga Business Licence Law 2022”

Date enacted: 28 March 2022

Coming into force: 28 March 2022

WHEREAS:

1. Shawanaga First Nation and its people have a profound relationship with the land that is rooted in respect for the spiritual value of the earth and the gifts of the Go-iji-mi-nigo-izit Anishinabe, the Creator and shall preserve its connection to the land;
2. Go-iji-mi-nigo-izit Anishinabe, the Creator gave Shawanaga First Nation laws that have always been and that govern all of our relationships and our rights and responsibilities to live in harmony with nature and humankind;
3. Shawanaga First Nation has inherent jurisdiction over activities carried out on its lands and in respect of its people;
4. Shawanaga First Nation governs its own lands and resources, by among other things, regulating the use, possession and management of Shawanaga Lands including all interests in relation to Shawanaga Lands pursuant to the *Shawanaga First Nation Land Code*;
5. Pursuant to section 7 of the *Shawanaga First Nation Land Code*, Shawanaga First Nation hereby makes this law to govern all proposed Business activity on Shawanaga Lands for the purpose of regulating the use of and possession of lands;
6. All Persons and Business Entities operating a Business at Shawanaga First Nation must adhere to the requirement to obtain a Business Licence pursuant to the *Shawanaga Business Licence Law 2022*; and
7. All Cannabis Businesses shall be regulated pursuant to the terms contained in the Shawanaga Cannabis Law.

NOW THEREFORE this Law is hereby enacted by Council for Shawanaga First Nation.

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PART I – TERMS OF GENERAL APPLICATION

1. Short Title

This *Shawanaga First Nation Business Licence Law 2022 Governing the Use of Lands for Businesses Located on Shawanaga First Nation Lands* may be cited as the “*Shawanaga Business Licence Law 2022*” or, in this document, as “this Law”.

2. Definitions

For the purposes of this Law:

“**Appeal**” means an appeal under this Law of a decision of the Licence Enforcement Officer or the Lands Committee, as the case may be;

“**Appellant**” means an Applicant or Licensee who makes an Appeal;

“**Applicable Law**” means Shawanaga Law and includes all applicable laws, by-laws, codes, regulations that have been duly enacted by any applicable federal or provincial laws, each as amended from time to time, provided that in the event of inconsistency, the Shawanaga Law shall prevail;

“**Applicant**” means any Person who makes an Application for any Licence under the provisions of this Law;

“**Application**” means an application for Licence in the form established by Licence Enforcement Officer, as may be amended from time to time;

“**Business**” or “**Business Services**” means carrying on a commercial, industrial, office, retail or services undertaking of any kind or nature, which includes the providing of professional, personal, contractual, or other services within the Shawanaga Lands for the purpose of gain or profit, or cultural purposes but does not include:

- (a) any activities carried on directly or indirectly by Shawanaga First Nation; and
- (b) a Cannabis Business;

“**Business Entity**” includes a sole proprietorship, corporation, partnership, limited partnership, joint venture or party, whether acting on their own behalf or as Persons Engaged in the Business, and includes successors and permitted assigns;

“**Business Vehicle**” means a vehicle used to Carry on a Business;

“**Carrying on a Business**” includes without restricting the generality of the term, any Person or Business Entity who advertises their venture by print or social media, publicity or otherwise as open for Business of any kind, or who deals in, or buys, rents, sells, barter, or displays, or offers by advertisement to buy, sell, barter, rent or display any goods or service of any kind, either on behalf of themselves or others, for the purpose of gain or profit, and all such Persons or Business Entity will be deemed to be carrying on, engaged in or practising within the Shawanaga Lands

their respective profession, Business, trade, occupation or employment (and “**Carry on a Business**” and any variation thereof shall be interpreted accordingly);

“**Council**” means the Chief and Council duly elected in accordance with the Custom Election Code by Members of the Shawanaga First Nation;

“**Controlling Interest**” means an interest held by a Person in a corporation, partnership, limited partnership, joint venture or other entity such that the Person possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of such entity, whether through the ability to exercise voting power, by contract or otherwise;

“**Exempt Activities**” means those activities listed in *Schedule “A” – Exempt Activities*, which forms part of this Law and which may be amended from time to time by Shawanaga First Nation at its discretion and without notice;

“**Fee Schedule**” means *Schedule “B” – Prescribed Fees*, which forms part of this Law and which may be amended from time to time by Shawanaga First Nation at its discretion and without notice;

“**Licence Enforcement Officer**” means the Person or Persons appointed by Council, from time to time, to administer and enforce Shawanaga Laws enacted by Council and may include a Senior Administrative Officer, as defined in the *Enforcement Law, 2022*, on an interim basis at the direction of Council;

“**Licence**” means the Business Licence issued pursuant to this Law;

“**Licensee**” means the Person or Business Entity who is identified on the Licence as the holder of the Licence;

“**Licence Enforcement Officer**” means the Person appointed by Council to administer Licences in accordance with this Law;

“**Member**” means a Person whose name appears on the Shawanaga First Nation band membership list;

“**Person**” means any natural person and includes a member of Shawanaga First Nation;

“**Persons Engaged in the Business**” will mean and include the proprietor, owner(s), shareholders, partners, entities, officers and directors, employees and independent contactors to the Business;

“**Premises**” means the location or venue within the Lands and identified in the Licence in which the Licensee Carries on the Business and includes a store, office, warehouse, factory, building, enclosure, residential or commercial property, yard and includes Businesses and various places within the Lands where the Business Services may be provided from time to time;

“**Shawanaga Lands**” means any reserve Lands belonging to Shawanaga First Nation and that are governed by the Land Code as amended from time to time;

“**Shawanaga Law**” means all applicable laws, by-laws, codes, regulations that have been duly enacted by the Council for Shawanaga First Nation.

3. Interpretation

3.1 The purposes of this Law are to:

- (a) establish jurisdictional integrity in respect of Businesses on Shawanaga Lands for the overall well being of Members and sustainability of Shawanaga Lands, including the promotion and enhancement of the socio-economic development and the fiscal self-sufficiency of Shawanaga First Nation; and
- (b) provide rules and restrictions for the issuance of Council Authorizations and Businesses on Shawanaga Lands.

3.2 In this Law,

- (a) the word “shall” signifies an obligation that, unless this Law provides to the contrary, must be carried out as soon as practicable after this Law comes into effect or the event that gives rise to the obligation;
- (b) unless it is otherwise clear from the context, the use of the word “including” means “including, but not limited to”, and the use of the word “includes” means “includes, but is not limited to”;
- (c) unless it is otherwise clear from the context, the use of the masculine includes the feminine, and the use of the feminine includes the masculine;
- (d) titles and headings of Parts and sections have been inserted in the Business Law for convenience of reference only, and are not interpretive aids; all references to a time period of days means consecutive days and not Business days unless otherwise noted;
- (e) where the time limited for the doing of an act expires or falls on a Saturday or Sunday or a Shawanaga First Nation, federal or provincial holiday, the act may be done on the next day that is not a Saturday, Sunday or holiday;
- (f) where the time limited for the doing of an act in the Shawanaga First Nation administration building falls on a day when the administration building is not open during regular Business hours, the act may be done on the next day that the administration building is open; and
- (g) where there is a reference to a number of days or a number of days between two events, in calculating that number of days, the days on which the events happen are excluded.

PART II – LICENCE ISSUANCE, RENEWAL AND TERMINATION

4. Requirements for a Licence

- 4.1 Subject to Schedule A, every Person or Business Entity conducting or Carrying on a Business on Shawanaga Lands must hold a valid Licence issued under this Law.
- 4.2 Each Licence shall be specific to the Premise and shall only apply in respect of the Shawanaga Lands so authorized.
- 4.3 Each Licence shall state:
- (a) the type of Business and description of activity;
 - (b) the location of the Business;
 - (c) the hours during which the Business shall be permitted to operate;
 - (d) the length of term of the Licence;
 - (e) the date of issuance; and
 - (f) any other terms and conditions deemed necessary by the Licence Enforcement Officer for the Business to be carried out on the Shawanaga Lands.
- 4.4 A Licence shall be issued in the form prescribed by Form 1.
- 4.5 No Person or Business Entity shall falsely represent or cause to be falsely represented that they have the requisite authorizations under this Law.

5. Issuance

- 5.1 The Licence Enforcement Officer is authorized to deny, grant, issue or transfer Licences as provided in this Law.
- 5.2 Every Licence issued under this Law shall be valid according to its terms and shall permit the Licensee to Carry on a Business in a lawful manner.
- 5.3 A Licence may be issued with conditions including, but not limited to:
- (a) a requirement that a specific type of insurance be obtained relevant to the Business;
 - (b) a requirement that Shawanaga First Nation be listed as insured and/or loss payee under the Business's insurance policy;
 - (c) a requirement that the Business agree to indemnify Shawanaga First Nation for any losses incurred by Shawanaga First Nation as a result of the Business; or
 - (d) a restriction on the maximum number of occupants allowed on the Premises.

5.4 In denying a Licence duly applied for, the Licence Enforcement Officer shall provide the Applicant with notice in the form set out at Form 2.

5.5 It is an offence to:

- (a) Carry on a Business without a Licence;
- (b) Carry on a Business at a Premises other than the Premises specified in the Licence; and
- (c) transfer a Licence, except in accordance with section 13.

6. Licence Prerequisites

6.1 It shall be the sole responsibility of an Applicant to ensure that:

- (a) the Business complies with all Applicable Laws; and
- (b) the Applicant has obtained all necessary approvals, permits, certificates or other form of authorization required to Carry on the Business under Applicable Law, which may include, but shall not be limited to:

6.2 Every Applicant shall demonstrate that they have met and obtained all necessary preconditions and authorizations for Carrying on the Business including, but not limited to:

- (a) a “Land Use Permit”, as defined in, and following the adoption of, the Shawanaga Land Use Plan and Environmental Management Plan;
- (b) necessary environmental approvals; and
- (c) proof of compliance with all applicable fire safety regulations and inspection by the Shawanaga First Nation Fire Department & Infrastructure Department.

6.3 Every Applicant shall produce evidence of any approvals, permits, certificates or other form of authorization required under Applicable Law to Carry on the Business upon request of the Licence Enforcement Officer.

6.4 If insurance coverage is required to Carry on a Business, every Applicant shall submit valid proof of insurance coverage to the Licence Enforcement Officer with their Application.

6.5 All insurance coverage required for Carrying on a Business shall name Shawanaga First Nation as insured and/or loss payee.

7. Application

7.1 Every Applicant shall complete an Application using Form 3 and shall give true and correct details of the Business, ownership structure and other declarations for which the Application relates.

7.2 Every Application shall:

- (a) list all ownership interests in the Business;
- (b) provide an organization chart to confirm ownership holdings in the Business;
- (c) be signed by each owner of the Business or the owner's duly authorized agent, who is authorized in writing, to make such Application on behalf of the owner, provided that:
 - (i) in the case of a corporation, the Application may be signed by a director or officer of the corporation in accordance with the corporation's laws; or
 - (ii) in the case of a partnership, limited partnership or joint venture, any one of such partners, general partner or joint ventures may apply and such partner or joint venture will be deemed to be duly authorized by all the remaining partners or joint ventures.

7.3 Every Application shall be delivered to the Licence Enforcement Officer and shall be accompanied by:

- (a) the established non-refundable fee prescribed in the Fee Schedule; and
- (b) any supporting inspection certificates, approvals and confirmations required under this Law.

7.4 It is an offence to provide any false or misleading information in order to obtain a Licence.

8. Revocation and Suspension

8.1 The Licence Enforcement Officer may immediately revoke or suspend a Licence if the Licensee, or an individual that has an ownership interest in the Licensee:

- (a) is convicted under any Applicable Law of an offense in relation to the activities of the Business for which the Licensee holds the Licence;
- (b) has, in the opinion of the Licence Enforcement Officer acting reasonably, been guilty of misconduct or negligence in respect of the Business for which the Licensee is licenced or with respect to the premise as to warrant the suspension of the Licence;
- (c) has ceased to meet the legal or regulatory requirements under Applicable Law to Carry on the Business for which the Licensee is licenced or with respect to the Premises;
- (d) has failed, or ceased, to meet the conditions of the Licence; or
- (e) within the preceding three years of the License issuance and since the License issuance, has been convicted of an offence under the *Criminal Code*, RSC 1985, c

C-46, relating to the conduct of the Business whether on or off Shawanaga Lands, for which the Licensee has not been pardoned;

- (f) has conducted the Business in a manner that is detrimental to the health, welfare, safety and environment of the Members and the occupants on Shawanaga Lands; or
- (g) is Carrying on a Business, the purpose of which is to engage in or permit, allow, facilitate, encourage or assist others to engage in, any activity which violates the *Criminal Code*, RSC 1985, c C-46.

8.2 A revocation or suspension of a Licence shall be made in writing using Form 4 and served on the Licensee in accordance with section 15.

8.3 No Business shall be permitted to operate during the period of suspension or revocation.

PART III– OPERATION OF LICENCE

9. Term

9.1 All Licences issued pursuant to this Law shall terminate five (5) years from the Licence issuance date, unless otherwise renewed in accordance with Section 10.

10. Renewal

10.1 Each Licensee wishing to renew its Licence must submit an Application to renew the Licence by using Form 3 at least ninety (90) days prior to the expiration of the Licence term.

10.2 Failure to submit an Application to renew within the prescribed timelines may result in the non-renewal of the Licence upon expiry of the term or payment of a late renewal fee prescribed by the Fee Schedule.

11. Fees

11.1 All fees under this Law shall be non-refundable and are set out in Schedule A.

11.2 Failure to pay any fee under this Law within ten (10) days of date payable shall be grounds for suspension of the Licence.

12. Display of Licence

12.1 Every Licence granted under this Law shall be displayed in a clearly visible place on the Premises or Business Vehicle.

12.2 Where the Business has no fixed Premises or Business Vehicle, the Licence shall be carried by of the most senior Person engaged in the Business at all times during which Carrying on a Business takes place on Shawanaga Lands.

13. Transferability

- 13.1 A Licence is a personal Licence to the Licensee therein named.
- 13.2 A Licence cannot be assigned, transferred, given, lent or sold to any other Person or Business Entity, except on written consent of the Licence Enforcement Officer.
- 13.3 Any Person or Business Entity that acquires a Controlling Interest in a Licensee shall make an Application for a new Licence pursuant to PART II prior to acquiring the Controlling Interest.

14. Changes

- 14.1 Every Licensee must immediately notify the Licence Enforcement Officer of any change in the location of the Premises.

15. Notices

- 15.1 Any notice required under this Law shall be given to an Applicant or Licensee by:
 - (a) leaving or mailing a copy of the notice by prepaid ordinary mail to the address of the Applicant or Licensee listed on the most recent Application or Licence, as the case may be; or
 - (b) delivering a copy of the notice personally to the Applicant or Licensee.
- 15.2 Any notice shall be deemed to have been received by the Applicant or Licensee:
 - (a) within five (5) Business days of mailing if delivered in accordance with subsection 15.1(a); or
 - (b) on the date of delivery if delivered in accordance with subsection 15.1(b).
- 15.3 All notices must be provided to the Licence Enforcement Officer in writing at the address provided in the Application.

PART IV – APPEALS AND ENFORCEMENT

16. Appeals

- 16.1 Appellant may appeal a decision of the Licence Enforcement Officer made pursuant to this Law to the Lands Committee.
- 16.2 An Appeal shall be made within ten (10) business days of receipt of notice of the decision by the Licence Enforcement Officer and delivered to the Lands Committee by completing and filing Form 5 and shall state the grounds for reconsideration, together with any relevant supporting information.
- 16.3 The Lands Committee shall consider the Appeal within twenty (20) days of receipt of complete Form 5 and will provide the Appellant with its decision in writing.

- 16.4 The Appellant or the Licence Enforcement Officer may appeal the decision of the Lands Committee under section 16.3 to Council by completing and filing Form 5 within five (5) business days of receipt of the decision.
- 16.5 Council shall consider an Appeal under section 16.4 at the next regularly scheduled Council meeting and will render a decision within ten (10) business days.
- 16.6 A decision by Council under section 16.5 is final and not subject to further appeal.

17. Enforcement

- 17.1 Enforcement of this Law shall be subject of to the provisions the *Enforcement Law, 2022*, once enacted.

18. Invalidity and Notices of Contravention

- 18.1 Any violation or offence committed under this Law shall render the Licence invalid.
- 18.2 The Licence Enforcement Officer may:
- (a) issue a notice of contravention requiring that the a Business rectify any contravention of its Licence;
 - (b) suspend Licences and any applicable tobacco quota allotments; and
 - (c) publicly post notice of a failure to comply with this Law.
- 18.3 Any violation or offence committed and upon conviction under this Law shall cause the Licence to be invalid.
- 18.4 It is an offence for any Person to prevent, obstruct, or attempt to prevent or obstruct the Licence Enforcement Officer or any federal or provincial inspector from carrying out their official duties under this Law.

19. Offences and Penalties

- 19.1 Any Person or Business Entity who contravenes any provision of this Law or who takes part in the contravened activity upon conviction is liable to a fine not exceeding \$5,000.
- 19.2 Any Person, Business Entity or Cannabis Business who contravenes any provision of this Law or who takes part in the contravened activity upon conviction is also liable to a term of imprisonment not to exceed six (6) months or to both fine and imprisonment.
- 19.3 As part of the penalty, the Person or Business Entity and all partners, directors, officers or owners may be prohibited from Carrying on a Business on Shawanaga Lands for a period of twelve (12) months.

PART V – COMING INTO FORCE

20. Coming into Force

- 20.1 The provisions of this Law shall come into force and effect on the date approved by Council and shall be enacted in accordance with section 8.5 of the *Shawanaga First Nation Land Code*.

PART VI – CONFLICT OF INTEREST

21. Conflict of Interest

- 21.1 The Chief of Council, each Councillor, the License Enforcement Officer, and any other officers responsible of the licensing process must declare any potential conflict of interest and withdraw from any appeal held under section 16 of this Law, where a conflict of interest may arise.

PART VII – AMENDMENTS

22. Amendments

- 22.1 This Law may be amended by Council from time to time.
- 22.2 In the event that this Law is amended, Council shall provide notice of such amendments to all Licensees in writing.

SCHEDULE “A” – EXEMPT ACTIVITIES

1. Cannabis Businesses (as defined in the *Shawanaga Cannabis Law2022*);
2. Businesses owned and operated directly or indirectly by Shawanaga First Nation;
3. Micro enterprises as secondary or supplementary businesses;
4. Businesses for community fundraising purposes;
5. Garage sale or intermittent craft or food sales;
6. Summer student businesses;
7. Other businesses that are demonstrated to be temporary businesses.

SCHEDULE “B” – PRESCRIBED FEES

Until such time as this Schedule of Prescribed Fees is updated, all Businesses shall pay a nominal fee of \$50 for a 3 year term.

SCHEDULE “C” – LIST OF FORMS

- FORM 1: Business Licence
- FORM 2: Application, Renewal, Transfer, Reinstatement or Assignment Form
- FORM 3: Notice of Refusal
- FORM 4: Notice of Revocation or Suspension
- FORM 5: Notice of Appeal