

CERTIFICATION

Pursuant to Section 86, Indian Act RSC 1985 C.I-5 and amendments thereto, I certify that the attached copy of the Cowichan Indian Band Business Licensing By-law No.2, 1997, dated 3rd. day of June 1997 is a true copy of the said by-law.



Richard Frizell, Director
Lands and Trust Services,
a Superintendent as defined in
Sec 2(1) Indian Act RSC 1985

**The Cowichan Tribes
Business Licensing By-Law
By-Law No. 2
1997**

Respecting the licensing of businesses, callings, trades and occupations
in the Cowichan Tribes Reserve(s)

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**The Cowichan Tribes
Business Licensing By-Law
By-Law No. 2 1997**

Respecting the licensing of businesses, callings, trades
and occupations in the Cowichan Tribes Reserve(s)

WHEREAS the Council of the Cowichan Tribes desires to make a by-law for the licensing of businesses, callings, trades and occupations in the reserve(s);

AND WHEREAS the Council of the Cowichan Tribes, pursuant to paragraphs 83(1) (a.1), (e), (e.1) and (g) of the *Indian Act*, may, subject to the approval of the Minister of Indian Affairs and Northern Development, make by-laws for the licensing of businesses, callings, trades and occupations and with respect to any matter arising out of or ancillary to the exercise of powers under this section, including the enforcement of payment of amounts that are payable thereof, and for the imposition and recovery of interest on amounts that are payable thereof;

AND WHEREAS the Council of the Cowichan Tribes deems that for the orderly conduct and administration of businesses, and for the health, welfare, safety and environment of the inhabitants in the Cowichan Tribes Reserve(s) No. 1 to 9 inclusive to license businesses, callings, trades and occupations;

NOW THEREFORE the Council of the Cowichan Tribes, also known as the Cowichan Indian Band, hereby enacts the following by-law:

SHORT TITLE

- 1.1 This by-law may be cited as the "Cowichan Tribes Business Licensing By-law No.2 1997."

DEFINITIONS

- 2.1 In this by-law:
"Cowichan Tribes" or "Cowichan Indian Band", as the case may be, means a band, as defined in Section 2 of the Indian Act.

"Business" means a calling, trade, occupation, employment or profession, vocation, commercial activity, or an enterprise which habitually busies, occupies or engages the regular time, attention, labour and effort, of the licensee or person(s) for purposes of gain, benefit, advantage, livelihood or profit, or, in which the licensee or person(s) show(s) willingness to invest time and capital on future outcome.

"Calling" means a business or profession as defined in this by-law.

"Council" means the Chief and Council of the Cowichan Tribes.

"Councillor" means the Councillor(s) of the Cowichan Tribes.

"License" means a license issued under this by-law.

"Licensee" means a person to whom a license is issued under this by-law.

"License Inspector" means a person(s) appointed under section 10.0 of this by-law.

"Member" means a member of the Cowichan Tribes.

"Occupation" means a business or profession as defined in this by-law.

"Person" includes not only an individual, but also a partnership, syndicate, association, corporation or the agent or trustee of a person.

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

"Reserve" means the Reserve(s) set apart for the use and benefit of the Cowichan Tribes.

"Trade" means a business as defined in sub-section 2.1(b) of this by-law.

REQUIREMENTS FOR LICENSE

- 3.1 Every person conducting or carrying on a business in the reserve(s) must hold a valid license issued under this by-law.
- 3.2 Any person carrying on more than one business in the reserve(s) must obtain a separate business license for each business, and 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.

- 3.3 Every license granted under this by-law is valid and permits the licensee to carry on the business in a lawful manner.
- 3.4 The licensee or person in charge or control of the premises where the business is conducted must at all times keep the license or licenses prominently displayed in an area of the premises to which the public has access or in an area designated by the License Inspector.
- 3.5 The licensee must notify the License Inspector of any change in: the mailing or business address; the type of business; the area of premises; and, any substantial physical alteration to the premises in which the business is conducted. Upon the closing of the business, the licensee will surrender the license to the License Inspector.

LICENSE APPLICATION

- 4.1 Every person who wishes to conduct a business in the reserve must apply in writing in Form 2 to the License Inspector, and must disclose all information required on this application form.
- 4.2 Every person applying for a license under this by-law to operate a business that is governed or requires registration by any federal statute, or self-regulating professional body, must supply proof of his or her qualification and of the qualifications of the employees to carry on such a business, and this must accompany Form 2.
- 4.3 Where the applicant is a corporation or a partnership, proof of incorporation or partnership must be provided with the completed Form 2.
- 4.4 In the event of a transfer of the business for which a license has been issued, the License Inspector will permit the transfer of the license from one premise to another, provided:
- (a) the licensee has completed an application in Form 2; and
 - (b) the licensee has paid the fee under section 6.2 of this by-law; and
 - (c) the proposed business premises comply with the terms of this by-law.
- 4.5 In the event of a sale of the business for which a license has been issued, the License Inspector will permit an assignment of the license to the purchaser of the business, provided:
- (a) the proposed assignee has completed an application in Form 2; and
 - (b) the proposed assignee has paid the fee under section 6.3 of this by-law;

and

- (c) the proposed assignee meets the provisions of this by-law to carry on the business for which the license was issued.

LICENSES

- 5.1 A license is granted for a one (1) year period commencing April 1 and expiring March 31 in each calendar year. Licenses must be renewed by completing Form 2 by March 31 of each calendar year or the license will have expired and be suspended. Licenses may be renewed, and reinstated from suspension for non-timely renewal in accordance with sections 6.1 and 6.6 of this by-law.
- 5.2 A license will specify the time period, type and location of the business the licensee is permitted to conduct.
- 5.3 A license is valid throughout the reserve.
- 5.4 A license will be issued in Form 1.

FEES

- 6.1 The fee payable for a business license, including license renewal, is Ninety (\$90.00) dollars per calendar year.
- 6.2 The fee payable for filing a Business License Application in Form 2 for the transfer of a business license, pursuant to section 4.4 of this by-law, is Twenty (\$20.00) dollars.
- 6.3 The fee payable for filing a Business License Application in Form 2 for the assignment of a business license, pursuant to section 4.5 of this by-law, is Twenty (\$20.00) dollars.
- 6.4 The fee payable for filing a Request For Review Hearing in Form 4 pursuant to section 9 of this by-law is Twenty (\$20.00) dollars plus the applicable annual, renewal, transfer or assignment fee.
- 6.5 The fees prescribed in this by-law will be reduced by one-half where a license is issued after September 30 in a calendar year.
- 6.6 (a) Where a licensee has not renewed the license on or before the expiry date as set out in section 5.1 of this by-law, the license will be suspended and the licensee has 15 days after the date of expiry to renew the license and have the license reinstated by completing application in Form 2 and will pay the license fee set out

in section 6.1 of this by-law and an added fee of Twenty (\$20.00) dollars.

- (b) Where a suspended licensee has not renewed the license within the fifteen days after the expiry date as set out in section 6.6(a) of this by-law, the suspended licensee has another 75 days to renew the license and have the license reinstated by completing application in Form 2 and will pay the license fee set out in section 6.1 of this by-law and an added fee of Thirty (\$30.00). The license will be revoked if not renewed at the end of this time.

REFUND

- 7.1 No license fee paid pursuant to this by-law will be refunded.

ISSUANCE OF LICENSE

- 8.1 Upon a business license applicant meeting the provisions for license issuance under section 8.2 of this by-law, a business license will be issued to the applicant.
- 8.2 The License Inspector will, upon receiving an application for a business license, promptly issue by delivering or mailing a license to the licensee at the address shown in the license application provided:
- (a) the License Inspector is satisfied that the applicant's business complies with all provisions in any of the other Cowichan Tribes by-law(s); and
 - (b) the application complies with this by-law; and
 - (c) the applicant has disclosed all required information in the application form and the License Inspector is satisfied under sections 11.1(c) and (d) of this by-law; and
 - (d) the applicant has not, within the preceding years, been convicted of an offence under the Criminal Code (Canada), relating to the conduct of this business whether on or off the reserve, for which the applicant has not been pardoned; and
 - (e) the applicant's business would not be detrimental to the health, welfare, safety and environment of inhabitants on the reserve; and
 - (f) the License Inspector's investigations do not disclose any reason to believe that the carrying on of the said business may result in a breach of the law, or may be in any way adverse to the public interest; and
 - (g) the required fee for the license has been paid.
- 8.3 Every license granted pursuant to this by-law will be in duplicate, one copy will be issued

to the licensee and the other copy retained by the License Inspector. The license so issued will be deemed a personal license to the licensee.

- 8.4 If the applicant or licensee fails to comply with or the License Inspector is not satisfied with information received from the applicant or licensee under section 8.2 or this by-law, the License Inspector will forthwith serve the applicant notice in Form 3 of the refusal to issue the license and said notice will be served personally or by registered mail to the applicant at the address shown in the license application.

APPEAL

- 9.1 Within thirty days (30) of service of the notice under section 8.4 of this by-law the applicant or licensee may apply for a review by Council by completing and filing Form 4, and paying the fee as referred to in section 6.4 of this by-law, with the License Inspector.
- 9.2 The License Inspector, upon receipt of Form 4 and the fee referred to in section 6.4 of this by-law, will forthwith transmit to Council and applicant:
- (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 License Inspector's refusal and reasons for refusal.
- 9.3 Upon receipt of the material described in section 9.2 of this by-law, Council will determine the time and date of the review hearing, which will be at least fifteen (15) days hence but no more than forty-five (45) days and will advise the License Inspector of its decision. The License Inspector will forthwith serve notice of the decision in Form 5 on the applicant by personal service or by registered mail at the address shown in the license application. Council will hold the review hearing at the time and date set out in Form 5. The applicant shall be given at least seven (7) days notice of the hearing.
- 9.4 The applicant may be represented at the review hearing by counsel 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.
- 9.5 At the review hearing, the License Inspector is entitled to submit arguments in reply to evidence and argument presented by or on behalf of the applicant.
- 9.6 At the review hearing, the onus will be upon the applicant to show just cause why the license applied for should be granted.

- 9.7 Council will give its decision in writing to the License Inspector within seven (7) days of the date of the completion of the review hearing.
- 9.8 The License Inspector will forthwith notify the applicant of the decision referred to in section 9.7 of this by-law, including notification that the applicant has a further right of appeal to a court of competent jurisdiction, by serving a copy of the decision personally or by registered mail to the applicant at the address shown in the applicant's license application.
- 9.9 If the applicant agrees at the review hearing to accept conditions upon the license, Council may render a decision granting the applicant the license applied for upon such conditions as it considers fair and appropriate and authorized by law.
- 9.10 All review hearings will be held in camera unless the applicant requests that the hearing be open to the public and Council must approve the request by a band council resolution. The decision resulting from the review hearing will be made public forthwith, and any minutes of the review hearing will be available to the public within fifteen (15) days of the decision.
- 9.11 If Council renders a decision granting the applicant the license applied for, the license will be issued upon the applicant complying with this by-law.

LICENSE INSPECTOR

- 10.1 Council will by band council resolution:
- (a) appoint a License Inspector, and such other officers as may be necessary, who will receive applications, appeals, issue licenses and carry out the business licensing administrative functions under this by-law including enforcement;
 - (b) provide for reasonable remuneration to be paid to the License Inspector, and other appointed officers;
 - (c) appoint the License Inspector for a fixed term of not less than three (3) years after which reappointment shall be discussed by both parties; and
 - (d) may dismiss the License Inspector from the appointed position, for failure to carry-out duties as described in this by-law, or, for having been convicted of an employment related offense under the Criminal Code (Canada), or, for contravening the Cowichan Tribes' Conflict of Interest guidelines.

DUTIES OF LICENSE INSPECTOR

11.1 The License Inspector will:

- (a) receive and process all applications, appeals, renewals, transfers and assignments of licenses to be issued under this by-law;
- (b) maintain a record of all applications 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 all investigations required by section 8.2 of this by-law or by the Cowichan Tribes, relative to an application;
- (e) in response to receipt of a written complaint, or at least once a year, 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 by-law complies with the license issued and the by-laws of the Council, and no licensee shall obstruct or hinder the making or completing of the inspection.
- (f) report monthly in writing to the Band Administrator, or Band Manager, or the person appointed by Council from time to time to administer the affairs of the Band, stating the number of licenses issued, the type of business conducted under each license, and the fees received since the previous report 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
- (g) perform such other duties as may be requested by the Band Administrator, or Band Manager, or the person appointed by Council from time to time to administer the affairs of the Band.

REVOCATION OR SUSPENSION OF LICENSE

12.1 Council will, by band council resolution, and after giving notice in Form 6 and holding a hearing, (i) suspend for a period not exceeding ninety days, or (ii) revoke, any license issued under this by-law, where it has come to Council's attention that the licensee:

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

- (c) within the preceding three years of license issuance and since license issuance, has been convicted of an offence under the Criminal Code (Canada), relating to the conduct of this business whether on or off the reserve, for which the licensee has not been pardoned,;
 - (d) has conducted the business in a manner that is detrimental to the health, welfare, safety and environment of inhabitants in the reserve; or
 - (e) is convicted of any offence under any statute of the Province in respect of the licensed business or with respect to the premises named in the license; or
 - (f) 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 (Canada).
- 12.2 Council will give the licensee at least seven days notice of the hearing referred to in section 12.1 of this by-law in Form 6 and the License Inspector 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 License Inspector cannot be found and has not come forward then the notice will be considered to be duly served and an ex parte decision will be issued against the licensee.
- 12.3 Provisions 9.4, 9.7 and 9.8 of this by-law also apply to the hearing referred to in section 12.1 of this by-law.
- 12.4 The license Inspector will 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.

CONFLICT OF INTEREST

- 13.1 The Chief and each Councillor must declare any potential conflict of interest, in accordance with the Cowichan Tribes' Conflict of Interest guidelines, and withdraw from any hearing, held under sections 9 and 12 of this by-law, where a conflict of interest may arise.

PENALTY

- 14.1 Every person who contravenes section 3.1 of this by-law is guilty of an offense and on summary conviction is liable to a fine not exceeding One Thousand (\$1,000.00) dollars.

ENFORCEMENT

- 15.1 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, interest, penalties or other costs imposed by this by-law.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the COWICHAN TRIBES
this 3rd. day of JUNE, 1997.

Voting in favour of the By-Law are the following members of the Council:

Chief [Signature]
Chief

[Signature]
Councillor

[Signature]
Councillor

[Signature]
Councillor

[Signature]
Councillor

[Signature]
Councillor

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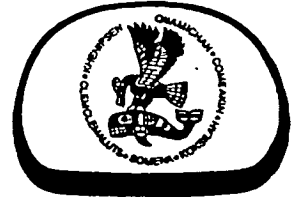
being the majority of those members of the Council of the _____ present:—

There are ____ () Council members and a Quorum of Council is ____ () members.

Number of members of the Council present at the meeting: _____.

Witness

Chief/Councillor



COWICHAN TRIBES
5760 ALLENBY ROAD, DUNCAN, B.C. V9L 5J1
TELEPHONE: (250) 748-3196 FAX: (250) 748-1233

BUSINESS LICENSE

Payments may be made at Tribes Office at above address or by mail.

_____ is hereby authorized to conduct a business, calling, trade or occupation in the following _____ on the Cowichan Tribes Reserve for the period commencing _____, 19____, and expiring _____, 19____.

(NAME OF BUSINESS)

(LOCATION OF BUSINESS)

(SIGNATURE OF LICENSE INSPECTOR)

(SIGNATURE OF LICENSEE)

(DATE)

NOT VALID UNLESS OFFICIALLY RECEIPTED
THIS LICENCE MUST BE POSTED IN A CONSPICUOUS
LOCATION ON THE PREMISES

FORM 2
(Sections 4.0, 5.0 6.0)

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 . 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 given details below).
15. Are you bonded with a bonding agency with respect to the conduct of your business? Yes___ No___ (If yes, applicant must provide proof and give details below).

(con't on next page)

(con't from previous page)

16. Is the business incorporated? Yes___ No___ Federal___ Provincial___
(If yes, applicant must provide details below).
17. Is the business administered by a partnership? Yes___ No___
(If yes, applicant must provide proof and give details below - registration.)
18. Have you, within the previous three years, been convicted of an offense under the
Criminal Code (Canada) for which you have not been pardoned? Yes___ No___

NOTE: PLEASE READ SECTION 12 OF THIS BY-LAW WHICH OUTLINES THE CONDITIONS
WHEREBY YOUR LICENSE COULD BE DENIED, REVOKED OR SUSPENDED.

FORM 3
(Sections 8.0, 9.0)

NOTICE OF LICENSE REFUSAL

TO:

NAME OF APPLICANT

ADDRESS OF APPLICANT

RE:

LOCATION OF BUSINESS

TAKE NOTICE that pursuant to the Cowichan Tribes Business Licensing By-law, your application to: ___receive, ___renew, ___transfer, ___assign; a **BUSINESS LICENSE** is refused.

AND take **NOTICE** that you have 30 days from the date of the **NOTICE** within which you may apply for a review by Council by completing and filing Form 4 of the said by-law and paying the fee pursuant to this by-law with the License Inspector.

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 _____, 19__.

LICENSE INSPECTOR NAME & SIGNATURE

FORM 4
(Section 9.0)

REQUEST FOR REVIEW HEARING

TO: Council of the Cowichan Tribes

c/o _____
LICENSE INSPECTOR

PURSUANT to the Cowichan Tribes Business Licensing By-law, I hereby appeal the decision as outlined on the **NOTICE OF LICENSE REFUSAL**, dated the ____ day of _____, 19__ and signed by the License Inspector to refuse to:

___ issue; ___ renew; ___ transfer; ___ assign;

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

(Description of the Business and Location)

ON the following grounds:

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

Dated at _____ this ____ day of _____, 19__.

PRINTED NAME OF APPELLANT

APPELLANT'S SIGNATURE

ADDRESS TO WHICH ALL NOTICES TO APPELLANT ARE TO BE SENT

FORM 5
(Section 9.3)

NOTICE OF REVIEW HEARING

TO:

NAME OF APPELLANT

ADDRESS OF APPELLANT

RE:

LOCATION OF BUSINESS

PURSUANT to the Cowichan Tribes Business Licensing By-law, Council will hear your **Request For Review Hearing** dated the ____ day of _____, 19__ 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 _____, 19__ 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 _____, 19__.

LICENSE INSPECTOR SIGNATURE

FORM 6
(Section 12.0)

NOTICE OF HEARING

TO:

NAME OF LICENSEE

ADDRESS OF LICENSEE

RE: ___ License Suspension for: _____

LOCATION OF BUSINESS

___ License Revocation for: _____

LOCATION OF BUSINESS

PURSUANT to the Cowichan Tribes Business Licensing By-law, Council will be holding a hearing relating to the above-noted business regarding:

___(i) why your business license should not be suspended for a period not exceeding ninety days; or,

___(ii) why your business license should not be revoked.

AND take **NOTICE** that this hearing will be held at the hour of ___ (a.m./p.m.) on the ___ day of _____, 19__ 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 _____, 19__.

LICENSE INSPECTOR SIGNATURE