

Ministre des
Relations Couronne-Autochtones



Minister of
Crown-Indigenous Relations

Ottawa, Canada K1A 0H4

I, Minister of Crown-Indigenous Relations, HEREBY APPROVE,
pursuant to section 83 of the *Indian Act*, the following by-law made by
the Tobique First Nation, in the Province of New Brunswick, at a
meeting held on the 30th day of April 2018.

- **Tobique First Nation
Business Licensing By-law, 2018**

Dated at Ottawa, Ontario, this *24* day of *August* 2018.

A handwritten signature in blue ink that reads "Carolyn Bennett".

Hon. Carolyn Bennett, M.D., P.C., M.P.

**TOBIQUE FIRST NATION
BUSINESS LICENSING BY-LAW, 2018**

WHEREAS the Council of the Tobique First Nation desires to make a by-law for the licensing of businesses, callings, trades and occupations in the Reserve;

AND WHEREAS the Council of the Tobique First Nation, pursuant to paragraph 83(1)(a.1) of the *Indian Act*, R.S.C. 1985, c.I-5, 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 WHEREAS subsection 81(3) of the *Indian Act* allows for a Council to seek court action to constrain the contravention of any by-law;

AND WHEREAS paragraph 81(1)(c) of the *Indian Act* allows for a Council to enact by-laws for the observation of law and order on the Reserve:

AND WHEREAS paragraph 81(1)(r) of the *Indian Act* allows for Council to enact by-laws providing for the imposition on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both, for violation of a by-law made under section 81;

AND WHEREAS the Council of the Tobique First Nation deems that for the orderly conduct and administration of businesses, the observance of law and order, and for the health, welfare, safety and environment of the inhabitants in the Tobique Indian Reserve No. 20 to licence businesses, callings, trades and occupations;

AND WHEREAS the Tobique First Nation as an Aboriginal Nation occupying and governing its traditional territory prior to confederation has the inherent right to self-government, which inherent right is recognized by section 35 of the *Constitution Act, 1982*, and otherwise;

NOW THEREFORE the Council of the Tobique First Nation, hereby enacts the following by-law.

SHORT TITLE

1. This By-law may be cited as the *Tobique First Nation Business Licensing By-law, 2018*.

INTERPRETATION

2. In this By-law,
“business” means a calling, trade, occupation, employment or profession, vocation, commercial activity, or an enterprise that habitually 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 Tobique First Nation;

“Councillor” means the Councillor(s) of the Tobique First Nation;
“Court” means the Court of Queen’s Bench of New Brunswick;
“First Nation” means the Tobique First Nation;
“licence” means a licence issued under this By-law;
“licensee” means a person to whom a licence is issued under this By-law;
“Licence Inspector” means a person(s) appointed under section 10 of this By-law;
“member” means a member of the Tobique First Nation;
“occupation” means a business or profession as defined in this By-law;
“province” means New Brunswick;
“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 Tobique 20 Indian reserve set apart for the use and benefit of the Tobique First Nation;
“trade” means a business as defined in section 2 of this By-law.

REQUIREMENT FOR LICENCE

- 3.(1) Subject to subsection (2), effective January 1, 2019, every person conducting or carrying on a business on the Reserve must hold a valid licence issued under this By-law.
- (2) Where a business was located and operating lawfully on the Reserve immediately prior to January 1, 2019, that business will have until March 1, 2019, to obtain a licence further to this By-law and may continue to lawfully operate as previously without a licence until February 28, 2019, but no longer.
- (3) Any person carrying on more than one business in the Reserve must obtain a separate business licence 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 licence.
- (4) Every licence granted under this By-law is valid and permits the licensee to carry on the business in a lawful manner.
- (5) The Licence Inspector may, upon providing at least 24 hours of notice, inspect the business premises of any licensee, at least once a year, or upon receipt of a complaint.
- (6) The licensee or person in charge or control of the premises where the business is conducted must at all times keep the licence or licences prominently displayed in an area of the premises to which the public has access or in an area designated by the Licence Inspector. The licence may be in the form and content as set out in Schedule 1.

(7) The licensee must notify the Licence Inspector of any change in the mailing or business address, the type of business, the area of the premises, and, any substantial physical alteration to the premises in which the business is conducted, and upon the closing of the business, the licensee will surrender the licence to the Licence Inspector.

(8) When the Licence Inspector becomes aware of a previously unlicensed business operating on the Reserve in apparent contravention of subsection (1), the Licence Inspector shall without delay serve upon the licensee a Notice of Business Closure as set out in Schedule 8. Service of the Notice of Business Closure shall be effected as provided for in subsection 13(2).

LICENCE APPLICATION

4.(1) Every person who wishes to conduct a business in the Reserve must apply for a licence in writing in the form provided in Schedule 3 to the Licence Inspector, and must disclose all information and documentation required by Schedule 3.

(2) Every person applying for a licence 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 qualifications and of the qualifications of the employees to carry on such a business, and this must accompany Schedule 3.

(3) Where the applicant is a corporation or a partnership, proof of incorporation or proof of partnership must be provided with the completed Schedule 3.

(4) In the event of a proposed transfer of the business for which a licence has been issued from one location on the Reserve to another location on the Reserve, the Licence Inspector will permit the transfer of the licence from one premise to another provided

- (a) the licensee has completed an application in Schedule 3;
- (b) the licensee has paid the fee under subsection 6(3) of this By-law; and
- (c) the proposed business premises comply with the terms of this By-law.

(5) In the event of a sale of the business for which a licence has been issued, the Licence Inspector will permit an assignment of the licence to the purchaser of the business, provided

- (a) the proposed assignee has completed an application in Schedule 3;
- (b) the proposed assignee has paid the fee under subsection 6(4) of this By-law; and
- (c) the proposed assignee meets the provisions of this By-law to carry on the business for which the licence was originally issued.

LICENCES AND RENEWALS

5.(1) A licence is granted for a one (1) year period commencing January 1 and expiring December 31 in each calendar year.

(2) A licence will specify the time period, type and location of the business the licensee is permitted to conduct.

(3) Subject to any law, by-law or lawful enactment of the First Nation concerning land use and zoning, a licence is valid throughout the Reserve.

(4) A licence will be issued in the form of Schedule 1.

(5) A licence may be renewed for the coming year by submitting Schedule 3 completed as appropriate to the Licence Inspector before December 31 with the same fee as was required in the initial application for a licence.

(6) A licence not renewed by December 31 becomes a licence in bad standing.

(7) A licence in bad standing allows the business to continue to operate in the restricted circumstances provided for in section 5.

(8) A licence in bad standing can be renewed but only prior to February 1st by submitting to the Licence Inspector the application in Schedule 3 completed as appropriate, providing the fee set out in subsection 6(1) and by providing the appropriate additional fee set out in subsection 6(7) or 6(8), as applicable.

(9) After February 1st, a licence in bad standing becomes void and any and all persons operating a business on the business premises are operating without a licence contrary to subsection 3(1) and are subject to Notice of Business Closure procedures, and other sanctions, fines, and actions as provided for in the By-law.

(10) A licence in bad standing remains void until all fines and fees have been paid and a licence application, as per Schedule 3, has been submitted and approved.

(11) When the Licence Inspector becomes aware of a business operating on the Reserve after its licence has become void under subsection (9), the Licence Inspector shall without delay serve upon the licensee a Notice of Business Closure in Schedule 8. Service of the Notice of Business Closure shall be effected as provided for in subsection 13(2).

FEEES

6.(1) The fee payable for a business licence, including licence renewal are as set out in Schedule 2 per calendar year; where a business is not described in Schedule 2, then the fee payable for a business licence is \$250 per calendar year.

(2) A receipt shall be issued by the Licence Inspector for any payments received further to this section.

(3) The additional fee payable for filing an application in the form of Schedule 3 for the proposed transfer of a business licence from one location on the Reserve to another location on the Reserve, pursuant to subsection 4(4) of this By-law, is one hundred dollars (\$100).

(4) The additional fee payable for filing an application in the form of Schedule 3 for the assignment of a business licence, pursuant to subsection 4(5) of this By-law, is one hundred dollars (\$100).

(5) The fee payable for filing a Request for Review Hearing in Schedule 5, pursuant to section 9 of this By-law is one thousand dollars (\$1,000).

(6) The fees prescribed in this By-law will be reduced by one-half where any licence is issued after July 31 in a calendar year.

(7) Where a licence is in bad standing for up to and including fifteen (15) days, the licensee may renew the licence by completing and submitting to the Licence Inspector the application in Schedule 3 and by paying the licence fee set out in subsection (1) and paying an additional fee of one hundred and fifty dollars (\$150).

(8) Where a licence has been in bad standing for more than fifteen 15 days but less than 31 days, the licensee may renew the licence by completing and submitting to the Licence Inspector the application in Schedule 3 and by paying the licence fee set out in subsection (1) and paying an additional fee of three hundred dollars (\$300).

REFUND

7. No licence fee paid pursuant to this By-law will be refunded.

ISSUANCE OF LICENCE

8.(1) Upon a business licence applicant meeting the provisions for licence issuance under subsection (2), a business licence will be issued to the applicant.

(2) The Licence Inspector will, upon receiving an application for a business licence, promptly issue, by delivery or mail, a licence to the licensee at the address shown in the licence application provided

(a) the Licence Inspector is satisfied with the evidence provided by the applicant that the proposed business fully complies with all relevant provisions in any of the other laws, by-laws and lawful enactments of the First Nation;

(b) the application complies with this By-law;

(c) the applicant has disclosed all required information in the application form and the Licence Inspector is satisfied under subsections 11(c) and (d) of this By-law;

(d) the applicant has not, within the preceding three (3) 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;

(e) the applicant's business would not be detrimental to law and order on the Reserve or the health, welfare, safety and environment of inhabitants on the Reserve;

(f) the Licence 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 licence has been paid, including any additional fees required further to subsections 6(7) or 6(8).

(3) Every licence 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 Licence Inspector. The licence so issued will be deemed a personal licence to the licensee.

(4) If the applicant or licensee fails to fully comply with the application process or the Licence Inspector is not satisfied with information received from the applicant or licensee under subsection (2), the Licence Inspector will forthwith serve the applicant notice in the form of Schedule 4 of the refusal to issue the licence, and the said notice will be served personally or by registered mail to the applicant at the address shown in the licence application.

(5) Where service under subsection (4) is made by registered mail, the applicant will be deemed to have received notice on the second business day after the registered mail is postmarked by Canada Post.

(6) In this section, “application for a business licence” includes an application for the renewal of a licence.

APPEAL

9.(1) Within thirty (30) days of service of the notice under subsection 8(4) of this By-law, the applicant or licensee may apply for a review by Council by completing Schedule 5, paying the fee as referred to in subsection 6(5) of this By-law, and submitting these to the Licence Inspector, who shall issue a receipt for the fee received to the applicant or licensee.

(2) The Licence Inspector, upon receipt of Schedule 5 and the fee referred to in subsection 6(5) of this By-law, will forthwith transmit to Council and the applicant seeking the review

(a) a copy of the original licence application as completed by the applicant and copies of any supporting documentation accompanying the licence application;

(b) a copy of the applicant’s completed Schedule 5 and a copy of the receipt for the payment of the fee referred to in subsection 6(5); and

(c) a copy of the Licence Inspector’s refusal and written reasons for the refusal.

(3) Upon receipt of the material described in subsection (2), 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 Licence Inspector of its decision. The Licence Inspector will forthwith serve notice of the decision in Schedule 6 on the applicant by personal service or by registered mail at the address shown in the licence application and will include the reasons for refusal referred to paragraph 9(2)(c). Council will hold the review hearing at the time and date set out in Schedule 6. The applicant shall be given at least seven (7) days’ notice of the review hearing.

(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 licence, answer any objections that may arise, and examine or cross-examine witnesses.

(5) The Licence Inspector may be represented at the review hearing by counsel and the Licence Inspector or counsel may adduce evidence, submit argument in support of the licence refusal and in reply to the appeal, answer any objections that may arise, and examine or cross-examine witnesses.

(6) At the review hearing, the onus will be upon the applicant to show cause why the licence applied for should be granted.

(7) Council will give its decision in writing to the Licence Inspector within fourteen (14) days of the date of the completion of the review hearing.

(8) The Licence Inspector will forthwith notify the applicant of the decision referred to in subsection (7), 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 licence application.

(9) Any appeal to a court of competent jurisdiction referred to subsection (8) must be commenced within 30 days of the service of the decision on the application, and the notification of the further right of appeal must include notice of the 30 day time limit.

(10) If the applicant agrees at the review hearing to accept conditions upon the licence, Council may render a decision granting the applicant the licence applied for upon such conditions as it considers fair and appropriate and authorized by law.

(11) All review hearings will be held in public unless the applicant requests in writing prior to the hearing that the hearing be *in camera*, and the decision resulting from the review hearing will be publicly available after it has been provided to the applicant.

(12) If Council renders a decision granting the applicant the licence applied for but originally refused, the licence will be issued upon the applicant complying with this By-law, but without the payment of any additional fee, including the fee in subsection 6(1).

LICENCE INSPECTOR

10. Council, by band council resolution,

(a) will appoint a Licence Inspector, and such other officers as may be necessary, who will receive applications, appeals, issue licences, issue notices, and carry out the business licensing administrative functions under this By-law including enforcement;

(b) will provide for reasonable remuneration to be paid to the Licence Inspector and other appointed officers;

(c) will appoint the Licence Inspector for a fixed term of not less than two (2) years, after which reappointment shall be discussed by both parties; and

(d) may only dismiss the Licence Inspector from the appointed position during the fixed term provided in paragraph (c) for

(i) failing to honestly and diligently carry out the duties of the Licence Inspector as described in this By-law,

(ii) having been convicted of an employment related offence under the *Criminal Code* (Canada), or

(iii) contravening the First Nation's conflict of interest guidelines.

DUTIES OF LICENCE INSPECTOR

11. The Licence Inspector will carry out all the duties of the Licence Inspector found in this By-law and, in particular,

- (a) receive and process all applications, appeals, renewals, transfers and assignments of licences to be issued under this By-law;
- (b) maintain a record of all applications and fees for licences and retain on file a copy of all licences 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 licence is accurate;
- (d) make all investigations required by subsection 8(2) of this By-law relative to an application;
- (e) issue and serve a Notice of Business Closure in the form provided in Schedule 8 whenever becoming aware of a business operating on the Reserve without a licence;
- (f) 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 licence issued under this By-law complies with the licence issued and the laws, by-laws and other lawful enactments of the Council, and no licensee shall obstruct or hinder the making or completing of the inspection;
- (g) 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 licences issued, the type of business conducted under each licence, and the fees received since the previous report along with a summary stating the total number of licences 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 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 LICENCE

12.(1) Council may after giving notice in Schedule 7 and holding a revocation/suspension hearing and considering any submissions and evidence provided at the hearing, (i) suspend for a period not exceeding ninety (90) days, or (ii) revoke, any licence issued under this By-law, where Council has determined that the licensee

- (a) has failed to comply with this By-law;
- (b) is carrying on a business that fails to comply with all provisions in any of the other laws, by-laws or lawful enactments of the First Nation;
- (c) within the preceding three (3) years of licence issuance and since licence 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;
- (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 licence; or

(f) is carrying on a business, the primary purpose of which is to engage in or permit, allow, facilitate, encourage or assist others to engage in any activity that violates the *Criminal Code* (Canada).

(2) Council will give the licensee at least seven (7) days' notice of the revocation/suspension hearing referred to in subsection (1) and the Licence Inspector will serve Schedule 6 personally or by registered mail to the licensee at the address shown in the licence application, but if a licensee who by reasonable efforts of the Council and Licence Inspector after 14 days cannot be found and has not come forward, then the Council may declare that a notice will be deemed to have been duly served, and the hearing will proceed on an *ex parte* basis and a decision may be issued against the licensee.

(3) Subsections 9(4),(9)(5), 9(7), 9(8), and 9(9) of this By-law also apply to the revocation/suspension hearing referred to in subsection (1).

(4) If the decision of Council after the revocation/suspension hearing is to suspend or revoke the licence, then the Licence Inspector will post any notice of suspension or revocation of a licence by the Council upon the premises for which the licence was issued and the notice must not be removed until the licence 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.

NOTICE OF BUSINESS CLOSURE

13.(1) Where the Licence Inspector becomes aware that a business subject to suspension of a licence or the revocation of a licence continues to operate, the Licence Inspector shall without delay serve upon the business premises a Notice of Business Closure as set out in Schedule 8. Service of the Notice of Business Closure shall be effected as provided for in subsection (2).

(2) The Notice of Business Closure in Schedule 8 must be personally served on the business premises while it is apparently open and operating, and left with the person seeming to be in charge of the business premises and acceptance of such delivery shall be deemed to be acceptance by the licensee; but service is not invalidated if the Notice of Business Closure is refused by the person seeming to be in charge of the business premises, in which case the Licence Inspector shall physically post the Notice of Business Closure upon the premises, which posting shall constitute service to the licensee and any and all persons associated with the business premises of the Notice of Business Closure, and such notice remains effective regardless of subsequent physical removal by anyone other than the Licence Inspector.

COURT APPLICATION TO CONSTRAIN CONTRAVENTION

14.(1) Where:

(a) a Notice of Business Closure in the form provided in Schedule 8 has been personally served by the Licence Inspector upon a non-conforming business premises further to subsection 13(2), and

(b) the Licence Inspector has at least 48 hours later observed and confirmed by way of signed Declaration of Business Operating Contrary to Notice of Business Closure in the

form provided in Schedule 9 that the said business premises identified in the Notice of Business Closure continues to operate,

Council may authorize that, further to the rules of Court and with such notice or particulars as the rules of Court require, application or applications be made to the Court for an order or orders directing any person or persons operating the said business premises identified in the Notice of Business Closure on the Reserve without a licence under this By-law be constrained from operating said business in contravention of this By-law, and that the business premises be closed on such terms and with such penalties or forfeitures for failure to obey the order as the Court may deem it appropriate to provide.

(2) Where an order has been made further to subsection (1), the Council may make additional applications to the Court, seeking any kind of additional relief or enforcement of the Court order as may be deemed necessary.

(3) Where an application by Council has been made further subsection (1), whether or not a Court order has yet been issued, and the person or persons who were operating the said business premises identified in the Notice of Business Closure then applies for a licence, then, in addition to any other requirement to obtain a licence under this By-law, the person or persons seeking to obtain the business licence shall first pay all the costs, including but not limited to costs for legal advice, legal representation, court filing fees, courier, secretarial, and other similar charges, incurred by Council in making the application under subsection (1), including appearing before the Court, as certified in writing by the Council as having been incurred by the Council.

(4) Receipt of the payment of such costs by the Council described in subsection (3) does not require the Licence Inspector to issue a licence where issuing such a licence would be contrary to any provision of this By-law.

(5) The Licence Inspector shall not process any such application referred to subsection (3) until any and all amounts certified as due and owing by the Council under that subsection have been paid.

(6) Where, further to subsection (1) an order of the Court to constrain contravention of this By-law by the operating of the business premises without licence has been made, then the Licence Inspector may engage such bailiffs or assistance and take such other measures necessary to enforce closure and take, on behalf of the First Nation, any such other actions, proceeding, claims or seizures as may have been authorized by the order of the Court.

(7) Any action or proceeding of any kind under this section does not prevent, before, during, or after any proceeding under this section, a separate summary conviction proceeding under section 15.

SUMMARY CONVICTION FINE

15. Every person who contravenes subsection 3(1) of this By-law is guilty of an offence and on summary conviction is liable to a fine not exceeding one thousand dollars (\$1,000).

CONFLICT OF INTEREST

16. The Chief and each Councillor must declare any potential conflict of interest, in accordance with the First Nation’s 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.

GENERAL


17.(1) This By-law must be construed as being remedial and given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.

(2) Schedules 1-9 attached to this By-law form part of this By-law and are an integral part of this By-law.

(3) No member of Council, or the Licence Inspector, or any other official of the First Nation, or the First Nation itself, is liable for any loss, harm, or damage arising to any person due to any, actions, failures, omissions, or decisions taken in good faith under this By-law.

THIS BY-LAW IS HEREBY ENACTED by Council at a duly convened meeting held on the 30 day of April, 2018.

A quorum of Council consists of 5 (~~17~~) members of Council.



Councillor Jasmine Pirie


Councillor Edwin Bernard

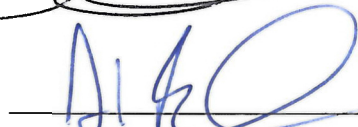

Councillor Julian Moulton


Councillor Ryan Moulton

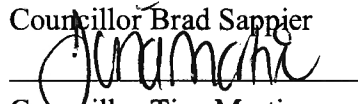

Councillor Shawn Deveau


Councillor Shane Perley-Dutcher

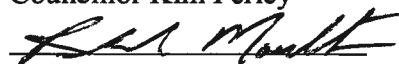

Chief Ross Perley


Councillor James Bernard

Councillor Brad Sappier


Councillor Tina Martin

Councillor Kim Perley


Councillor Richard Moulton

Councillor Leonard Nichloas

SCHEDULE 1
(section 5)

BUSINESS LICENCE

Licensee: _____

Location: _____

Further to the provisions of the *Tobique First Nation Business Licensing By-law 2018*, and subject to the terms of that By-law, the above noted Licensee is hereby authorized to conduct a business, calling, trade or occupation in the following nature _____ on the Tobique 20 Indian Reserve for the period:

commencing _____, 20 __, and expiring December 31, 20 ____.
(date) (date)

Signature of Licence Inspector

Signature of licensee

Date

Note: further to section 3 of the *Tobique First Nation Business Licencing By-law,2018* this licence must be prominently displayed at the place of business.

SCHEDULE 2
(section 6)

FEES

<u>Type of Business:</u>	<u>Annual Fee</u>
Bank/Credit Union	\$25.00
Day-care/Nursery	\$25.00
Grocery/Convenience Store/General retail	\$25.00
Gasoline Station/Auto Repair	\$25.00
Professional/Medical Office	\$25.00

Note: Further to subsection 6(1), the annual fee for any business not listed above is \$250.

SCHEDULE 3
(sections 4, 5, 6)

BUSINESS LICENCE APPLICATION

Any reference to “By-law” below is a reference to the *Tobique First Nation Business Licensing By-law, 2018*.

The address of the Licence Inspector is: Licence Inspector, c/o Tobique First Nation, 13156 Route 105, Tobique First Nation, NB E7H.

The phone number of the Licence Inspector is 506-273-5560

Any cheques, bank orders, etc., for the payment of fees are to be made payable to the Tobique First Nation.

If an application for an initial licence, renewal, transfer or assignment is refused, the applicant will be advised in writing of the refusal and of the right to apply for a formal review of the refusal decision.

Part One

Check one:

_____ This is an initial application for a business licence under the By-law. Fully complete Part 2 below, attach any documentation required, sign, date, the declaration at the bottom of party and submit this form to the Licence Inspector at the Tobique First Nation offices. For now, enclose no fee. You will be contacted by the Licence Inspector when the classification of your proposed business is determined further to Schedule 2 of the By-law. Contact the Licence Inspector if you require more information.

_____ This is a request for a renewal of an existing licence that has not expired (that is before December 31st). The name of the Licensee is _____ . Please attach a copy existing licence, leave Part 2 of the form uncompleted, but sign and date the declaration at the bottom of Part 2 of application form and submit this form to the Licence Inspector. Your signature

attests that you wish to renew the existing licence and that no significant changes have occurred in the ownership or operation of the business. Enclose the same fee as was required to be paid with the initial application. Contact the Licence Inspector if you require more information.

_____ This a request for the renewal of existing business licence that is in bad standing (late renewal) up to and including January 15. Please attach a copy of the existing licence, leave Part 2 of the form uncompleted, but sign and date the declaration at the end of Part 2 of the application form and submit this form to the Licence Inspector. Your signature attests that you wish to renew the existing licence and that no significant changes have occurred in the ownership or operation of the business. Enclose the same fee as was paid with the initial application, **plus the late renewal fee of \$150 further to subsection 6(7) of the By-law.** Contact the Licence Inspector if you require more information.

_____ This is a request for the renewal of existing business licence that is in bad standing (late renewal), after January 15, but on or before January 31. Please attach a copy existing licence, leave Part 2 of the form uncompleted, but sign and date the bottom of Part 2 of application form and submit this form to the Licence Inspector. Your signature attests that you wish to renew the existing licence and that no significant changes have occurred in the ownership or operation of the business. Enclose the same fee as was paid with the initial application, **plus the late renewal fee of \$300 further to subsection 6(8) of the By-law.** Contact the Licence Inspector if you require more information.

_____ This an application, further to subsection 4(4) of the By-law for the proposed transfer of an existing licence where the location of the business is to be moved from one location on the Reserve to another location on the Reserve. The name of the business is _____ and the old location is _____, and the new proposed location is _____. Attach a copy of the

existing licence, leave Part 2 of the form uncompleted, but sign and date the declaration at the bottom of Part 2 and submit this document to the Licence Inspector. The Licence Inspector will visit the new location to insure that the new premises comply with the terms of the Building Licencing By-law. If they do, the Licence Inspector will advise you of the need of the payment of the transfer fee of \$100 further to subsection 6(3) of the By-law and, upon receipt of the fee, will issue a revised licence showing the new location of the premises.

_____ This is an application, further to subsection 4(5) of the By-law, for the assignment of an existing licence to a person who has purchased an existing business on the Tobique Reserve. The name of the existing Licensee is _____
_____. Attach a copy of existing licence, and the new purchaser must complete Part 2 below in full, attach any documentation required, sign, date, and submit this form to the Licence Inspector at the Tobique First Nation. Enclose the transfer fee of \$100 further to subsection 6(4) of the By-law .

Part 2

1. Applicant's Name:

2. Applicant's Residential Address:

3. Phone Number: residence: _____ office: _____

4. Fax Number: residence: _____ office: _____

5. Applicant's relationship to proposed licensee (Owner/Director/Partner/Manager/etc.)

6. Name of Person/Company/organization proposed as Licensee

7. Mailing Address of Licensee (if different than Applicant)

8. Name of business to be operated by Licensee (if different than Licensee):

9. Is the business currently operating on Tobique Reserve?

Yes _____

No: _____

10. Address of business on Tobique reserve to be licensed:

11. Name of individual in charge at this location: _____

12. Title of individual in charge: _____

13. Type of business (attached additional pages if required to describe the type of business)

14. Approximate Total Floor space of business premises in square meters _____

15. Attach evidence that the operation of the type of business at the site indicated will be in conformance with all applicable land use/zoning requirements of the First Nation, including building inspections and related matters, if applicable.

16. Has the applicant or the proposed licensee or the business previously had a business licence from the Tobique First Nation that was revoked?

Yes _____

No _____

17. Is the applicant or the proposed Licensee registered with the federal government or a self-regulating professional body with respect to the conduct of the business?

Yes _____

No _____

(If yes, applicant must provide proof and give details below.)

18. Is the applicant or the proposed Licensee bonded with a bonding agency with respect to the conduct of your business?

Yes ____

No ____

(If yes, applicant must provide proof and give details.)

19. Is the proposed Licensee business incorporated?

Yes ____

No ____

Federal _____

Provincial _____

(If yes, applicant must provide proof and give details.)

20. Is the proposed Licensee a partnership?

Yes ____

No ____

If yes, the applicant must attach proof of registration of the partnership.

21. Has the applicant or the proposed licensee, within the previous three (3) years, been convicted of an offence under the *Criminal Code* (Canada) for which you have not been pardoned?

Yes _____

No _____

APPLICANT'S DECLARATION: I, _____, by my signature below undertake that I have honestly and fully completed this application for a business licence on the Tobique Reserve 20 to the best of my abilities, and confirm that I am fully authorized to make this application upon behalf of the proposed Licensee, where the licence applied for is not for me personally. I am aware that this licence may be revoked where it is found that this application was false or misleading or incomplete. I understand that it is a condition of any licence issued further to this application that the business licensed be operated in conformance with the *Tobique First Nation Business Licencing By-law, 2018*, and the other laws, by-laws or enactments of the Tobique First Nation, and I understand that this licence is subject to suspension or revocation if the business licensed is operated contrary to this condition. If this application is for a licence renewal, I confirm that there is no material change in the ownership, location, premises, or operation of the business since the original application was made. If the application is for the proposed relocation of the business, I confirm that I understand that the business can only be moved after the Licence Inspector confirms that the new premises are appropriate. If the application is for the transfer of an existing licence, then my signature confirms that I am aware that the Licence Inspector may or may not approve the licence transfer, and the risk in connection with any purchase of the existing business before that decision is made is solely and entirely mine, and further confirm the accuracy of the new information provided and acknowledge that, if the licence is assigned, that any and all undertakings and conditions of the original applicant and licence bind the eventual assignee.

Applicant's signature

Date

NOTE: Please read section 12 of this By-law, which outlines the conditions whereby your licence could be denied, revoked or suspended.

SCHEDULE 4
(sections 8, 9)

NOTICE OF LICENCE REFUSAL

TO: _____
(name of applicant)

ADDRESS: _____

RE: _____
(location of business)

TAKE NOTICE that pursuant to the *Tobique First Nation Business Licensing By-law, 2018*, your application to

___ receive, ___ renew, ___ transfer, ___ assign,

a BUSINESS LICENCE is refused.

AND TAKE NOTICE that you have thirty (30) days from the date of this NOTICE within which you may apply for a review by Council by completing and filing Schedule 5 of the said By-law and paying the fee (\$1,000) pursuant to this By-law with the Licence Inspector.

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

DATED AT _____ this ___ day of _____, 20__.

Name of Licence Inspector

Signature of Licence Inspector

SCHEDULE 5
(section 9)

REQUEST FOR REVIEW HEARING

TO: Council of the Tobique First Nation
c/o Licence Inspector
13156 Route 105
Tobique First Nation, NB E7H 5M7

PURSUANT to the *Tobique First Nation Business Licensing By-law, 2018*, I hereby APPEAL the decision as outlined on the NOTICE OF LICENCE REFUSAL, dated the ____ day of _____, 20__ and signed by the Licence Inspector to refuse to ____ issue, ____ renew, ____ transfer, ____ assign, a BUSINESS LICENCE 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 _____, 20__.

Printed name of appellant

Appellant's signature

(Address to which all notices to appellant are to be sent)

Note: this form must be accompanied with the fee required for an appeal (\$1,000) payable to the Tobique First Nation. If the appeal is successful, then the licence will be issued without payment of any further fee.

SCHEDULE 6
(subsection 9(3))

NOTICE OF REVIEW HEARING

TO: _____
(name of applicant)

ADDRESS: _____
(location of business)

PURSUANT to the _____ *Tobique First Nation Business Licensing By-law*, 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__.

Licence Inspector

SCHEDULE 7
(section 12)

NOTICE OF SUSPENSION/REVOCAION HEARING

TO: _____
(name of licensee)

ADDRESS: _____

RE: ___ Licence Suspension for: _____
(location of business)

___ Licence Revocation for: _____
(location of business)

PURSUANT to the *Tobique First Nation Business Licensing By-law*, Council will be holding a hearing relating to the above-noted business regarding:

___ (i) why your business licence should not be suspended for a period not exceeding ninety (90) days; or,

___ (ii) why your business licence 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 _____, 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__.

Licence Inspector

SCHEDULE 8

(section 13)

NOTICE OF BUSINESS CLOSURE

TO ANY AND ALL PERSONS on the premises or associated with the business known as _____ and operating at the business premises at the location _____

TAKE NOTICE that this business must close immediately, for the following reason:

_____ A business is operating on these premises without having applied for a licence contrary to subsection 3(1) of the Tobique First Nation Business Licensing By-law, 2018.

_____ A business is operating on these premises while the business licence associated with the business is under suspension further to subsection 12(1) of the Tobique First Nation Business Licence By-Law, 2018;

_____ A business is operating on these premises after the business licence associated with the business has been revoked pursuant to subsection 12(1) of the Tobique First Nation Business Licence By-law, 2018.

AND TAKE NOTICE that continuing to operate the business on these premises while under notice of business closure can lead to various actions and sanctions being taken against the business and all persons associated with it by Tobique First Nation Council as provided for in the Tobique First Nation Business Licensing By-law, 2018.

DATE of service of this notice: _____

TIME of service of this notice _____

Person to whom this notice was served (if known) _____

Licence Inspector

Telephone number: _____

Schedule 9
(Subsection 14(1))

Declaration of Business Operating Contrary to Notice of Business Closure

I, _____, am the properly appointed Licence Inspector for the Tobique First Nation further to the provisions of the Tobique *First Nation Business Licencing By-law, 2018*. On Date _____, time _____ I did, further to subsection 13(2) of the *Tobique First Nation Business Licencing By-law, 2018*, personally serve a Notice of Business Closure upon the business known as _____ located at _____ by [*delete unnecessary wording*] leaving a copy of the Notice of Business Closure with _____ the person apparently in charge of the business premises [*or*] by posting a copy of the notice to the business premises, as no person on the premises would accept service of the notice of business closure. I have today, _____, 20____, being at least 48 hours after the date of the service of the Notice of Business Closure, personally visited the business premises where the Notice of Business Closure was served and I do hereby declare and confirm that it is my personal observation that the said business premises continue to operate contrary to the Notice of Business Closure.

Signature of _____
Licence Inspector