

Minister of Indian Affairs
and Northern Development



Ministre des Affaires
indiennes et du Nord canadien

Ottawa, Canada K1A 0H4

I, the Minister of Indian Affairs and Northern Development, HEREBY
APPROVE, pursuant to section 83 of the *Indian Act*, the following by-law
made by the West Bay First Nation, in the Province of Ontario, at a
meeting held on the 23rd day of April 1996.

- **By-law No. 1-96
Respecting the Licensing of Businesses, Callings, Trades and
Occupations of the West Bay First Nation**

A handwritten signature in black ink, consisting of several loops and a horizontal line at the end.

Dated at Ottawa, Ontario this 16th day of September, 1996.

West Bay First Nation

BY-LAW No. 1-96

Respecting the licensing of businesses, callings, trades and
occupations of the West Bay First Nation.

WEST BAY FIRST NATION

BY-LAW NO. 1-96

Respecting the licensing of businesses, callings, trades and occupations
of the West Bay First Nation

INDEX

<u>SECTION</u>	<u>PAGE</u>
Appeal	7
Band Administrators as License Administrator	8
Conflict of Interest	10
Definitions	2
Duties of Band Administrator	8
Enforcement	10
Fees	5
Issuance of License	6
Licenses	5
License Application	4
Preamble	4
Refund	6
Requirements for License	3
Revocation or Suspension of License	9
Short Title	2

FORMS

1 Business License	11
2 Business License Application	12
3 Notice of Refusal	14
4 Request for Review of Hearing	15
5 Notice of Review of Hearing	16
6 Notice of Hearing	17

WEST BAY FIRST NATION
BY LAW No. 1-96

Respecting the licensing of businesses, callings, trades and
occupations of the West Bay First Nation

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

AND WHEREAS the Chief and Council of the West Bay First Nation, 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, if any, on amounts that are payable thereof;

AND WHEREAS the Chief and Council of the West Bay First Nation deems that for the orderly conduct and administration of businesses, and for the health, welfare, safety and environment of the inhabitants of the West Bay Indian Reserve No. 22 to license businesses, callings, trades and occupations;

NOW THEREFORE the Chief and Council of the West Bay First Nation, also known as the West Bay Indian Band, hereby enacts the following by-law:

SHORT TITLE

1.1 This by-law may be cited as the "West Bay First Nation Business Licensing By-law"

DEFINITIONS

2.1 In this by-law;

"West Bay" or " West Bay First Nation" or "West Bay 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 occupies or engages the time, attention, labour and effort of the licensee or person[s] for the purposes of gain, benefit, advantage, livelihood or profit, or, in which the licensee or person[s] shows willingness to invest time and capital on future income.

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

"**Council**" means the Chief and Council of the West Bay First Nation/West Bay Band.

"**Councillor**" means the Councillor[s] of the West Bay First Nation.

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

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

"**Member**" means a member of the West Bay First Nation.

"**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 set apart for the use and benefit of the West Bay First Nation.

"**Economic and Community Development Council**" means a committee established by Chief and Council to oversee economic development.

REQUIREMENTS OF LICENSE

3.1 Every person conducting or carrying on a business on the Reserve must hold a valid license issued under this by-law.

3.2 Any person carrying on more than one business on the Reserve 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 Director of Economic and Community Development Council.

3.5 The licensee must notify the Director of Economic and Community Development Council 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. Upon the closing of the business, the licensee will surrender the license to the Director of Economic and Community Development Council.

LICENSE APPLICATION

4.1 Every person who wishes to conduct a business on the Reserve must apply in writing in Form 2 to the Director of the Economic and Community Development Council.

4.2 Every person applying for a license under this by-law to operate a business that is governed that is regulated by a professional body must supply proof of his or her qualifications and of the qualifications of the employees to carry on such a business, 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 Director of the Economic and Community Development Council 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
- [b] 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 Director of the Economic and Community Development Council 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 the licence was issued.

LICENSES

5.1 A license is granted for a two [2] year period commencing on the date it is approved by the Economic and Community Development Council. Licenses must be renewed by completing Form 2 by the end of the two [2] year period of 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.

5.2 A license will be issued in Form 1 or other suitable Form.

FEES

6.1 The fee payable for a business license, including license renewal, transfer and assignment is one hundred [\$100.00] for each two [2] year period.

6.2 [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 thirty [30] days after the expiry to renew the license and have the license reinstated by completing application in Form 2 and will pay the license fee set out in section 6.1 of this by-law.

[b] Where a suspended licensee has not renewed the license within the thirty [30] days after the expiry date as set out in section 6.2[a] of this by-law, the suspended licensee has another seventy-five [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. 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 Economic and Community Development Council, upon receiving an application for a business license, will promptly approve and issue a license to the applicant provided:

- [a] the Economic and Community Development Council is satisfied that the applicant's business complies with all provisions in any other West Bay First Nation by-laws; and
- [b] the application complies with this by-law; and
- [c] the applicant has disclosed all required information in the application form and the Economic and Community Development Council is satisfied under sections 11.1 [c] [d] of this by-law; and
- [d] the applicant's business would not be detrimental to the health, welfare, safety and environment of inhabitants on the Reserve; and
- [e] 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 retained by the Economic and Community Development Council and the Band Administrator. 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 Economic and Community Development Council is not satisfied with information received from the applicant or licensee under section 8.2 of this by-law, the Economic and Community Development Council 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 [30] days 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 with the Economic and Community Development Council.

9.2 The Economic and Community Development Council, upon receipt of Form 4 will submit to Council an 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 Economic and Community Development Committee'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 Economic and Community Development Council of its decision. The Economic and Community Development Council will forthwith serve notice of the decision in Form 5 on the applicant by personal service or registered mail at the address shown in the license application. Council will hold the review hearing at the time and date set out in Form 5. The applicant will be given at least seven [7] days notice of the hearing.

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 Economic and Community Development Council is entitled to submit arguments in reply to evidence and argument presented by or 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 Chief and Council will give its decision by motion to the Economic and Community Development Council and or applicant at the time of the completion of the review hearing.

9.8 If the applicant agrees at the review hearing to accept conditions upon the license, Chief and Council may render a decision granting the applicant the license applied for upon such conditions as it considers fair and appropriate.

9.9 All review hearings will be held in camera. The decision resulting from the review hearing will be made public and any minutes of the review hearing will be available to the public.

9.10 If Chief and 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 ADMINISTRATOR

10.1 Chief and Council will by Band Council Resolution appoint the Director of Economic and Community Development Council to be the license administrator and who will receive applications, appeals, issue licenses and carry out the business licensing administrative functions under this by-law including enforcement.

**DUTIES OF DIRECTOR OF ECONOMIC AND COMMUNITY DEVELOPMENT
COUNCIL AS LICENSE ADMINISTRATOR**

11.1 The Director of Economic and Community Development Council will:

- [a] receive and process all applications, appeals, renewal, transfers and assignments of licenses to be issued, together with their particulars;
- [b] maintain a record of all application and fees for licenses and retain on file a copy of all licenses issued, together with their particulars;
- [c] ascertain, as far as reasonably practicable, that all information furnished by the applicant in connection with an application for a license is accurate;
- [d] make any investigations required by section 8.2 of this by-law or by the Chief and Council, relative to an application.
- [e] In response to receipt of a written complaint, with the consent of the licensee [such consent not to be unreasonably withheld] make inquiries and inspect premises to determine whether every holder of a license issued under this 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 annually in writing to the Chief and Council, stating the number of licenses issued, the type of business conducted under each license, and the fees received along with a summary stating the total number of licenses issued and the total amount of money received to date for the current year; and
- [g] perform such other duties as may be requested 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 [90] 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 West Bay First Nation by-law(s);

[c] has conducted the business in a manner that is detrimental to the health, welfare, safety and environment of inhabitants in the reserve.

12.2 Council will give the licensee at least seven [7] days notice of the hearing referred to in section 12.1 of this bylaw in Form 6 and the Director of Economic and Community Development Council will serve Form 6 personally or by registered mail to the licensee at the address shown in the license application, but if a licensee who by reasonable efforts of the Council and the Director of Economic and Community Development Council 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 and 9.7 of this by-law also apply to the hearing referred to in section 12.1 of the by-law.

12.4 The Director of Economic and Community Development Council 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 conflict of interest whenever a conflict of interest situation arises.

ENFORCEMENT

14.1 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, penalties and other costs imposed by this by-law.

FORM 1

BUSINESS LICENSE

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

occupation in the following _____ on the West Bay Indian
(COMMERCIAL ACTIVITY)

Reserve for the period commencing _____, 19____, and expiring _____,
DATE

19____.

(NAME OF BUSINESS)

(LOCATION OF BUSINESS)

(SIGNATURE OF LICENSE ADMINISTRATOR)

(SIGNATURE OF LICENSEE)

(DATE)

FORM 2

DATE: _____

BUSINESS LICENSE APPLICATION

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

Yes _____ No _____ (If yes, applicant must provide proof and give details below).
(cont'd on next page)

16. Is the business incorporated? Yes _____ No _____ Federal _____ Provincial _____
(If yes, applicant must provide proof and give details below - registration.)

17. Is the business administered by a partnership? Yes _____ No _____
(If yes, applicant must provide proof and give details below - registration.)

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

FORM 3

NOTICE OF LICENSE REFUSAL

TO: _____
NAME OF APPLICANT

ADDRESS OF APPLICANT

RE: _____
LOCATION OF BUSINESS

TAKE NOTICE that pursuant to the West Bay First Nation 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 this NOTICE within which you may apply for a review by Council by completing and filing Form 4 of the said by-law.

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 ADMINISTRATOR

CHIEF

FORM 4

REQUEST FOR REVIEW HEARING

TO: Council of the West Bay First Nation

c/o _____
BAND ADMINISTRATOR

PURSUANT to the West Bay First Nation Business Licensing By-Law, I hereby appeal the decision as outlined in 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:

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

NOTICE OF REVIEW HEARING

TO: _____
NAME OF APPELLANT

ADDRESS OF APPELLANT

RE: _____
LOCATION OF BUSINESS

PURSUANT to the West Bay First Nation 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 ADMINISTRATOR SIGNATURE

FORM 6

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 West Bay First Nation 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 ADMINISTRATOR SIGNATURE

THIS BY-LAW IS HEREBY made at a duly convened meeting of the West Bay Chief and Council this 23RD day of APRIL, 1996.

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

[Signature]
, Councillor

, Councillor

[Signature]
, Councillor

, Councillor

[Signature]
, Councillor

, Councillor

[Signature]
, Councillor

, Councillor

[Signature]
, Councillor

[Signature]
, Councillor

There are ten (10) Council members and a Quorum of Council is six (6) members.

Number of members of the Council present at the meeting: 8.

~~WITNESSED BY
ADMINISTRATOR
WEST BAY FIRST NATION~~

Witness

[Signature]
Chief

CERTIFIED TRUE COPY
[Signature]
*Gail Helen Restoule, a Commissioner
for the Province of Ontario, for the
Government of Canada, Indian Affairs
and Northern Development
Expires October 28, 1997.*

Chronological no. - N° consécutif 3199
File reference no. - N° de référence du dossier

BAND COUNCIL RESOLUTION
RÉSOLUTION DE CONSEIL DE BANDE

NOTE: The words "from our Band Funds" "capital" or "revenue", whichever is the case, must appear in all resolutions requesting expenditures from Band Funds.
NOTA: Les mots "des fonds de notre bande" "capital" ou "revenu" selon le cas doivent paraître dans toutes les résolutions portant sur des dépenses à même les fonds des bandes.

The council of the Le conseil de		WEST BAY FIRST NATION		Cash free balance - Solde disponible	
Date of duly convened meeting Date de l'assemblée dument convoquée		D-J	M	Y-A	Province
		2	3	0	4
				9	6
				ONTARIO	
				Capital account Compte capital	\$ _____
				Revenue account Compte revenu	\$ _____

DO HEREBY RESOLVE:
DÉCIDE, PAR LES PRÉSENTES:

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

AND WHEREAS, the Chief and Council of the West Bay First Nation, 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, if any, on amounts that are payable thereof;

AND WHEREAS, the Chief and Council of the West Bay First Nation deems that for the orderly conduct and administration of businesses, and for the health, welfare, safety and environment of the inhabitants of the West Bay Indian Reserve No. 22 to license businesses, callings, trades and occupations;

NOW THEREFORE, the Chief and Council of the West Bay First Nation, also known as the West Bay Indian Band, hereby enacts the following by-law.

Quorum

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Chief - Chef)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

(Councillor - Conseiller)

FOR DEPARTMENTAL USE ONLY - RÉSERVÉ AU MINISTÈRE

Expenditure - Dépenses	Authority (Indian Act Section Autorité (Article de la Loi sur les Indiens)	Source of funds Source des fonds <input type="checkbox"/> Capital <input type="checkbox"/> Revenue Revenu	Expenditure - Dépenses	Authority (Indian Act Section Autorité (Article de la Loi sur les Indiens)	Source of funds Source des fonds <input type="checkbox"/> Capital <input type="checkbox"/> Revenue Revenu
Recommending officer - Recommandé par			Recommending officer - Recommandé par		
Signature _____ Date _____			Signature _____ Date _____		
Approving officer - Approuvé par			Approving officer - Approuvé par		
Signature _____ Date _____			Signature _____ Date _____		