



MISSISSAUGA FIRST NATION
BUSINESS LICENSING LAW

Enacted	07/01/2019
Community Meeting	01/08/2019
3 rd Reading	05/28/2019
2 nd Reading	02/20/2019
1 st Reading	02/06/2019
Lands & Resources Committee	05/22/2019
Public Posting	04/08/2019
First Draft	01/07/2018

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1. PREAMBLE

WHEREAS the Mississauga First Nation have the inherent right given by the Creator to enact any law necessary in order to protect and preserve our Anishinaabe culture, to protect our lands, our language, customs, traditions and practices;

WHEREAS we the citizens of Mississauga First Nation exercise our inherent aboriginal and treaty rights to govern ourselves through enacting our own laws through our own Misswezahging Constitution, duly ratified March 15, 2015;

WHEREAS the Mississauga First Nation has entered into the Framework Agreement on First Nation Land Management with Canada (February 12, 1996, as amended: the "Framework Agreement"), which was ratified on behalf of the Government of Canada by the *First Nations Land Management Act* (1999);

WHEREAS the Mississauga First Nation ratified the Framework Agreement and brought its Land Code into effect on August 1, 2009; and,

WHEREAS, pursuant to the Mississauga Land Code, laws may be enacted to protect Mississauga Land, the use and benefit of Mississauga Land, the occupation of Mississauga Land, residence on Mississauga Land, and the creation of offences, penalties and remedies for violations of Mississauga laws;

AND Council wishes to implement business permitting system to track and regulate the conduct of business on Mississauga First Nation;

NOW THEREFORE this Mississauga Business Permit Law is hereby enacted under the conditions of the Misswezahging Constitution and MFN Land Code as a Law of the Mississauga First Nation.

2. PURPOSE

2.1 The purpose of this Law is to record and regulate businesses on Mississauga First Nation.

3. WHERE THIS LAW APPLIES

3.1 The provisions of this Law apply to the whole area of the Reserve and Mississauga First Nation as defined in the Mississauga Land Code, including those lands held in Trust for the benefit of Mississauga First Nation.

4. DEFINITIONS

4.1 For the purposes of this Law, terms have the same definitions as in the Land Code;

4.2 For the purposes of this Law, the following definitions apply:

"Business" means carrying on, or the entity that carries on, a commercial, retail, or industrial undertaking of any kind or nature, or the provision of professional, personal or other services for the purpose of gain or profit and includes the activities set out in section 5.3;

"Business Permit" means a Permit to carry on Business within or on Mississauga First Nation issued under Part 8 of this Law to a member of MFN;

"Council" means the Chief and Council of Mississauga First Nation;

"Daycare" means a day care or child care service or facility, not including a school, where a person, in exchange for payment of some form, offers or provides care for at least three children who are not related to the care giver by blood or marriage;

"Director of Operations" means any person who is appointed and employed by Council in the capacity of Director of Operations of Mississauga First Nation;

"Enforcement Officer" means the person or persons appointed by Council, from time to time, to administer and enforce the provisions of Mississauga First Nations Laws enacted by Council and includes any delegate and any assisting personnel as required and requested by an Enforcement Officer, First Nations Constables, peace officer as defined or any other person appointed by the Council for the purpose of maintaining law and order on the First Nation;

"Mississauga" means the governmental body for Mississauga First Nation

"Mississauga First Nation" means lands as described in the Mississauga First Nation Land Code and amendments as may be supplemented or amended from time to time;

"Non-resident Business" means a Business which is carried on, in or on Mississauga First Nation by a Person who does not have a Premises on Mississauga First Nation;

"Operator" means the owner or proprietor of a Business;

"Person" includes an individual, a partnership, a corporation, a trust, an unincorporated association or other entity or agency or political

subdivision thereof, and their heirs, executors, administrators and other legal representatives;

"Premises" means a store, office, shop, building, home, warehouse, factory, structure, enclosure, temporary or permanent fruit or vegetable stand, yard or other definite area occupied or capable of being occupied by a Person for the purpose of a Business and includes any area situated within any of the foregoing where a separate class or type of Business is carried on, by a separate operator;

5. GENERAL PROVISIONS

5.1 The headings of parts and sections in this Law have been inserted as a matter of convenience, are for reference only, and in no way define or limit this Law or any of its provisions.

5.3 For the purpose of this Law, any Person who:

- (a) advertises or indicates by any means as being open for Business of any kind,
- (b) deals in, or buys, sells, barter, rents, or displays any commodity or service or offers by advertisement or otherwise, on behalf of himself or others; to buy, sell, barter or rent any commodity or service,
- (c) engages in soliciting or promotion of any commodity or service,
- (d) renders or offers to render professional, personal, contractual, or other service to any person for the purpose of gain or profit,
- (e) lets for rent more than two residential suites or units in any one complex, or
- (f) engages in repairing, restoration or servicing of vehicles, all-terrain vehicles, boats, motors, appliances or other commodities not owned or registered in the name of that person or firm,

within or on Mississauga First Nation shall be deemed to be carrying on a Business.

5.4 For the purpose of this Law, where a Business is carried on in or from more than one home, structure or parcel of land in Mississauga First Nation, the Business carried on in or from each Premises shall be deemed to be a separate Business unless that business provides services in-home to the occupants of other premises.

6. PROHIBITIONS

- 6.1 Except as set out in this Law and subject to Part 7, no Person shall, within or on Mississauga First Nation, carry on Business unless the Person holds a valid and subsisting Business Permit for the carrying on of that Business, issued by Mississauga.
- 6.2 No Person shall carry on Business at a Premises other than the Premises specified for that Business in a valid and subsisting Business Permit.
- 6.3 Unless otherwise authorized under a Law, no Person shall in any manner, carry on Business or solicit for charity, or any other purpose, on any road or highway that is wholly or partially within Mississauga First Nation.

7. EXEMPTIONS

- 7.1 Despite subsections 5.3 and 6.1 no Business Permit is required for any of the following:
- (a) the Business of renting apartment suites or units where not more than two (2) suites or units are made available for rent,
 - (b) the door-to-door sale of newspapers published in Canada,
 - (c) public schools,
 - (d) the teaching of music or handicrafts as a home occupation where such teaching involves not more than one class of five (5) students at one time,
 - (e) garage sales or yard sales held by Mississauga Members or occupants of Mississauga First Nation where there are fewer than four (4) days per year of sales,
 - (f) sales of baked goods cooked in the home of a Member or occupant of Mississauga First Nation,
 - (g) small scale, non-commercial, periodic fund-raising events by Mississauga First Nation Members or organizations or occupants of Mississauga First Nation,
 - (h) creation and sale of carvings, crafts, and other artwork and crafts by Members,
 - (g) small-scale home-based services such as hair cutting or manicures where there is no more than one chair or station.

8. APPLICATIONS AND BUSINESS PERMITS

APPLICATIONS

8.1 Every Person applying for a Business Permit for the first time to carry on a new or existing Business shall make an initial application to the Mississauga First Nation Lands Department.

APPLICATIONS

8.3 Each initial application shall be in the form specified by Council or the Lands Manager and shall include, at a minimum:

- (a) The name, address, phone number, incorporation number where applicable, nature and location of the Business;
- (b) the name, address, and phone number of the operator or owner of the Business;
- (c) the address and the legal description of the Premises, if any, from which the Business operates;
- (d) an acknowledgement that the Business Permit does not provide authorizations for land use or other matters and that other permits or authorizations may be required; and
- (e) A signed release and waiver releasing and indemnifying Mississauga First Nation against any claims in relation to the Business or Premises for which the Business Permit is being sought.

8.4 The application form shall be signed by the Person who is the owner of the Business, or by their duly authorized agent.

START DATE AND TERM OF BUSINESS PERMITS

8.5 Unless otherwise stated on the Business Permit, annual Business Permits shall be granted to commence on the 1st day of April and terminate on the 31st day of March in each year.

- (a) Permit fees will be prorated based on the date of purchase.

ANNUAL RENEWALS

- 8.7 Once a Person has received a Business Permit that Person may apply to renew their Business Permit each year by submitting an application to renew in the prescribed form and by paying the annual fee on or before March 30 of that year.

FEES

- 8.8 Each application or renewal for a Business Permit shall be accompanied by the prescribed fee.
- 8.10 A Person ceasing to carry on Business before June 30 shall be entitled to a refund of one half the annual fee but no other refunds shall apply.
- 8.11 Council may waive fees in specific circumstances or approve a policy in relation to waiver of fees.
- 8.12 Fees will be outlined in the Business Permit fee schedule, which may be amended from time to time by Council after being posted for 30 days, recommended by the Lands & Resources Committee, and approved at a duly convened Council meeting.

REQUIREMENT TO POST OR CARRY

- 8.12 Any Person to whom a Business Permit is issued, shall post such Permit and keep it posted in a conspicuous place on the Premises for which it is issued.
- 8.13 Any Person who receives a Business Permit for a Non-resident Business shall carry the Permit on their person at all times while carrying on Business within or on Mississauga First Nation.

GRANTING PERMITS

- 8.14 The Lands & Resources Committee may grant a Business Permit where she is satisfied that the applicant has complied with all applicable laws and requirements.

PRE-CONDITIONS

- 8.15 No Business Permit shall be granted for Businesses requiring other authorizations until the applicant has demonstrated that the applicable preconditions have been met including the following:
- (a) Land Use permit, following 2005 Mississauga First Nation Lands Use and Resource Management Plan, if the business is a new development or requires a new Premises;
 - (b) Environmental Assessment process;
 - (c) for any Premises, proof of compliance with all applicable fire safety regulations:
 - (i) Inspection by Mississauga First Nation Fire Department & Infrastructure Department
 - (d) for an automobile, truck and coach service business that any employees working directly on the vehicles comply with the trade licensing and apprenticeship requirements for the work performed;
 - (e) for a Daycare, proof of licensing under the provincial Child Care Licensing Regulation;
 - (f) for the construction or alteration of a restaurant or Food Premises as defined in the provincial Food Premises Regulation or its successor, proof of approval by a Health Official under the provincial Health Act;
 - (g) for the preparation, distribution, and selling of foods (e.g. restaurants, grocery stores, hot dog stands, etc.) other than pre-packaged or pre-bottled foodstuffs, proof of a Safe Food Handling Certificate;
 - (h) for the sale or distribution of liquor, proof of licensing under the provincial Liquor Licensing Act of Ontario;
 - (i) for gaming facilities, proof of licensing under a Law, or a First Nation law or applicable federal or provincial law;
 - (j) for Cannabis retail and production operations, proof of compliance with the *Ontario Cannabis License Act*, Health Canada regulations or applicable Mississauga First Nation law; and,
 - (k) finally, any operators of business with corresponding safety or licensing, regulations, or certifications should provide proof of compliance.

ACCESS FOR INSPECTION AND ENFORCEMENT

- 8.16 Every Business Permit shall be deemed to grant access by the Lands Manager or Enforcement Officer to the Business or Premises for inspections and enforcement in relation to this Law.

COMMITTEE MAY REFUSE

- 8.17 Despite anything in this Law:
- (a) The Lands & Resources Committee may, following upon receipt of a recommendation from the Lands Manager accompanied by a briefing note or background material, refuse in any particular case to grant the request of an applicant for a Permit, but the granting or renewal of a Business Permit shall not be unreasonably refused;
 - (b) The Lands & Resources Committee may revoke a Business Permit for reasonable cause after giving notice to the Permittee and after giving the Permittee an opportunity to be heard;
 - (c) The notice and opportunity referred to in subsection (b) is not required in respect of a Permittee who by reasonable efforts cannot be found; and
 - (d) Any Person who has applied for but failed to be granted a Permit may appeal to Council and on such appeal the provisions of subsection (a) shall apply.
 - (i) Mississauga First Nation Council reserves the right to immediately emergency revoke a permit without notice if they receive notice of illegal activity within the premises;
 - (ii) Notice and opportunity to appeal will be given within 60 days of the emergency revocation of the permit.

BUSINESS PURCHASES AND TRANSFERS OF PERMITS

- 8.18 Any Person who purchases a Business or the controlling interest in a Business of any other Person permitted under this Law and who desires to continue this Business shall make application to the Lands Manager for a transfer of the Permit within sixty (60) days of the purchase.
- (a) A Business Permit not transferred in accordance with the provisions of this Law is invalid;

- (b) The Business Permit transfer must be for the same purpose and location as the original approved Permit; and;
 - (b) A Business Permit may be transferred upon the approval of the Lands & Resources Committee.
- 8.19 No Person to whom a Business Permit has been granted under the provisions of this Law shall change the location of the Premises in which they carry on Business without first applying to the Lands Manager in writing to have the Permit transferred to the new location.
- 8.20 A Business Permit may be transferred by a Person who makes application in the form established by the Lands Manager and who subsequently receives approval in writing from the Lands & Resources Committee;
- 8.21 Any Person who applies for the transfer of an annual Business Permit after the commencement of the Permit period shall ensure that the Permit is paid

TEMPORARY PERMIT

- 8.22 A Temporary Business Permit may be issued to a Person who intends to carry on Business on a temporary or seasonal basis, which includes traveling artists, vendors, and salespersons.
- 8.23 Temporary Permittees must indemnify Mississauga First Nation
- 8.24 Temporary Permittees will be a lesser fee outlines in the fee schedule.

NO LIABILITY FOR MISSISSAUGA

- 8.23 Neither the granting or refusal of a Business Permit:
- (a) Is evidence that a Business, Premises or any associated approvals are valid or legal; or
 - (b) Creates any liability on behalf of Mississauga

9. OFFENCES, PENALTIES AND ENFORCEMENT

PENALTIES

- 9.1 A person who contravenes this Law or an order made by a Court pursuant to this Law is guilty of an offence and upon conviction is liable to a fine of not more than five thousand dollars (\$5,000.00) or imprisonment of not more than six (6) months or both. Council may develop a penalty schedule based on repeat offences and increase the amount of penalty based on frequency and repetition of offences.
- 9.2 A fine payable under paragraph 9.1 shall be remitted to the Mississauga First Nation.

OFFENCES

- 9.3 It is an offence to:
- (a) provide any false or misleading information in order to obtain a Business Permit;
 - (b) apply for a Business Permit for a Business which requires other permits or licenses as a pre-condition under section 8.15 without first applying for and receiving the requisite permits or licenses;
 - (c) obstruct, fail to comply with a request or demand verbally or in writing for documents, interfere with, or deny access to a Lands Manager, Enforcement Officer, or other individual who is designated to enforce this Law;
 - (d) carry on Business without a valid and subsisting Business Permit;
 - (e) carry on Business, perform a service, or display, offer for sale, or sell or distribute to a person actually or apparently under the age of sixteen years anything that may be harmful or dangerous to the health or safety of a person actually or apparently under the age of sixteen years;
 - (i) Fireworks, weapons, ammo, cigarette & cannabis paraphernalia, alcohol, dangerous equipment, dangerous substances
 - (f) carry on a Business that is prohibited under this Law; or
 - (g) carry on a Business at a different Premises than the Premises specified in the Business Permit.

SUSPENSIONS

- 9.4 In addition to any other remedies or penalties under this Law, Chief & Council may suspend any Business Permit in writing for all or part of the year or for a period of up to three years, if its holder:
- (b) is convicted of an offence under any Mississauga First Nation Land Code Law or federal or provincial law relating to the Business for which they are permitted or with respect to the Premises named in the Business Permit;
 - (c) has ceased to meet the lawful requirements to carry on the Business for which they are permitted or relating to the Premises named in the Business Permit;
 - (d) has failed to renew their Business Permit before April 1 of each year;
 - (e) has, in the opinion of the Director of Operations or the Lands Manager, acting reasonably:
 - (i) engaged in such gross misconduct relating to the Business or to the Premises named in the Business Permit as to warrant the suspension of the Permit; or
 - (ii) conducted Business, performed a service, or displayed, offered for sale, or sold or distributed to a person actually or apparently under the age of sixteen years anything that may be harmful or dangerous to the health or safety of a person actually or apparently under the age of sixteen years.
- 9.5 Any Person whose Business Permit has been suspended in accordance with this Law may appeal to Council and upon such appeal the Council may confirm or may set aside such suspension on such terms as it sees fit.

ENFORCEMENT AND CEASE AND DESIST ORDERS

- 9.6 In addition to any other applicable penalties under this Law, any violation or offence committed and upon conviction under this Law or any of the above conditions shall cause the Business Permit to be invalid
- 9.7 In addition to any other applicable fine, penalty or remedy, Council, the Lands Manager, or a Law Enforcement Officer may:

- (a) issue a Cease and Desist Order to order any Person who requires a Business Permit under this Law but who has not received a Business Permit to cease carrying out Business and any related activity or use until such time as that Person applies for and receives a Business Permit;
- (b) in addition to (a) where a Business is being carried out without a Business Permit , order that a Premises, or a portion of a Premises, be closed, shut down, sealed off, or otherwise made unavailable for Business use until such time as there is a Business Permit in place for that Premises;
- (c) suspend the application of subsidiary permits to the business, such as but not limited to, tobacco quota allotments;
- (d) suspend consideration of any Mississauga First Nation contracts with the non-compliant Business;
- (e) Publicly post notice of lack of compliance with this law in the community newsletter and website.

In addition to any other applicable penalties under this Law, any violation or offence committed and upon conviction under this Law or any of the above conditions shall cause the Business Permit to be invalid.

9.8 An order imposed under subsection 9.7:

- (a) may be registered in Court and enforced as a court order; and
- (b) continues in force until the condition that led to it is remedied or until the activity that is the subject of the order receives a Business Permit under this Law.

10.SEVERABILITY

10.1 Should any section of this Law be declared by a Court of competent jurisdiction to be ultra vires or illegal for any reason, the remaining parts shall nevertheless remain valid and binding, and shall be read as if the offending section or part had been struck out.

11.APPLICATION OF LAW

11.1 Where any Federal Act or Regulation or Provincial Act or regulation or any other Mississauga First Nation Law may apply to any matter covered by this Law, compliance with this Law will not relieve the person from also complying with the provisions of the other applicable Act, regulation or law.

11.2 The headings given to the sections and paragraphs in this Law are for

convenience of reference only, and do not form part of this Law and will not be used in the interpretation of this Law.

- 11.3 Unless otherwise noted, any Law referred to herein is a reference to a law of Mississauga First Nation, as amended, revised, consolidated or replaced from time to time.

12. IMMUNITY

12.1 No action for damages lies or may be instituted against present or past Council, Mississauga First Nation Law Enforcement Officers, or employees, servants or agents of either Mississauga First Nation or Council:

- (a) for anything said or done or omitted to be said or done by that person in the performance or intended performance of the person's duty or the exercise of the person's authority; or
- (b) for any alleged neglect or default in the performance or intended performance of the person's duty or the exercise of the person's authority.

12.2 Section 11.1 does not provide a defense if:

- (a) Council, Mississauga First Nation Law Enforcement Officers, employees, servants or agents of either Mississauga First Nation or Council have, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, malicious or willful misconduct; or
- (b) the cause of action is libel or slander.

12.3 Mississauga First Nation, present or past Council, Mississauga First Nation Law Enforcement Officers, or employees, servants or agents of or Council are not liable for any damages or other loss, including economic loss, sustained by any person, or to the property of any person, as a result of neglect or failure, for any reason, to discover or detect any contravention of this Law or any other Mississauga First Nation Law, or from the neglect or failure, for any reason or in any manner, to enforce this Law or any other Mississauga First Nation Law.

12.4 All actions against Mississauga First Nation for the unlawful doing of anything that:

- (a) is purported to have been done by Mississauga First Nation under the powers conferred by this Law or any Mississauga First Nation Law; and
- (b) might have been lawfully done by Mississauga First Nation if acting in the manner established by law,

must be commenced within thirty days after the cause of action first arose, or within a further period designated by Council in a particular case, but not afterwards.

Mississauga First Nation is in no case liable for damages unless notice in writing, setting out the time, place and manner in which the damage has been sustained, is delivered to Mississauga First Nation, within ten days from the date on which the damage was sustained.

13.COMING INTO FORCE

DATE LAW COMES INTO FORCE

12.1 This Law shall come into force and effect on July 1, 2019.