

INDIGENOUS-MUNICIPAL RELATIONSHIP AGREEMENTS A GUIDE FOR MUNICIPAL LEADERS

WHY NOW?

Municipal leaders are being looked to set the tone and be part of the constructive societal change in Indigenous Relations that is needed and expected. A question we have been hearing from members is how municipal governments leaders and staff can support the healing, learning, and restoration needed to strengthen reconciliation with Indigenous friends, neighbours, and communities.

Relationship Agreements can be helpful in creating relationships and identifying areas of mutual concern and interest. By going through the process of creating an agreement, municipalities and Indigenous communities can continue (or begin) the process of developing mutual understanding and ongoing conversations. Completing this process will better equip all those involved to engage in meaningful, respectful conversations and solutions when issues do arise.

To set the context, municipal governments are not part of the Crown under the Canadian Constitution —the Federal and Provincial governments are. As such, municipal governments are not able to address outstanding rights and claim issues, but we are able to be better neighbours and partners with Indigenous friends and communities.

SEPARATE PROCESS FROM DUTY TO CONSULT

It is important to note that Relationship Agreements are outside of and apart from the formal Duty to Consult process. While municipal governments may have a role to play in discharging procedural aspects of the Crown's Duty to Consult, they do not have an independent Duty to Consult. Municipalities are not the Crown.

They do not have the constitutional authority to address the range of issues arising from Aboriginal and Treaty rights. Municipal governments are subject to many provincial approval processes and do not have access to critically relevant information on Crown-Indigenous relations. Moreover, a lack of knowledge, capacity, and financial resources to fulfill the Duty also prevent municipal governments from independently assuming responsibility for discharging this Crown responsibility.

AMO RESOURCES

At the August 14th Board Meeting, the AMO Board of Directors approved two resource papers to assist municipal councils' efforts to support Truth and Reconciliation. It may be helpful to review those resource papers prior to reviewing this document. The first resource paper provides an overview of the Truth and Reconciliation Commission's (TRC's) Calls to Action that municipal governments can address themselves. These calls to action can help municipal governments focus their reconciliation efforts on areas within their sphere of influence.

The second resource paper provides ideas and options for what municipal leaders and councils can do to better support and engage Indigenous residents and neighbours at this time. It recommended that municipal governments:

1. Start By Listening
2. Educate Yourself
3. Speak Up Thoughtfully
4. Call For Action
5. Create A Declaration of Mutual Commitment and Friendship
6. Create Urban Indigenous-municipal advisory committee
- 7. Create Or Renew Relationship Agreements**
8. Support Indigenous Colleagues and Staff
9. Attend Memorial Events or Ceremonies.

While the recommended actions above do not appear in a linear, “first this, then that,” sequence, it is recommended that municipalities begin by listening and educating themselves, and that this process of learning and conversation is ongoing and prioritized.

The purpose of this guide specifically is to support municipalities in recommendation #7, Create Or Renew Relationship Agreements.

WHERE TO START?

It is important that municipal governments take the time to move thoughtfully through recommendations #1 to #4 prior to turning their focus to #5, #6 and #7. Listening, educating yourself, speaking up thoughtfully and calling for action will be ongoing practices that all municipal governments should embrace as a matter of the journey towards truth and reconciliation.

Substantive and functional relationship agreements will only be possible after municipal governments take the time to learn about local and national indigenous stories, histories, and perspectives on how best to move forward. While it is not possible to know everything about the other community, just as it may not be possible to know everything about one’s own community, initiating a dialogue between the two communities ensures that when a question comes up there is already a culture of positive and regular communication in place.

Recommendation #3, “Speak Up Thoughtfully,” suggests that municipal governments consider carefully what their informed contribution will be to the public discussion in support of Indigenous peoples. A sincere and heartfelt statement may take some time to develop and should be followed by an action plan or strategy.

Options for such an action plan include creating or renewing relationship agreements, attending memorial events or ceremonies, creating advisory committees, and more. The declaration of mutual commitment and friendship with the local Friendship Centre and the creation of an Indigenous-municipal advisory committee could be initiatives on their own. Such declarations could also be woven into a relationship agreement between a municipal government and Indigenous community.

CREATING OR RENEWING A RELATIONSHIP AGREEMENT

The goal of a relationship agreement is to establish a long-term relationship of practical cooperation and commitment that respects the Indigenous community's jurisdiction. The agreement must also recognize the need for ongoing compatibility, coordination, and understanding between the parties.

Many municipal governments have formal or informal inter-government agreements with Indigenous communities that cover how they will work together on areas of mutual interest such as economic recovery, tourism, land use planning, and environmental issues. Many more do not or have outdated agreements that do not reflect the current reality of the municipal-Indigenous relationship. These informal agreements are different from service agreements on items such as fire protection services, animal services, solid waste, or water/sewer provision. These formal service agreements often have legal and financial implications. Frameworks for such agreements are available through the Federation of Canadian Municipalities (FCM).

It is important to remember that municipalities do not have the same legal relationship with Indigenous communities as the provincial and federal governments. However, the ways in which these voluntary government-to-government relationships are formed, differences are understood, and relationships can be established are meaningful pathways toward reconciliation in these agreements. Relationship agreements can create a platform for legitimate, meaningful collaboration without altering existing structures in Canada. They represent an opportunity to foster genuine collaboration and achieve shared logistical, cultural, social, and economic benefits.

A relationship agreement should be a living document that represents a constantly evolving relationship. As such, it should change and adapt as the connection matures, and as the municipality and Indigenous community identify needs and priorities.

Establishing a relationship agreement

Establishing and maintaining respectful relationships is a basic principle of good municipal governance. By respecting each other's perspectives and developing relationships, municipalities and Indigenous communities can build trust, address challenging issues and new opportunities and act collaboratively to achieve social and economic well-being for all residents.

In addition to the recommendations outlined above and in the AMO paper, "What Municipal Leaders Can Do To Better Support Indigenous Residents And Neighbours At This Time" the following steps could be considered in the journey to creating a meaningful relationship agreement:

1. Identify treaty and non-treaty Indigenous communities that live in, or adjacent to, the municipality

Each of these communities is distinct and unique. If more than one Indigenous community is identified, there should be a separate relationship agreement with each. Through communication with the community, it will become clear who speaks on behalf of the community (elders, elected leaders, community leaders).

Discuss with community leaders what communication methods are appropriate, and ensure that all engagement is led by, or endorsed by, the Indigenous community.

This step may occur as part of the municipality's work towards recommendations #1 (Start By Listening) and #2 (Educate Yourself). It is important to take the time to understand the challenges, opportunities, and history of the Indigenous community.

2. Identify any needs for formal service agreements

Any formal service agreements should be captured in separate service agreements. These agreements should not form part of the relationship agreement, although they may be referenced within the relationship agreement. These should form separate agreements.

3. Identify areas of mutual concern and interest, and discuss the desired level of involvement/consultation that both parties are seeking and willing to undertake.

Areas of mutual interest could include:

- Childcare
- Community events
- Community Safety and Well-being
- Connectivity
- Economic Development
- Energy
- Housing
- Infrastructure Projects
- Planning and Development
- Public Health
- Sustainability
- Youth engagement

It is important to carefully consider each area of mutual interest and take the time to discuss each parties' role and priorities in the area. Will the relationship agreement provide broad goals, with specific details outlined in a separate document, or will the relationship agreement be more detailed in nature?

4. Commit to the process of creating a relationship agreement through a Resolution of Council

Recommendation #3 (Speak Up Thoughtfully) suggests that municipalities take the time to draft a sincere and heartfelt statement about their role in Truth and Reconciliation and their approach for moving forward. This may take some time to develop, but this is an important step in signaling to the municipality and Indigenous community that the municipality is sincere in their actions. This could be followed by a municipal Truth and Reconciliation implementation strategy, a part of which could be a relationship agreement.

5. Community engagement

Through direct, regular, and thoughtful communication, a steering committee could be established that includes members from both parties. The steering committee should engage the Indigenous community and all residents in the process of establishing a relationship agreement. It is important to acknowledge that the process must be collaborative and led by both parties. The relationship agreement is only meaningful if the process to create it embraces the Indigenous community as an equal partner.

It is important to integrate cultural knowledge into the processes of local government collaboration. Not doing so could be a significant barrier to substantive implementation. The need for increased cultural awareness is a reminder of preliminary work that should be done in Indigenous-municipal relationships to better foster meaningful interactions throughout the implementation of initiatives such as the relationship agreement.

6. Identify actions to be taken

Actions could include:

- Establishing working groups that will regularly meet to explore and initiate activities designed to facilitate economic diversification, protect cultural and heritage resources, and promote community growth and well-being.
- Creating a plan to identify and implement ways to make municipal spaces and buildings welcoming and safe for Indigenous Peoples while ensuring that they can see themselves reflected in the municipal spaces and places.
- Designing a framework to support all municipal staff to build relationships that honour the agreement's key tenets and build relationships with Indigenous Peoples to increase staff's knowledge of Indigenous cultures, traditions, and worldviews through education and learning opportunities.

7. Formalize a relationship agreement

The relationship agreement should be drafted by both parties, and should at a minimum:

- Identify the municipality and indigenous community covered by the agreement and identify who can speak on behalf of each party.
- Identify the general spirit of collaboration and communication, as agreed to through the consultation and engagement process.
- Identify how communication will occur between both parties:
 - Formal Communication (i.e., annual joint statements, regular formal meetings, community engagement opportunities, is a communication plan warranted?)
 - Advisory Committee (will an advisory committee be formed? If so, the terms of reference could be included as an appendix to the relationship agreement).
 - Informal Communication (will there be regular informal communication between the parties? What might this look like?)
- Identify the areas of mutual interest.

- Identify an action and implementation plan for any specific actions identified from the areas of mutual interest (this may look like an appendix that can be updated regularly; if there are financial implications, how will budgets be considered, approved?)
- Identify how decisions will be made (through consensus? Through a different decision-making lens?)
- Identify how often and under what circumstances the relationship agreement will be reviewed and amended if necessary (while this should be a possibility at any time, timelines for regular, formal review should be considered to ensure that the Relationship Agreement remains relevant. This could include within a year of new leadership for either party, and/or on an annual basis).

See *Appendix 1: Sample By-Law Preamble Inclusions* for suggestions on what to include in the relationship agreement preamble.

8. Solicit feedback on the draft agreement

Feedback on the draft relationship agreement should occur through community and stakeholder engagement. A meaningful process should be prioritized over a quick process, and feedback should be considered and incorporated as agreed to by all parties. Feedback can and should be sought throughout the process as part of recommendations #1 (Start by Listening) and #2 (Educate Yourself).

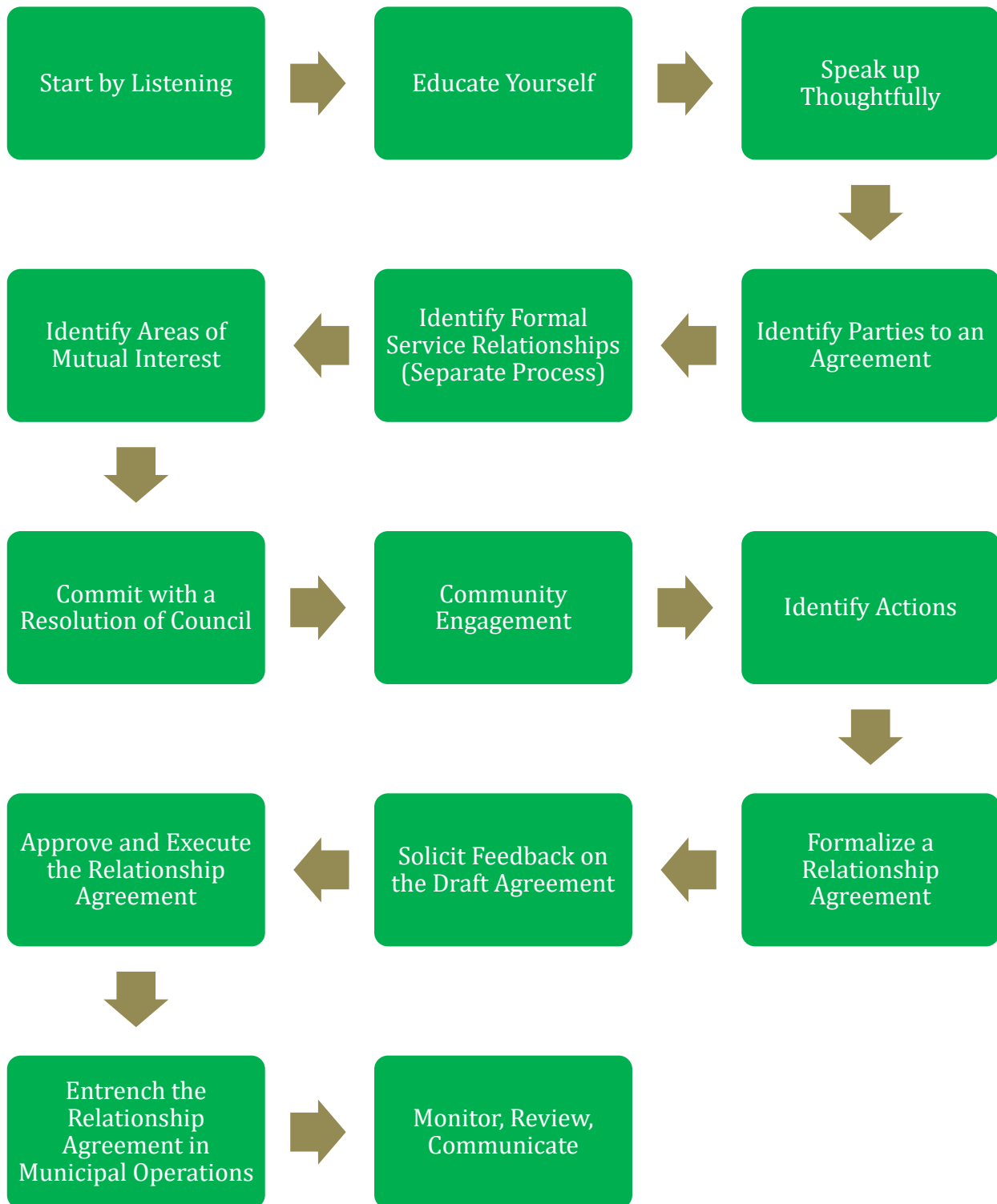
9. Approve the relationship agreement

Both parties should indicate satisfaction with the draft relationship agreement before it is executed by the municipal council and Indigenous community (see *Appendix 2: Sample Resolution of Council to Enter into Relationship Agreement*).

10. Entrench the relationship agreement in municipal operations

All municipal staff, elected officials, and volunteers should be aware of the relationship agreement and should understand their role in ensuring it is meaningful and followed. Regular training and reminders to municipal stakeholders about the relationship agreement, the Truth and Reconciliation journey and the history of Indigenous communities locally and nationally are important, so staff leaders and elected officials should ensure that they lead by example by ensuring the tenants of the relationship agreement are adhered to.

Establishing a Relationship Agreement: A Visualization



Appendix 1: Sample Relationship Agreement Preamble Inclusions

STATEMENT OF INTENT

A brief statement on the intent of the relationship agreement should be drafted by both parties.

PARTIES INVOLVED

Who is involved in building the relationship agreement and who are the signatories?

MANDATE OF PARTIES

A brief overview of the individual mandates of the parties involved.

COLLABORATION

A statement on collaboration could be included. Sample wording could be:

The Parties hereto acknowledge and agree that they shall collaborate with each other to achieve the objectives of this Relationship Agreement. The Parties further agree that they shall act in good faith in performing their respective activities and shall act according to the principles of friendly consultation and discussion, equality, and mutual benefit, to ensure that their co-operation can be realized on a mutually agreeable basis.

BINDING EFFECT

The relationship agreement should not be expected to legally bind either party. Anything requiring legal authority should be captured in a formal service agreement. Sample wording could be:

No Party has the power of authority to legally bind any other Party and nothing herein contained shall be construed as authorizing any Party to act as an agent or representative of any other Party.

Nothing in this Relationship Agreement shall be construed to create or constitute a legally binding obligation of the Parties.

TERM OF THE AGREEMENT

As part of the building the agreement, the parties should consider the term of the agreement and how it will be reviewed and amended. Sample wording could be:

This agreement shall remain in full force and effect for a term of [insert term length] with automatic renewal for a subsequent term unless a request for amendment is received in writing from one party to the other. Annually, the parties will consider whether there is a need to amend any of the terms of this agreement.

Appendix 2: Sample Resolution of Council to Enter Into Relationship Agreement

WHEREAS the Municipal Act, S.O. 2001 c. 25 Section 9 provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS the Municipal Act, S.O. 2001 c. 25 Section 11 (1) provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS all Canadians and all orders of government have a role to play in reconciliation;

AND WHEREAS the municipality of [insert name] recognizes that urban environments in Canada exist the way they do today because of First Nations' often forceful removal from their land;

AND WHEREAS the municipality of [insert name] is committed to supporting the journey of Reconciliation by applying the Truth and Reconciliation Calls to Action, the Missing and Murdered Indigenous Women and Girls Calls for Justice and the United Nations Declaration on the Rights of Indigenous Peoples as a foundation for an Indigenous Relationship Agreement;

AND WHEREAS the municipality of [insert name] recognizes that, as settlers to this land, we must do better;

AND WHEREAS it is the responsibility of every municipal employee, elected official, and [insert name] resident to forge stronger relationships with the descendants of the original inhabitants of this land, and to recognize we all have roles to play in our journey towards reconciliation;

AND WHEREAS the municipality of [insert name] and [insert name of Indigenous community] have expressed a desire and willingness to share in cross-cultural enrichment and the tenets of reconciliation between Canada and its Indigenous People;

AND WHEREAS the municipality of [insert name] is committed to relationship building based on the values of mutual respect, positive communication, and accountability to build and maintain strong relationships between the municipality and [insert name of Indigenous community here].

THEREFORE BE IT RESOLVED THAT the municipality of [insert name] and [insert name of Indigenous community] do therefore express the formalization of their intentions with this relationship agreement that will promote social, cultural, and economic collaboration and the journey towards reconciliation;

AND THEREFORE BE IT RESOLVED THAT the municipality of [insert name] and [insert name of Indigenous community] undertake to ensure public awareness of this relationship agreement and promote harmony and goodwill for the betterment of all residents;

AND THEREFORE BE IT RESOLVED THAT THE COUNCIL OF THE CORPORATION OF THE [insert name] HEREBY ENACTS AS FOLLOWS:

1. THAT the municipality of [insert name] does hereby enter into an Agreement with the [insert Indigenous community name], as stipulated in Schedule "A" of this by-law, a copy of which is attached hereto and forming an integral part of this by-law;

2. THAT the Mayor and Clerk are hereby authorized to sign the Agreement on behalf of the Corporation;
3. THAT the Mayor and Acting Clerk be and are hereby authorized to sign this by-law and affix the corporate seal thereto.
4. THAT this by-law is enacted upon the third and final reading thereof.

Read a first, second and third time, and be finally passed, signed, sealed, and numbered By-Law No. ##-202#, this ## day of [insert month], 202#.

Appendix 3: Starting Resources

Alcantara, C., & Nelles, J. (2016). *A Quiet Evolution: The Emergence of Indigenous-Local Intergovernmental Partnerships in Canada*. Toronto, Ontario: University of Toronto Press.

City Of Edmonton Indigenous Framework.

https://www.edmonton.ca/city_government/initiatives_innovation/community-engagement-indigenous-framework

City Of Edmonton Indigenous Framework.

https://www.edmonton.ca/city_government/initiatives_innovation/community-engagement-indigenous-framework

Federation of Canadian Municipalities, "Stronger Together: A Toolkit for First Nations-Municipal Community Economic Development." <https://fcm.ca/en/resources/cedi/stronger-together-toolkit>

Federation of Canadian Municipalities. (2005). "Municipal-Aboriginal Partnerships in Land Management."

https://www.fcm.ca/Documents/reports/Building_Capacity_Through_Communication_EN.Pdf

Federation of Canadian Municipalities. (2011). The First Nations-Municipal Community Infrastructure Partnership Program: Service Agreement Toolkit.

https://www.fcm.ca/Documents/tools/CIPP/CIPP_Toolkit_EN.pdf

Fiss, Adam, "First Nation-Local Government Agreements: A Pathway Toward Reconciliation" (2017). *Master of City Planning Practicum*, University of Manitoba.

Lowrie-Dennis, Gwendolyn, "Indigenous-Municipal Intergovernmental Agreements: A Case Study Examining Substantive Collaboration" (2017). *MPA Major Research Papers*. 171.

<https://ir.lib.uwo.ca/lgp-mrps/171>

Ontario Ministry of Municipal Affairs and Housing. "Municipal-Aboriginal Relationships: Case Studies." <http://www.mah.gov.on.ca/Page6054.aspx>

Truth and Reconciliation Commission of Canada. (2015). *Honouring The Truth, Reconciling for The Future: Summary of The Final Report of The Truth And Reconciliation Commission Of Canada*.

<http://www.trc.ca/websites/trcinstitution/index.php?p=893>

United Nations. (2004). "Report of The Special Rapporteur on The Situation of Human Rights and Fundamental Freedoms of Indigenous People, Mission to Canada." New York, United Nations.

United Nations. (2007). "United Nations Declaration on the Rights of Indigenous Peoples." *Human Rights Quarterly*, 33 (3), 909-92