



ALBERTA COMMERCIAL BUSINESS INCORPORATION KIT

A practical legal guide for entrepreneurs incorporating in Alberta, choosing share structures, and planning shareholder agreements

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THIS KIT COVERS

Alberta incorporation steps • NUANS name searches • articles and share structures • directors and officers • director liability protection • corporate records • shareholder and unanimous shareholder agreements • post-incorporation compliance

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1. Is Incorporation Right for Your Business?

An Alberta corporation is a legal entity separate from its shareholders. It can own property, enter contracts, borrow money, employ people, sue and be sued. Incorporation can support limited shareholder liability, continuity, financing, ownership transfers and tax planning, but it also creates ongoing legal, accounting and filing obligations.

LIMITED LIABILITY IS NOT ABSOLUTE

Shareholders are generally not personally liable merely because they own shares, but personal guarantees, wrongful conduct and other legal obligations can create personal exposure. Directors and officers can also face specific statutory and common-law liabilities.

Pre-Incorporation Decision Checklist

- ☐ What business activities will the corporation carry on?
- ☐ Who will own the corporation at incorporation and who may invest later?
- ☐ Will there be one shareholder or multiple founders/investors?
- ☐ Will different owners need different voting, dividend or redemption rights?
- ☐ Who will serve as directors and officers?
- ☐ Will the business require financing, investor capital or employee equity?
- ☐ Does the business own or expect to create valuable intellectual property?
- ☐ Will the corporation operate outside Alberta?
- ☐ Have tax and accounting consequences been reviewed with a qualified tax adviser/accountant?

2. Choosing the Corporate Name & Alberta NUANS

A named Alberta corporation normally uses a distinctive element, a descriptive element and a legal element such as Ltd., Inc. or Corporation. A numbered corporation uses a number assigned by Corporate Registry followed by 'Alberta' and an approved legal element.

Alberta NUANS Name Search Requirements

- For a proposed named Alberta corporation, obtain an Alberta NUANS report and review it for identical or confusingly similar corporate names.
- The Alberta government states that the NUANS report reserves the proposed name for 90 days and the complete report submitted for incorporation must be less than 91 days old.
- A NUANS report is not required when Corporate Registry assigns a numbered name.
- A NUANS report is a name-search tool, not a guarantee of trademark rights or permanent entitlement to the name. A corporation can still face an objection or other legal claim concerning its name.

BRAND PROTECTION TIP

Before committing to a name, consider corporate-name availability, trademarks, domain names and social-media handles together. Incorporation of a name is not the same as trademark registration.

3. Alberta Incorporation Filing Package

The Alberta incorporation process commonly requires the following information and filings:

- ☐ Articles of Incorporation.
- ☐ Notice of Address, including a physical registered office in Alberta and records address where applicable.
- ☐ Notice of Directors - at least one adult director.

- ❑ Notice of Agent for Service - an individual located in Alberta who consents to receive notices and documents.
- ❑ Notice of English/French Name Equivalency, if applicable.
- ❑ Current Alberta NUANS report for a named corporation.
- ❑ Valid identification and required government/service-provider fees.

If the filing is accepted, Corporate Registry issues a certificate of incorporation. The corporation should then complete its internal organization rather than treating the registry filing as the end of the legal setup.

4. Articles of Incorporation & Share Structure

The articles establish the corporation's authorized share classes and the rights, privileges, restrictions and conditions attached to those shares. The share structure should be designed before shares are issued because later changes may require articles of amendment, shareholder approvals, tax analysis and other documentation.

Questions to Ask Before Choosing Share Classes

- ❑ Who should have voting control?
- ❑ Who should participate in dividends?
- ❑ Who should participate in growth in corporate value?
- ❑ Should founders and future investors hold the same class?
- ❑ Are non-voting shares useful for family, employees or investors?
- ❑ Should any class have redemption or retraction rights?
- ❑ What happens to each class on liquidation or dissolution?
- ❑ Is flexibility needed for future tax or estate planning?

DO NOT COPY A SHARE STRUCTURE BLINDLY

A 'standard' share structure may not fit a founder-owned company, family business, professional corporation, venture-backed startup or tax reorganization. Corporate and tax advice should be coordinated before complex shares are issued.

5. Organizational Resolutions & Corporate Records

After incorporation, the corporation should be properly organized. Typical records may include:

- ❑ Organizational resolutions of directors and, where required, shareholders.
- ❑ Adoption of bylaws.
- ❑ Appointment of officers.
- ❑ Issuance of shares and share subscription documentation.
- ❑ Securities/share register and shareholder records.
- ❑ Director and officer registers.
- ❑ Banking resolutions and signing authorities.
- ❑ Fiscal year-end and accountant/auditor decisions where applicable.
- ❑ Registered office, records office and agent-for-service information.
- ❑ Material contracts and shareholder agreements.

Corporate records should be maintained and updated as ownership, directors, officers, addresses, financing and major transactions change.

6. Directors: Duties, Liability & Protection

Directors manage or supervise the management of the corporation unless their powers are lawfully restricted, including through a unanimous shareholder agreement. Alberta's Business Corporations Act requires directors and officers to comply with the Act, regulations, articles, bylaws and any unanimous shareholder agreement.

Potential Sources of Personal Exposure

- Unpaid employee wages: Alberta's BCA can make directors jointly and severally liable, subject to statutory limits, conditions and defences, for up to six months of wages for services performed while they were directors.
- Tax remittances and other statutory obligations may create director liability under federal or provincial legislation.
- Environmental, occupational health and safety, employment and other regulatory statutes can impose personal duties or liability in appropriate circumstances.
- Personal guarantees, fraud, oppression, negligent conduct or conduct outside proper corporate authority may create exposure depending on the facts.

Practical Director Liability Protections

- Understand the corporation's financial position and insist on reliable reporting.
- Document material decisions, dissent where appropriate, and keep proper board minutes/resolutions.
- Confirm payroll, source deductions, GST and other statutory remittances are being handled.
- Obtain qualified legal, accounting, engineering or other professional advice where the issue warrants it.
- Use written delegations, internal controls and compliance systems, but continue appropriate oversight.
- Review indemnification rights in the BCA, bylaws and contractual arrangements.
- Consider appropriate directors' and officers' (D&O) insurance.
- Avoid signing personal guarantees unless the commercial need and risk are understood.
- Address conflicts of interest and related-party transactions transparently.

INDEMNITY & INSURANCE

The Alberta BCA permits corporate indemnification of directors and officers in specified circumstances and contains enhanced director-protection provisions. Indemnity and D&O insurance are important risk-management tools, but they do not erase every statutory duty or every type of misconduct.

7. Shareholder Agreements: Why They Matter

A shareholder agreement can establish rules for ownership, governance, financing, transfers, exits and disputes before a disagreement arises. For closely held corporations, it is often one of the most important documents after the articles.

Core Shareholder Agreement Clauses

- Ownership and capitalization: identify shareholders, classes and issued shares.
- Board composition: nomination rights, number of directors, quorum and voting.
- Reserved matters: major decisions requiring enhanced director or shareholder approval.
- Management roles: founder responsibilities, officers, compensation and authority.
- Financing: shareholder loans, future capital contributions, guarantees and dilution.
- Dividend/distribution policy.

- ❑ Restrictions on share transfers.
- ❑ Right of first refusal or right of first offer.
- ❑ Pre-emptive rights on new share issuances where appropriate.
- ❑ Tag-along and drag-along rights for a future sale.
- ❑ Death, disability, incapacity, retirement or termination of a shareholder.
- ❑ Buy-sell mechanisms and valuation procedures.
- ❑ Deadlock resolution, including negotiation, mediation, buy-sell or other agreed mechanisms.
- ❑ Confidentiality, intellectual property and protection of corporate information.
- ❑ Non-solicitation or other restrictive covenants where lawful and appropriately drafted.
- ❑ Default events and remedies.
- ❑ Dispute resolution, governing law and legal costs.
- ❑ Insurance funding for buyouts where appropriate.
- ❑ Accession requirements so future shareholders become bound by the agreement.

8. Unanimous Shareholder Agreements (USA)

Under Alberta's BCA, a unanimous shareholder agreement can regulate shareholder rights and liabilities, director elections and management of the corporation, including restricting or removing some powers of directors.

IMPORTANT LIABILITY SHIFT

Where a unanimous shareholder agreement restricts directors' management powers, participating shareholders can acquire the rights, powers, duties and liabilities of directors to the corresponding extent, while the directors are relieved to that extent. This is a significant legal consequence and should be considered deliberately.

A USA is therefore not simply a stronger version of an ordinary shareholder agreement. The agreement should be drafted with the intended governance and liability allocation clearly understood.

9. Founder & Investor Issues to Address Early

- ❑ Founder vesting or repurchase arrangements.
- ❑ What happens if a founder leaves early?
- ❑ Ownership and assignment of pre-incorporation intellectual property.
- ❑ Employee and contractor IP/confidentiality agreements.
- ❑ Future investment and dilution.
- ❑ Authority to borrow and grant security.
- ❑ Approval thresholds for sale of the business or major assets.
- ❑ Related-party transactions and conflicts.
- ❑ Succession if a key shareholder dies or becomes incapacitated.
- ❑ Tax treatment of compensation, dividends, shareholder loans and share transfers.

10. Post-Incorporation Compliance Checklist

- ❑ Open corporate bank accounts and keep corporate and personal funds separate.
- ❑ Issue shares properly and update the securities/share register.
- ❑ Maintain minutes, resolutions, registers and material corporate records.
- ❑ File Alberta annual returns and keep Corporate Registry information current.

- Update director, address and agent-for-service information when required.
- Register for CRA program accounts required by the business, such as GST/HST, payroll or import/export accounts.
- Prepare annual financial statements and corporate tax filings.
- Document dividends, shareholder loans and significant related-party transactions.
- Review licences, permits, privacy, employment, occupational health and safety and industry-specific regulatory obligations.
- Register extra-provincially where the corporation carries on business in another jurisdiction and registration is required.
- Review shareholder agreements and corporate records after major ownership, financing or business changes.

11. Information to Bring to Your Incorporation Meeting

- Three preferred corporate names, or instructions to use a numbered corporation.
- Description of the business and expected operations.
- Full legal names and addresses of proposed shareholders, directors and officers.
- Proposed ownership percentages and capital contributions.
- Any special voting, dividend, control or investor arrangements.
- Registered office and records office information.
- Proposed Alberta agent for service.
- Existing partnership, founder, investor or financing agreements.
- Information about intellectual property, key contracts and business assets to be transferred to the corporation.
- Accountant/tax adviser contact information where tax planning is required.

12. How ATEH LAW Can Help

ATEH LAW assists Alberta entrepreneurs, professionals and businesses with incorporation and ongoing corporate-commercial matters. Our role can include structuring advice, incorporation filings, corporate organization, share issuances, shareholder and unanimous shareholder agreements, commercial contracts, governance, business purchases and sales, and corporate record maintenance.

STARTING, RESTRUCTURING OR GROWING AN ALBERTA BUSINESS?

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Legal Information & Official Resources

This kit provides general legal information for Alberta and is not legal, tax, accounting, securities or financial advice. Corporate structure, share rights, director exposure and shareholder agreements are fact-specific. Laws and registry requirements can change. Downloading this kit does not create a lawyer-client relationship. Obtain advice tailored to the corporation and its owners before acting.

- **Government of Alberta - Incorporate an Alberta corporation**
<https://www.alberta.ca/incorporate-alberta-corporation>
- **Government of Alberta - Corporate Registry forms for businesses**
<https://www.alberta.ca/business-organization-forms>
- **Government of Alberta - Responsibilities for corporations**
<https://www.alberta.ca/responsibilities-corporations-cooperatives-organizations>
- **Alberta Business Corporations Act - CanLII**
<https://www.canlii.org/en/ab/laws/stat/rsa-2000-c-b-9/>
- **Government of Alberta - Business Corporations Act modernization**
<https://www.alberta.ca/updates-to-albertas-business-corporation-legislation>

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