

POUNDMAKER FIRST NATION



**“DOMESTIC GAME FARM OPERATIONS”
BY-LAW NO#6 – 2006**

**BY-LAW NO. 6 2006
OF THE POUNDMAKER FIRST NATION
A BY-LAW FOR THE PRESERVAION,
PROTECTION AND MANAGEMENT OF BIG GAME**

WHEREAS the Council of the Poundmaker First Nation desires to make a By-law governing the preservation, protection and management of Big Game on the reserve, matters ancillary thereto, and penalty for the violation thereof:

AND WHERAS the council of the Poundmaker First Nation has the power to make such By-law pursuant to paragraph 81 (l) (o), (q) and (r) of the Indian Act;

AND WHEREAS it is considered expedient and necessary to provide for the preservation, protection and management of Big Game on the reserve;

NOW THEREFORE, the Council of the Poundmaker First Nation, without prejudice to the inherent rights and Treaty rights and powers of First Nation and its citizens, hereby makes the following By-law under the Indian Act:

**Part I
Short Title and Interpretation**

Short Title

1. This By-law may be cited as the "Outfitter and Guide By-law" on the Poundmaker Indian Reserve."

Interpretation

2. In this By-law:

- (a) "First Nation" means the Poundmaker First Nation;
- (b) "Big game" includes:
 - i) pronghorn antelope;
 - ii) bear;
 - iii) bison, domestically raised bison; and any member of the deer family, whether known as caribou, elk, moose, mule, and white tail deer or otherwise;
- (c) "Client" means a person to whom an outfitter provides an outfitting service or a guide employed by an outfitter provides a guiding service;

- (d) **“Council”** means the Council, as defined in the Indian Act, of the Poundmaker First Nation;
- (e) **“Game Officer”** means a person appointed by the Council, who will receive applications, appeals, issue permits and licenses and carry out the permit and licensing administrative functions under this bylaw including enforcement;
- (f) **“Hunting”** includes taking, wounding, killing, chasing pursuing, worrying, capturing, following after or following on the trail of, search for, shooting at, trapping, setting snares for, stalking or lying in wait for any Big Game, or attempting to any of those things, whether or not the Big Game is then or subsequently captured, wounded or killed;
- (g) **“Outfitter”** means a person who provides an outfitting service;
- (h) **“Outfitter” License** means a license issued pursuant to this bylaw;
- (i) **“Outfitting service”** means the provision of guiding services or the provision of guiding services together with the provision of Equipment, food, and accommodation for a client;
- (j) **“Reserve”** means the Poundmaker Reserve, and its Treaty land Entitlement lands, as it may exist from time to time and includes all lands added to the reserve after the date of this By-law;
- (k) **“Treaty Land Entitlement or “TLE lands”** means land that has been purchased for the purpose of creating entitlement reserves pursuant to Framework Agreement.

Part II Administration

(3) Administration

- (i) Council may, by band council resolution:
 - a. appoint a Game officer, and such other officers as may be necessary, who will carry out Big Game administrative functions under this By-law including enforcement;
 - b. provide for reasonable remuneration to be paid to the Game Office, and other appointed officers;

- c. appoint the Game officer for a fixed term after which reappointment shall be discussed by both parties;
 - d. dismiss the Game Officer from the appointed position, for failure to carry out duties as described in this bylaw; or, for having been convicted of an employment related offence under the Criminal Code (Canada), or, for contravening the Poundmaker First Nation's polices;
4. The Council may designate any officer to perform such functions in respect of the administration and enforcement of this by-law as are prescribed herein to be performed by a Game Officer.

Part III

Hunting and Trapping Rights or Members

Hunting and Trapping by First Nation Members

5. Notwithstanding any provision of this By-law, members of the Poundmaker First Nation may engage in hunting within the reserve at any time pursuant to their right under Treaty No. 6.

Part IV

General Prohibition on Hunting

General Prohibition on Hunting

6. (1) No person who is not a member of the First Nation shall hunt any Big Game within the Indian Reserve except as permitted by this by-law; and
- (2) Notwithstanding anything in this by-law, a person may, where necessary for the prevention of;
- a. injury to persons on the reserve, whether or not they are members of band, hunt, take, trap, snare, shoot or kill big game at anytime if the incident is immediately reported to the Council, and such game or carcass is surrendered to the nearest Game Officer; or
 - b. damage to private property, livestock or other domestic animals and public safety.

Part V

Outfitter's License

Outfitter's License

7. (1) No person shall, without an outfitter's license:
- (a) act as an outfitter; or
 - (b) advertise or promote an outfitting service on the Reserve.

- (2) A person is not required to hold an outfitter's license while providing guiding services, if that person provides the guiding service while employed by another person who holds an outfitter's license.
- (3) (a) The Council shall issue an Outfitter's License if it determines that:
 - (b) the applicant has entered into a subsisting outfitting service agreement with the Council, which terms and conditions shall include:
 - (i) the number of clients and the fees to be charged to the clients;
 - (ii) that the outfitter will issue permits to its clients;
 - (iii) specifying the time, place, type of equipment, bag limit, size limit, and species of Big Game that may be hunted by the Outfitting Clients, whether or not the applicant has previously held a license and, if so, complied with the provisions of the license and this or any previous By-law with respect to hunting; and
 - (iv) specifying the land where the hunting can take place.
- (4) A license issued pursuant to this section is non- transferable.
- 8. The Council may, after notice and hearing, cancel the outfitter's license of any person where it is satisfied:
 - (a) that the person has contravened the terms of the license or of this By-law; or
 - (b) that the continuation of the license may be detrimental to the preservation or protection of Big Game animals or other game on the reserve.
- 9. The holder of a license or permit obtained by any false or misleading statement or information made or given in respect to any information required for the issuance of the license or permit shall be deemed to be the holder of a void license or permit and the holder may be prosecuted in the same manner and with the same effect as he would be prosecuted if he were not the holder of a license or permit.
- 10. No license or permit shall be issued to authorize hunting Big Game between January 1 and August 31 this does not apply to Treaty Indians.
- 11. Notwithstanding section 10, a license or permit for spring bears may be issued between April 1 and June 30.

Part VI
Hunting Permits

Hunting Permits

- 12. (1) A person who is not a member of the Poundmaker First Nation may enter into an agreement with an outfitter, who has been issued an Outfitter's license, for

a permit to hunt Big Game within the Reserve or such person may apply directly for a permit to the Poundmaker Chief and Council.

- (2) An outfitter with an Outfitter's license shall issue a permit to its clients on the basis of its subsisting outfitting service agreement with the Council pursuant to section 7 (3).
- (3) A person holding a permit under subsection 7(3)(b) shall not hunt within the reserve except in accordance with the terms of the Outfitters License issued by the Council.
- (4) A permit issued under this By-law is invalid:
 - (a) if it is not signed by the person to whom it is issued; or
 - (b) if the date of expiry has been omitted, removed or defaced.
- (5) A person hunting under the authority of a permit issued pursuant to section 7(3) (b) shall have the permit on his person while hunting on the reserve.
- (6) A First Nation Councilor or Game Officer may at any time require any permit holder who is hunting within the reserve to produce his permit.
- (7) No person shall hunt on the reserve unless guided by a person or persons employed by a person who holds an Outfitter's License.

Part VII Prohibited Zones

Prohibited Zones

13. No person shall at anytime engage in hunting within the following areas of the reserve;
 - (a) within 150 metres of any occupied residence on the reserve; or
 - (b) within 150 metres of any settlement, public structure or construction site on the reserve.

Part VIII Hunting with Firearms

Hunting with Firearms

14. No person while engaged in hunting shall discharge a firearm within one hundred and fifty metres of:
 - (1) a residential building;
 - (2) a public road or bridge; or

- (3) a game preserve or fish sanctuary
15. (1) No person while engaged in hunting shall discharge a firearm:
- (a) on or from a public road;
 - (b) across a public road ;or
 - (c) from an aircraft, powerboat, all terrain vehicle, and snowmobile.
- 2) Notwithstanding subsection 15. (1), encased firearms may be carried on an all-terrain vehicle or snowmobile.

**Part IX
Safety**

Safety

- 16. All persons while engaged in hunting with a firearm, shall wear an orange or red coloured cap.
- 17. No person while engaged in hunting in the reserve, shall conceal his identity or wear a mask or disguise.
- 18. No person while engaged in hunting or while going to or returning from a hunting camp, or while in a locality where Big Game usually inhabits or in which Big Game is usually found, shall between one half hour after sundown and one half hour before sunrise have a firearm in his possession unless it is unloaded.
- 19. No person, while engaged in hunting, shall have a loaded firearm in his possession while he is under the influence of alcohol or a drug.
- 20. Everyone is guilty of the offence of hunting carelessly who, being in possession of a firearm for the purpose of such hunting discharges or causes to be discharged or handles the firearm without due care and attention or without reasonable consideration for person or property and public safety.
- 21. No person shall use any poison, explosive, deleterious substance for hunting purposes.
- 22. No person shall use any device which connects a firearm to a trap or to a remote control or delayed – action mechanism or which causes a firearm to discharge without the hunter himself pressing upon the trigger of such firearm.

**Part X
Conservation**

Conservation

- 23. A person shall not:
 - (a) destroy, injure, disturb, gather or take the nest or eggs of any game bird; or,
 - (b) destroy or injure the shelter or habitat of any wildlife.

**Part XI
Leaving Game in the Field**

Leaving Game in the Field

24. (1) A person who has killed or is in possession of any game shall not allow its edible flesh to be wasted, destroyed, spoiled or abandoned in the field.
- (2) A person who kills or injures any game shall make every reasonable effort to retrieve the game.

**Part XII
Property in Big Game**

25. Property in all game on the reserve is hereby declared to be collectively vested in the First Nation, and no person shall acquire any prior or exclusive right or property to any Big Game otherwise than in accordance with this By-law.

**Part XIII
Storage and Use of Big Game Taken on Reserve**

Storage and Use of Big Game Taken on Reserve

26. (1) A person who is not a member of the First Nation and who has obtained a permit pursuant to section 7 and 12:
- (a) may take the antlers, horns, and capes of any game that he and she has killed or is in possession thereof for his or her use and may transport such antlers, horns and capes out of the Reserve; and
- (b) shall give the edible flesh of any game that he or she has killed or in possession thereof to the Outfitter.
- (2) The Outfitter shall provide a permanent refrigerated facility for use as storage for any edible flesh of any game that it has or they have received pursuant to subsection 2 (b).
- (3) The Outfitter shall distribute the game that it has or they have obtained pursuant to subsection 2(b) to the elders of the First Nation and any others members of the First Nation for use of food.

**Part XIV
Enforcement**

Enforcement

27. A person who:

- (a) fails to observe or who otherwise contravenes any provision of this By-law or any ban or restriction hereunder; or
- (b) resists or willfully obstructs a Game Officer in the performance of any duty or in the exercise of any power under this By-law, commits an offence.

28. Where an act or omission is in contravention of this By-law or any ban or restriction imposed hereunder continues for more than one day, such an act or omission shall be deemed to be separate offence committed on each day during which it continues, and may be punished as such.

**Part XV
Penalty**

Penalty

- 29. A person who commits an offence under this By-law, as determined by the game officer or the Council, is liable on summary conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding thirty days, or to both a fine and imprisonment.
- 30. Should a court determine that a provision of this By-law is invalid for any reason, the provision shall be severed from the by-law and the validity of the rest of the by-law shall not be affected.
- 31. This by-law comes into force 40 days after the date of mailing to the Minister of Indian of Affairs and Northern Development as required pursuant to section 82 of the Indian Act.

THIS BY LAW IS HEREBY made at a duly convened meeting of the Council of The Poundmaker First Nation this 25 day of Sep, 2006.

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

Chief

Bryan Tootosis
(Member of the Council)

[Signature]
(Member of the Council)

[Signature]
(Member of the Council)

[Signature]
(Member of the Council)

Being the majority of those members of the Council of the Poundmaker First Nation present at the aforesaid meeting of the Council. The Quorum of the Council is -3- members. Number of members of the Council present at the meeting: Sep. 25, 2006

I, Bryan Tootosis Chief / Councilor of the First Nation, do hereby certify that a true copy of the foregoing By-law mailed to the Minister of Indian Affairs and Northern Development at the District /Regional/Hull office (as the case may be) pursuant to subsection 82(1) of the Indian Act this 25 day of Sept. 2006.

[Signature]
Witness

[Signature]
Chief/Councilor