

**By-law No. 7
of the Duncan First Nation Band**

**A By-law to Regulate the Conduct and
Activities of Hawkers, Peddlers
or Others on the Reserve**

Enacted on the 15th day of December 2006

WHEREAS the Council of the Duncan First Nation Band desires to make a by-law for the regulation of the conduct and activities of hawkers, peddlers or others who enter the reserve to buy, sell or otherwise deal in wares or merchandise;

AND WHEREAS the Council of the Duncan First Nation Band is empowered to make such by-law, and with respect to any matter arising out of or ancillary to the exercise of the power, and for the imposition of a penalty for a violation thereof, pursuant to paragraphs 81(1)(n), (q) and (r) of the Indian Act;

AND WHEREAS it is deemed to be expedient for the welfare of the inhabitants of the Duncan First Nation Indian Reserves No. 151A and No. 151K to licence and regulate hawkers and peddlers;

NOW THEREFORE the Council of the Duncan First Nation Band hereby enacts the following by-law:

Short Title

1. This by-law may be cited as the "Duncan First Nation Band Hawkers and Peddlers By-law".

Interpretation:

2. In this by-law,

"Council" means the Council, as defined in the *Indian Act*, of the Duncan First Nation Band;

"hawker and peddler" includes a hawker, peddler, transient trader, itinerant seller or other person who, enters the reserve to buy, sell or otherwise deal in wares or merchandise, or offeror exposes for sale to any person, by means of samples, patterns, cuts, blue prints or pictures, wares or merchandise to be sold at that time or to be delivered afterwards or shipped onto the reserve;

"*itinerant seller*" means a seller whose business includes soliciting, negotiating or arranging for the signing by a buyer, at a place other than the seller's permanent place of business, of a contract for the sale of wares or merchandise;

"*licence*" means a licence issued pursuant to this by-law permitting the licensee to conduct business on the reserve;

"*licensee*" means a person to whom a licence is issued pursuant to this by-law;

"*licensing agent*" means the person appointed by the Council pursuant to section 4 to receive applications and issue licences pursuant to this by-law;

"*officer*" means any police officer, police constable or other person charged with the duty to preserve and maintain the public peace, and a by-law enforcement officer or any other person appointed by the Council.

"*reserve*" means the reserve of the Duncan First Nation Band and includes Reserves No. 151A and No. 151K.

Requirement for Licence

3.(1) No person shall conduct business as a hawker and peddler of wares or merchandise on the reserve unless that person holds a valid and subsisting licence issued pursuant to this by-law with respect to the type of wares or merchandise that person deals in.

(2) Subsection (1) does not apply to a person who

(a) is a resident of the reserve; or

(b) is a member of the band.

Licensing Agent

4.(1) The Council may, by band council resolution, appoint a licensing agent who shall receive applications and issue licences for the purpose of this by-law.

(2) The Council may, in the band council resolution, provide for reasonable remuneration to be paid to the licensing agent

Duties of Licensing Agent

5. The licensing agent shall

(a) receive and deal with all applications for licences to be issued under this by-law;

- (b) maintain a record of all applications for licences and retain on file a copy of all licences 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 licence is true in substance;
- (d) as often as may be necessary, make inquiries and inspections to determine whether every holder of a licence issued pursuant to this by-law complies in every respect with the licence issued and the by-laws of the Council;
- (e) report in writing to the Council bi-monthly, or as otherwise requested by the Council, stating the number of licences issued, the types of wares and merchandise being sold under each licence, the duration of each licence, and the amount of money received since the previous report along with a summary stating the total number of licences issued and the total amount of money received to date for the current year;
- (f) perform such other duties as may be assigned by the Council from time to time.

Licences

- 6.(1) A licence shall specify the types of wares or merchandise the licensee is permitted to deal in.
- (2) A licence shall be valid throughout the reserve.
- (3) A licence shall be in Form 1.

Application for Licence

7. Any person who wishes to conduct business as a hawker and peddler on the reserve shall make an application in writing to the licensing agent in Form 2, and shall truthfully disclose all information required to be disclosed on the application form.

Fees

- 8. The fees payable for a licence issued under this by-law are:
 - (a) One Thousand (\$1000) dollars per calendar year;
 - (b) One Hundred (\$100) dollars per calendar month;
 - (c) Thirty (\$30) dollars per calendar week; and
 - (d) Ten (\$10) dollars per day or part thereof.

Issuance of Licence

9. The licensing agent shall make out and deliver a licence to the applicant if:

- (a) the applicant has disclosed all information required to be disclosed in the application form and the licensing agent is satisfied that all information disclosed by the applicant is true;
- (b) the licensing agent is satisfied that the applicant has complied with the appropriate provincial requirements with respect to the conduct of the applicant's business, including registration and bonding;
- (c) the applicant has not, within the preceding three years, been convicted of an offence under the Criminal Code (Canada), for which the applicant has not been pardoned, relating to the conduct of this business as a hawker and peddler, whether on or outside the reserve; and
- (d) the required fee for the licence has been paid.

Duration of Licence

10. Every licence issued pursuant to this by-law shall be for the calendar year current at the time of issuing thereof and shall expire on the 31st day of December following the date of issuance, unless issued on a monthly, weekly or daily basis.

Producing Licence Upon Request

11. Every licensee shall carry the licence issued while conducting business on the reserve and shall produce the licence upon the request of the licensing agent, an officer, or any person with whom the licensee transacts or attempts to transact business.

Licence Not Transferable

12. A licence issued under authority of this by-law is not transferable.

Hours

13. No person conducting business as a hawker and peddler shall call at any residence on the reserve between the hours of 8:00 p.m. and 9:00 a.m., or on Sundays or holidays, unless previously invited by the occupier of the residence to call at such time.

No Refund

14. No rebate or refund of any part of a licence fee shall be made to any licensee by reason of forfeiture of a licence, or a non-usage of the rights and privileges thereby granted, or for any other cause.

Revocation or Suspension of Licence

15. The Council may, by band council resolution, after notice and hearing, suspend for a period not exceeding ninety days or revoke any licence issued under this by-law, where it has been shown that the licensee:

(a) has failed to comply with this by-law;

(b) has been convicted of an offence under the Criminal Code (Canada), for which the licensee has not been pardoned, in relation to the conduct of the licensee's business as a hawker and peddler, whether on or outside the reserve; or

(c) has conducted his business in a manner that is detrimental to the interests of consumers on the reserve.

Penalty

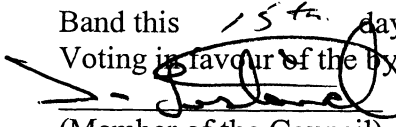
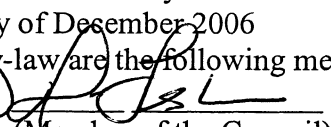
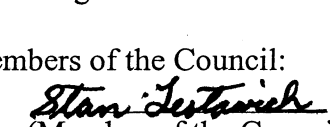
16. A person who violates any of the provisions of this by-law commits an offence and is liable on summary conviction to a fine of not more than \$1,000 or to imprisonment for a term of 30 days, or to both a fine and imprisonment.

17. 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.

18. This by-law comes into force 40 days after the date of mailing to the Minister of Indian 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 Band this 15th day of December 2006

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

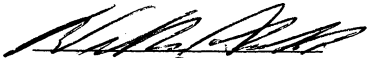
  
(Member of the Council) (Member of the Council) (Member of the Council)

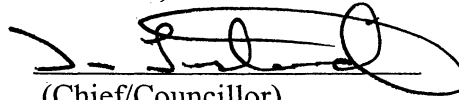
being the majority of those members of the Council of the Band present at the aforesaid meeting of the Council.

The quorum of the Council is Two (2) members.

Number of members of the Council present at the meeting: 3.

I, Chief/Councillor of the Band, do hereby certify that a true copy of the foregoing by-law was **mailed** to the Minister of Indian Affairs and Northern Development at the Alberta regional office of the department pursuant to subsection 82(1) of the Indian Act, this 15th day of December, 2006 .


(Witness)


(Chief/Councillor)

Forms

FORM 1

HAWKERS AND PEDDLERS LICENCE

(Name of licensee) is hereby authorized to conduct business as a hawker and peddler
dealing in the following wares and merchandise _____ on the
_____ Indian Reserve for the period commencing (date), 20____, to
(date), 20 ____.

(Signature of Licensee Agent)
(Date)

FORM 2

HAWKERS AND PEDDLERS LICENCE APPLICATION FORM

1. Applicant's Name: _____

2. Permanent Address: _____

3. Phone Number: home: _____

4. Occupation: _____

5. Employers Name and Address: _____

6. Social Insurance No.: _____

7. Period for which Licence is Required: _____ (Give exact dates)

8. Types of wares and merchandise to be sold on the reserve:

9. Locations where wares and merchandise are to be sold on the reserve:

10. Are you presently registered with the provincial government with respect to the conduct of your business? Yes ___ No ___ (If yes, applicant must provide proof and give details below)

11. 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).

12. Have you, within the previous three years, been convicted of a criminal offence for which you have not been pardoned? Yes ___ No ___ (If yes, please give details below).
