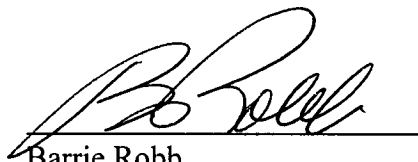


CERTIFICATION

I, Barrie Robb, do hereby certify pursuant to Section 86 of the *Indian Act* R S.C., c. I-5 that the attached copy marked "CERTIFIED TRUE COPY" is a true copy of the by-law duly made on the 19th day of April, 2001 by the council of the Duncan's First Nation being a by-law to regulate the receipt, management and expenditure of Duncan's First Nation funds and to establish the administrative structure of the Duncan's First Nation for the management of the funds.



Barrie Robb
Regional Director General, Alberta Region
a Superintendent as defined in
Section 2(1) *Indian Act* RSC 1985

Minister of Indian Affairs
and Northern Development



Ministre des Affaires
indiennes et du Nord canadien

Ottawa, Canada K1A 0H4

I, the Minister of Indian Affairs and Northern Development, HEREBY
APPROVE, pursuant to section 83 of the *Indian Act*, the following by-law
made by the Duncan's First Nation, in the Province of Alberta, at a meeting
held on the 19th day of April 2001.

- **Duncan's First Nation
Financial Administration By-law No. 1**

A handwritten signature in black ink, appearing to read "Robert D. Huet".

Dated at Ottawa, Ontario this 24 day of July 2001.

Canada 



Duncan's First Nation

P.O. BOX 148 • BROWVALE, ALBERTA • T0H 0L0 • TELEPHONE (780) 597-3777 • FAX (780) 597-3920

DUNCAN'S FIRST NATION BY-LAW NO. 1

A By-law to regulate the receipt, management and expenditure of Duncan's First Nation funds and to establish the administrative structure of the Duncan's First Nation for the management of the funds.

WHEREAS the Indian Act, R.S.C. 1985, C.I-5, provides that the Council may, subject to approval of the Minister of Indian Affairs and Northern Development, make by-laws for the following purposes:

- the appropriation and expenditure of moneys of the Duncan's First Nation to defray the expenses of the Duncan's First Nation;
- the appointment of officials to conduct the business of the Council and prescribing their duties;
- with respect to any matter arising out of or ancillary to the exercise of the aforementioned power;

AND WHEREAS the Council of the Duncan's First Nation has determined that it is desirable and necessary that a financial administration by-law be established for the purposes set out in section 83 (1) of the Indian Act and for the better administration of the Duncan's First Nation's business.

NOW THEREFORE the Council of the Duncan's First Nation at a duly convened meeting of the Council hereby enacts the following by-law:

SHORT TITLE

1. This by-law may be called the Financial Administration By-Law 2001.

INTERPRETATION

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2. In this by-law:

- (a) "agency" means any board, tribunal, commission or committee of the Duncan's First Nation or any corporate body controlled by the Duncan's First Nation including a society or a non-profit corporation but does not include a business corporation operated for a profit-making purpose;
- (b) "agreement" means any written contract between the Duncan's First Nation and another party or parties, including the federal government, a provincial government, or a third party, pursuant to which money is to be Paid to the Duncan's First Nation;

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- (c) "annual budget" means the forecast of planned revenues and expenditures for each fiscal year by the Duncan's First Nation;
- (d) "audit" means the annual audited financial statements of the Duncan's First Nation Reporting Entity prepared in accordance with generally accepted accounting principles (GAAP) as set out in the Canadian Institute for Chartered Accountants (CICA) Public Sector Accounting Handbook and audited in accordance with generally accepted auditing standards (GAAS);
- (e) "bank account" means a financial account of the Duncan's First Nation held at an accredited financial institution where the funds on account are held to the credit of the Duncan's First Nation;
- (f) "Council" means the elected chief and councillors of the Duncan's First Nation;
- (g) "Duncan's First Nation funds" means all moneys belonging to the Duncan's First Nation including:
- 1) all revenues of the Duncan's First Nation,
 - 2) money borrowed by the Duncan's First Nation;
 - 3) money received or collected on behalf of Duncan's First Nation, and,
 - 4) all moneys that are received or collected by the Duncan's First Nation pursuant to any agreement or funding arrangement to be disbursed for a purpose specified by Council or pursuant to that agreement or funding arrangement,
- but does not include:
- 1) money received or collected by a business corporation, operated for a profit-making purpose, owned by the Duncan's First Nation;
 - 2) money received as revenues payable into the Duncan's First Nation revenue or capital trust accounts held by the Government of Canada; or,
 - 3) money received by the Duncan's First Nation on behalf of an individual;
- (h) "Duncan's First Nation Reporting Entity" means all Duncan's First Nation organizations that are part of the reporting entity as defined by generally accepted accounting principles (GAAP) as set out in the Canadian Institute of Chartered Accountants (CICA) Public Sector Accounting Handbook.
- (i) "employee" means all categories of Duncan's First Nation staff, including full-time, part-time, casual, temporary and seasonal employees;
- (j) "program" means an administrative division of the Duncan's First Nation as established from time to time by the Council and includes service centres, agencies, administrative units and other internal organizational units of the Duncan's First Nation administration;
- (k) "purchase" includes any purchase of goods or services for a capital or operating purpose;
- (l) "resolution" means a decision, including a motion, that has been approved by a majority of the Council present at a duly convened meeting of a quorum of the Council which is recorded in the minutes of that meeting and may include a document containing the wording of the resolution signed by those who approved the decision.

APPLICATION

3. This by-law governs the receipt, management, and expenditure of Duncan's First Nation

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funds and the activities of the administrative organization of the Duncan's First Nation which manages the funds.

4. This by-law applies to the Duncan's First Nation and all of its programs and agencies in receipt of Duncan's First Nation funds.

ROLE OF THE COUNCIL

5. The Council is responsible for ensuring the effective and efficient administration of the financial resources of the Duncan's First Nation for the benefit of the members of the Nation.

6. Any decision made by the Council for the purposes of this by-law shall be by resolution as defined in this by-law.

7. The Council shall receive and approve the annual budget of the Duncan's First Nation.

8. Notwithstanding section 7, the Council may, for any purpose which the Council deem advisable, approve an amendment to the annual budget.

9. The Council shall establish such positions, agencies, programs, service areas, boards, authorities or committees as may be necessary for the good administration of Duncan's First Nation funds and shall ensure that such bodies have a specified mandate, a clearly defined role, a defined relationship to the Council and appropriate policies and procedures sufficient to ensure the efficient and effective administration of the affairs of the Duncan's First Nation.

10. The Council shall establish such appeal or review bodies as are necessary to create appeal mechanisms in relation to the delivery of services, shall appoint the members of such bodies and shall ensure that such bodies operate according to the rules of natural justice.

11. The Council shall ensure that criteria are established for program delivery and such criteria shall include as a minimum the following:

- (a) formally defined and publicly available benefit schedules specifying applicable rates, conditions and criteria for eligibility;
- (b) provision for equal treatment of all members of the Nation;
- (c) an impartial process for the appeal of administrative decisions; and,
- (d) procedures to ensure confidentiality of client information.

12. The Council shall approve, on behalf of the Duncan's First Nation, any agreements or funding arrangements with the federal or provincial governments or with any other party for the provision of funding for the Duncan's First Nation, its programs, agencies and other bodies.

ADMINISTRATOR

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13. The Administrator shall act as the senior official of the Duncan's First Nation and shall assist the Council to carry out its duties.

14. The Administrator shall be responsible for the following:

- (a) the conduct of the administration necessary to discharge the responsibilities of the Council;
- (b) establishing the financial administration system of the Duncan's First Nation with the approval of the Council and prescribing the form and content of the financial records to be used;
- (c) receiving Duncan's First Nation funds;
- (d) monitoring the expenditure of Duncan's First Nation funds;
- (e) ensuring the performance of such accounting functions as are necessary for the efficient and effective administration of the Duncan's First Nation's affairs;
- (f) ensuring the maintenance of the financial records of the Duncan's First Nation in accordance with generally accepted accounting principles as defined by the Canadian Institute of Chartered Accountants (CICA);
- (g) preparing the overall annual budget in accordance with the priorities approved by the Council;
- (h) preparing any amendment to the annual budget for the Duncan's First Nation and submitting it to the Council for review and approval;
- (i) the preparation of long-term financial projections and cash flows;
- (j) the monitoring of adherence to any agreements and funding arrangements entered into by the Duncan's First Nation or any of its service areas or agencies;
- (k) the administration and supervision of the financial record keeping and reporting systems;
- (l) overseeing the preparation of the annual audit of the Duncan's First Nation;
- (m) making recommendations to the Council on financial matters; and,
- (n) attending to other matters relating to the affairs of the Duncan's First Nation as directed by the Council.

15. The Administrator, subject to the responsibilities prescribed by this by-law and the policies and procedures established pursuant to section 14, shall follow the general administrative policies established by the Council for the Duncan's First Nation Administration.

16. The Administrator shall be hired in accordance with the personnel policies and procedures established by the Council for the employees of the Duncan's First Nation.

ACCOUNTING CLERK

17. The Accounting Clerk shall be responsible for performing such accounting functions as are necessary for the efficient and effective administration of the Duncan's First Nation's affairs and

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shall report to the Administrator.

COUNCIL APPOINTMENTS

18. The Council may authorize the Administrator to commit expenditures of Duncan's First Nation funds where the expenditures are within the annual budget as approved by the Council.
19. Upon approval of agreements by the Council, the Council may appoint and authorize Duncan's First Nation agencies or representatives to sign the said agreements.

ANNUAL BUDGET

20. Each manager of a program shall prepare the annual budget for the operation of the program and shall submit it to the Administrator by February 28 of each year.
21. The Administrator shall prepare estimates of the revenues of the Duncan's First Nation for the purpose of preparing the annual budget.
22. The consolidated annual budget of revenues and expenditures for the Duncan's First Nation and its agencies shall be prepared by the Administrator and submitted to the Council for consideration and approval by March 15 of each year.
23. The Council is solely responsible for the approval of the consolidated annual budget and any amendments to it for the Duncan's First Nation and its agencies for each fiscal year.
24. The Council may amend the consolidated annual budget at any time before or after its approval and increase allocations of funds, reduce allocations of funds, or reallocate funds to different programs or activities.

FINANCIAL MANAGEMENT: DEPOSITS

25. Bank accounts, into which all Duncan's First Nation funds shall be deposited upon receipt, may be established by the Administrator pursuant to a resolution of the Council.
26. The Administrator shall ensure the safekeeping of Duncan's First Nation funds received and shall forthwith deposit all Duncan's First Nation funds to the credit of a Duncan's First Nation bank account.
27. The Administrator may reallocate funds from a bank account to other bank accounts for program and services delivery according to the approved annual budget, for short-term cash management of Duncan's First Nation funds, or for other purposes approved by the Council.
28. Funds in a bank account shall be administered by the Administrator who shall have the

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authority to invest excess cash on hand in term deposits, guaranteed investment certificates or Treasury Bills at an accredited financial institution in the name of the Duncan's First Nation, subject to the approval of the Council.

FINANCIAL MANAGEMENT: EXPENDITURES

29. All payments and financial commitments, including any disbursements or financial commitments made directly by the Council, shall be in accordance with the annual budget or in accordance with a resolution of the Council.
30. The Council shall, by resolution, delegate cheque signing authority to specific persons for cheques to be drawn on a bank account of the Nation.
31. The Council shall, by resolution, approve any loans or investments to be made on behalf of the Nation including investments in or loans to corporations owned by the Nation.
32. The Council may appoint the Administrator, by resolution, to approve the purchase of goods and services where the expenditures are within the approved annual budget.
33. All orders for goods or services provided to the Duncan's First Nation must be approved either by the person authorized to approve the purchase of goods or services, or by a resolution of the Council and documented by a numbered purchase order.
34. Unless it has been approved in the annual budget, any purchase of goods or services must be approved by the Council either on a transaction basis or as part of a delegation of financial authorities prepared by the Administrator and approved by the Council.
35. When the payment for an expenditure has been approved by the Administrator in accordance with the annual budget or by a resolution of the Council, the responsible program manager shall draft a cheque requisition and present it, together with the supporting documentation, to the Administrator for processing including recording, approval and signing. The Administrator shall ensure that a cheque is prepared and presented, together with the supporting documentation, for approval and signature to the persons to whom a delegation of cheque signing authority has been made.

FINANCIAL MANAGEMENT: INVOICING

36. No payment shall be made for the performance of work, supply of goods or rendering of services unless:
- (1) the charge in respect of such goods or services has been authorized:
 - (a) by a person delegated to authorize such payment,
 - (b) pursuant to a resolution of the Council or
 - (c) pursuant to a contract entered into between the Duncan's First Nation and the person providing such work, goods or services which establishes the amount, or a method of calculating the amount, to be charged for such goods or services, and,

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(2) an invoice or other similar document has been presented to substantiate the requirement for the payment.

FINANCIAL MANAGEMENT: REPORTING

37. The Accounting Clerk shall prepare a statement of the receipts and disbursements for the previous month within 21 days of each month-end. This statement shall be distributed to the Administrator, the program managers and the Council.

38. The Council shall review the statements of receipts and disbursements during a regular council meeting.

TENDERS

39. In emergency situations, telephone bids up to \$500 or such greater amount as may be approved by the Council, may be accepted by the Administrator provided a written confirmation follows from the bidder within 24 hours of the telephone bid being made, and a record of telephone bids is filed.

40. For contracts of less than \$ 10,000, the Council reserves the right to authorize the Administrator to negotiate and recommend a specific contract on a sole source basis. All such contracts shall be approved by the Council.

41. Capital purchases up to \$ 10,000 may be made without a tender process by a program if the purchase has already been approved as part of the annual budget.

42. Capital purchases exceeding \$ 10,000, but less than \$ 100,000, must be completed by invitations to tender to at least three qualified firms or by public tender.

43. Capital purchases in excess of \$ 100,000 must be completed by public tender.

44. Housing projects are excluded from the requirements for invitations to tender or public tender contained in sections 42 and 43.

45. Where a contract for services rendered to the Nation is expected to exceed \$ 50,000, tenders or quotes should be invited from at least three (3) firms, or be publicly advertised in local and regional newspapers.

46. For non-construction (professional) contract services exceeding \$ 50,000, proposals for services should be invited from at least three (3) individuals or firms, or have a Request for Proposals publicly advertised in local and regional newspapers.

47. A Request for Proposals (RFP), once advertised, should have the following documentation available for interested contractors :

- A letter of invitation,
- A statement of work required,
- Proposal evaluation criteria,
- Contract Agreement (includes general conditions and terms of payment)

48. For construction projects exceeding \$ 10,000 but less than \$ 100,000, invitations to tender should contain the following documents:

- Tender Instructions,
- Tender and Contract Form,
- General Conditions,
- Insurance Schedule,
- Contractor Statement of Qualifications,
- Proof of Workers Compensation Board (WCB) coverage, and
- Statement of Work Plan and Specifications.

49. Sealed tenders and proposals received are to be date stamped, kept safe, and opened in public by a minimum of two persons designated by the Council after the deadline date for a tender or proposal submission.

50. All tenders or proposals received shall be reviewed against an evaluation criteria list. The contract bidder or proposal proponent who best meets the evaluation criteria shall be recommended to receive the contract, subject to Council approval.

51. The lowest tender received shall normally be accepted unless the Council deems it to be in the best interest of the Nation to accept a higher tender in the event that the higher tender:

- a) provides a better quality product or service, or
- b) provides economic or other benefits to the Nation or its members; and,
- c) provided the Council approves the higher tender by a resolution of the Council which shall contain the reasons for the decision to accept the higher tender.

52. Any contracts drawn and signed between the Nation and a contractor must clearly state all requirements of the contract in detail. The contract should contain a provision for the Duncan's First Nation to hold back a minimum of ten percent (10%) of the contract amount subject to the contractor complying with all contract deliverables.

53. For construction projects exceeding \$ 100,000, the successful bidder must submit proper bid security within 14 days of being awarded the contract.

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54. Should the Nation not have the resources or expertise to execute any part of the procedures stated in sections 39 to 53, the Nation reserves the right to hire outside experts, such as consultants or engineers to execute these procedures on their behalf.

55. Subject to this by-law, tenders shall comply with the policies and procedures approved by the Council.

56. Sections 39 to 55 are subject to the requirements imposed in regard to the project by any funding agencies providing funding for the project being tendered.

DISCLOSURE OF FINANCIAL INTEREST

57. Any person who holds an office, including that of Chief or Councillor, or employment with the Duncan's First Nation, its programs or agencies, shall not use that office or employment for personal gain for himself or herself or for the members of his or her immediate family to the detriment of the interests of the Duncan's First Nation.

58. The provisions of sections 57 to 67 shall also apply, so far as is possible, in relation to decisions made in the conduct of that office or employment.

59. "Immediate Family" means a spouse, including a common law spouse, mother, father, brother, sister, child, or step-child.

60. "Personal gain" shall mean financial benefit for the individual or for the members of his or her immediate family.

61.(1) Where a person might otherwise be in breach of section 57, the person shall disclose his or her financial interest prior to the making of a decision and shall not participate in the discussion or the decision, unless a majority of the other persons involved in making the decision decide by vote to allow the person with the declared financial interest to participate in the discussion or in the discussion and the making of the decision.

(2) Where a person has made a declaration of financial interest and the decision-making body has decided by vote to allow the person to participate in making the decision despite the declaration of interest, the decision-making body shall ensure that the reasons are recorded in writing in the minutes of the meeting.

(3) Where, pursuant to subsections (1) or (2), the chairperson is prohibited from taking part in deliberations and from voting, he may nevertheless continue to act as chairperson.

(4) Without limiting the generality of subsection (1), a chief or councillor or employee shall be deemed to have a financial interest in a matter before the Council where he or she or a member

of his or her immediate family has an interest in an enterprise or in a partnership, company or corporation having or proposed to have a contract or dealings with the Nation.

- (5) Subject to this section, the chief or a councillor or an employee may be or become a member of any company in which the Duncan's First Nation may be interested as vendor, purchaser, shareholder, or otherwise and no such person shall be accountable for any benefits received as shareholder or director of such company.

62. Where the decision-making body is the Council and more than one member of the Council has a financial interest in the decision, the Council may appoint another body to make recommendations to the Council for a decision, except where the process is an interview board for the hiring of employees.

63. If an employee has breached the provisions of section 57 or 61, that person may:
- (a) be suspended from all privileges and benefits of office or from employment for a period of time;
 - (b) be demoted or reassigned to another position; or
 - (c) be dismissed from the office or employment.

64. Where section 63 applies, the decision with respect to an employee shall be made in accordance with the personnel policies of the Duncan's First Nation.

65. A decision made under section 63 must be made fairly and in accordance with the rules of natural justice, including:
- (a) the person who is alleged to have violated section 57 or 61 must have the opportunity to hear the allegation and provide an answer before a final decision is made; and,
 - (b) the person or persons making the decision on an alleged conflict of interest shall make their decision without any influence or bias.

66. The Council may approve policies and procedures in order to give effect to the provisions of sections 57 to 65.

67. Subject to ss. 61(1) to (3), any contract involving the receipt or expenditure of Duncan's First Nation funds is void where the person approving the contract or a member of his or her immediate family has a financial interest in the contract unless it is reconfirmed by the Council notwithstanding the existence of the financial interest.

FISCAL YEAR

68. The fiscal year for the Duncan's First Nation Government shall be from April 1 of each year to March 31 in the following year.

AUDIT

69. The Council, by resolution, shall appoint an auditor or auditors to audit the books and records of the Duncan's First Nation Reporting Entity for each fiscal year.
70. The auditor shall be a member of a recognized professional accounting association.
71. The auditor shall report to the Council.
72. The audit shall include all transactions of the Duncan's First Nation Reporting Entity.
73. The auditor is entitled to:
 - (a) require access to all books, records, accounts and vouchers;
 - (b) require the production of information necessary for the completion of the audit from any employee;
 - (c) obtain copies of Council resolutions and policies;
 - (d) review administrative and financial policies; and,
 - (e) obtain copies of agreements, funding arrangements, contracts and any other related documents.
74. The audit shall be conducted in accordance with generally accepted auditing procedures and shall include a general review of the adequacy of the accounting procedures and systems of control employed to preserve and protect the assets of the Duncan's First Nation.
75. The Administrator shall provide the auditor with instructions concerning the audit and shall assist the auditor in the completion of the audit.
76. After a review of the audit by the Administrator and the program managers, the auditor shall present the audit to the Council.
77. The audit shall be approved by the Council by resolution and shall be signed by the Chief and any other person designated by the Council.
78. The Administrator shall retain the signed audit, together with the related financial statements.
79. Upon approval of the audit by the Council, the members of the Duncan's First Nation shall be notified that a copy of the audit is available for inspection by any member of the Duncan's First Nation over the age of 18, at the office of the Duncan's First Nation Administration.

DISCLOSURE OF INFORMATION

80. The following documents shall be made available for viewing during regular working hours

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to any member of the Duncan's First Nation over the age of 18 and copies are to be provided to them on request to the Administrator, execution of a confidentiality form and payment of a reasonable fee which may be waived by the Administrator:

- (a) the annual budget;
- (b) quarterly financial statements;
- (c) the audit;
- (d) any agreements or funding arrangements with the federal or provincial governments or with any other party for the provision of funding for the First Nation;
- (e) any Multi-Year Financial Plan including the planned level of debt financing;
- (f) any annual program reports or evaluations prepared with respect to community services;
- (g) any criteria, policies, procedures or guidelines developed in accordance with section 11 of this by-law; and,
- (h) the minutes of any duly convened meeting of the Council.

GENERAL MEETING

- 81.** The Council may hold general meetings of the membership of the Duncan's First Nation to present:
- (a) the audit including the presentation of a narrative of services provided during the previous fiscal year following approval of the auditor's report by the Council; and,
 - (b) the annual budget within a reasonable period of time after its approval by the Council.

DUNCAN'S FIRST NATION CORPORATIONS

- 82.** All corporations which are owned or controlled by the Duncan's First Nation are accountable to the Nation through the Council.
- 83.** All Duncan's First Nation Corporations shall present a corporate plan and an annual budget to the Council prior to the commencement of the fiscal year of the Corporation.
- 84.** All capital budgets and any proposed borrowing by a Duncan's First Nation Corporation must be presented to and approved by the Council prior to any capital expenditure or borrowing being transacted. .
- 85.** All major transactions or changes in the nature of the business of a Duncan's First Nation Corporation shall be approved by the Council prior to the transaction being made or the nature of the business being changed.
- 86.** All Duncan's First Nation Corporations shall present a quarterly financial statement to the Council within 30 days of the end of each quarter of the corporation's fiscal year.

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87. All Duncan's First Nation Corporations shall provide an annual audit to the Council for approval unless they have been audited in conjunction with the audit conducted for the Nation pursuant to this code.

POLICIES AND PROCEDURES

88. The Council may approve such additional policies and procedures as may be necessary to give effect to the provisions of this code. Such policies and procedures, when approved by the Council shall become part of this code and shall be enforced as such.

AMENDMENTS AND REPEAL

89. Amendment or repeal of this by-law shall be made in the same manner as its enactment which would include enactment of an amending or repealing by-law by the chief and council and approval of the amending or repealing by-law by the Minister.

OTHER

90. Subject to section 67, a decision made in contravention of this by-law is voidable by a vote in favour by a majority of the Council at a duly convened meeting of a quorum of the Council.

91. This *Financial Administration By-law 2001* shall come into force and effect immediately upon approval by the Minister of Indian Affairs.

THIS BY-LAW IS HEREBY ENACTED by the Council of the Duncan's First Nation at a duly convened meeting held this 19th day of April, 2001.

Patti Naos Key
Chief

Shawn's Frost
Councillor

Councillor

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