

Ministre des Affaires indiennes et
du Nord canadien et interlocuteur fédéral
auprès des Métis et des Indiens non inscrits



Minister of Indian Affairs and
Northern Development and Federal Interlocutor
for Métis and Non-Status Indians

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 Whitecap Dakota First Nation, in the Province of
Saskatchewan, at a meeting held on the 21st day of April 2005.

- **Whitecap Dakota First Nation
Business Licensing By-law No. 2005-01**

A handwritten signature in black ink that reads "Andy Scott".

Dated at Ottawa, Ontario this 11th day of July 2005.

Canada

WHITECAP DAKOTA FIRST NATION



By-law No. 2005-01

**A By-law to Provide for the Form, Fee
and Procedure for the Issuance of
Business Licenses**

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WHITECAP DAKOTA FIRST NATION

BY-LAW NO. 2005-01

**A By-law to Provide for the Form, Fee and Procedure for the Issuance of
Business Licenses**

WHEREAS the Council of the Whitecap Dakota First Nation desires to make a by-law for the licensing of businesses, callings, trades and occupations on the Reserve;

AND WHEREAS the Council of the Whitecap Dakota First Nation, pursuant to paragraphs 83(1) (a.1), (e), (e.1) and (g) of the *Indian Act*, R.S.C. 1985, c.I-5, may, subject to the approval of the Minister of Indian Affairs and Northern Development, make by-laws for the licensing of businesses, callings, trades and occupations and with respect to any matter arising out of or ancillary to the exercise of powers under this section, including the enforcement of payment of amounts that are payable thereof, and for the imposition and recovery of interest on amounts that are payable thereof;

AND WHEREAS the Council of the Whitecap Dakota First Nation deems that for the orderly conduct and administration of businesses, and for health, welfare, safety and environment of the inhabitants of the Whitecap Indian Reserve No. 94 to license businesses, callings, trades and occupations;

NOW THEREFORE the Council of the Whitecap Dakota First Nation hereby enacts the following by-law.

1. SHORT TITLE

This by-law may be cited as the "Business Licensing By-law No. 2005-01".

2. DEFINITIONS

In this by-law,

"business" means a calling, trade, occupation, employment or profession, vocation, commercial activity, or an enterprise which habitually, occupies or engages the regular time, attention, labour and effort, of the licensee or person(s) for purposes of gain, benefit, advantage, livelihood or profit, or, in which the licensee or person(s) show(s) willingness to invest time and capital on future outcome. For the purposes of this by-law, **"business"**, includes a business operating out of a residence;

"calling" means a business or profession as defined in this by-law;

"Chief" means the duly elected Chief of the Whitecap Dakota First Nation;

"Council" means the duly elected Chief and Councillors of the Whitecap Dakota First Nation;

"Councillor(s)" means the duly elected Councillor(s) of the Whitecap Dakota First Nation;

"Band" or "First Nation" means the Whitecap Dakota First Nation, being a Band within the meaning of subsection 2.(1) of the Indian Act, R.S.C. 1985, c.I-5;

"license" means a license issued under this by-law;

"licensee" means a person to whom a business license is issued under this by-law;

"License Inspector" means a person(s) appointed under section 10 of this by-law;

"occupation" means a business or profession as defined in this by-law;

"person" includes not only an individual, but also a partnership, syndicate, association, corporation or the agent or trustee of a person;

"profession" means a vocation, occupation or calling requiring special, usually advanced, education and skill, and as defined in this by-law;

"Reserve" means the Indian Reserve set apart for the use and benefit of the Whitecap Dakota First Nation and any subsequent additions made thereto;

"trade" means a business as defined in this by-law;

3. REQUIREMENTS FOR LICENSE

- (1) Every person conducting or carrying on a business on the Reserve must hold a valid license issued under this by-law.
- (2) Any person carrying on more than one business on the Reserve must obtain a separate license for each business, and where a business is conducted in or from more than one premise, the business conducted in or from each premise will be deemed a separate and distinct business and will require a separate license.
- (3) Every license granted under this by-law is valid and permits the licensee to carry on the business in a lawful manner.

- (4) The licensee or the person in charge or control of the premises where the business is conducted must at all times keep the license prominently displayed in an area of the premises to which the public has access or in an area designated by the First Nation.
- (5) The licensee must notify the First Nation of any change in:
 - (a) the mailing or business address;
 - (b) the type of business;
 - (c) the area of the premises; and
 - (d) any substantial physical alteration to the premises in which the business is conducted.

4. LICENSE APPLICATION

- (1) Every person who wishes to conduct a business on the Reserve must complete a Business License Application (**Schedule 1**) and submit it to the First Nation for its consideration.
- (2) Every person applying for a license under this by-law to operate a business that is governed or requires registration by any federal statute, or self-regulating professional body, must supply proof of his or her qualifications and of the qualifications of the employees to carry on such a business, and attach it to **Schedule 1**.
- (3) Where the applicant is a corporation or a partnership, proof of incorporation or partnership must be attached to **Schedule 1**.
- (4) In the event of a transfer of the business for which a license has been issued, the First Nation will permit the transfer of the license from one premise to another, provided:
 - (a) the licensee has completed a Business License Application (**Schedule 1**);
 - (b) the licensee has paid the fee under section 6.(2) of this by-law; and
 - (c) the proposed business premises comply with the terms of this by-law.

- (5) In the event of a sale of the business for which a license has been issued, the First Nation will permit an assignment of the license to the purchaser of the business, provided:
- (a) the proposed assignee has completed a Business License Application (**Schedule 1**);
 - (b) the proposed assignee has paid the fee under section 6.(3) of this by-law; and
 - (c) the proposed assignee meets the provisions of this by-law to carry on the business for which the license was issued.

5. LICENSES

- (1) A license is granted for a one (1) year period commencing January 1st and expiring December 31st in each calendar year. Licenses must be renewed by completing a Business License Application (**Schedule 1**) by December 31st of each calendar year or the license will have expired and be suspended. Licenses may be renewed, and reinstated from suspension for non-timely renewal in accordance with subsections 6(1) and 6.(6) of this by-law.
- (2) A license will specify the time period, type and location of the business the licensee is permitted to conduct.
- (3) Upon the closing of the business, the licensee will surrender the license to the First Nation.

6. FEES

- (1) The fee payable for a Business License, including license renewal, is One Hundred Dollars (\$100.00) per calendar year.
- (2) The fee payable for filing a Business License Application in **Schedule 1** for the transfer of a Business License, pursuant to section 4.(4) of this by-law, is Fifty Dollars (\$50.00).
- (3) The fee payable for filing a Business License Application in **Schedule 1** for the assignment of a Business License, pursuant to section 4.(5) of this bylaw, is Fifty Dollars (\$50.00).
- (4) The fee payable for filing a Request for Review Hearing in **Schedule 3**, pursuant to section 9 of this by-law is Fifty Dollars (\$50.00) plus the applicable annual, renewal, transfer or assignment fee.

- (5) Where a licensee has not renewed the license on or before the expiry date as set out in subsections 5.(1) of this by-law, the license will be suspended and the licensee has fifteen (15) days after the date of expiry to renew the license and have the license reinstated by completing the application in **Schedule 1** and will pay the license fee set out in subsection 6.(1) of this by-law and an added fee of Fifty Dollars (\$50.00).
- (6) Where a suspended licensee has not renewed the license within the fifteen (15) days after the expiry date as set out in subsection 6.(5) of this by-law, the suspended licensee has another seventy-five (75) days to renew the license and have the license reinstated by completing the application in **Schedule 1** and will pay the license fee set out in subsection 6.(1) of this by-law and an added fee of One Hundred Dollars (\$100.00). The license will be revoked if not renewed at the end of this time.
- (7) The fees prescribed in this by-law will be reduced by one-half where a license is issued after July 31st in the calendar year.
- (8) Business License fees are subject to GST where applicable.

7. REFUND

- (1) No license fee paid pursuant to this by-law will be refunded.

8. ISSUANCE OF LICENSE

- (1) Upon a business license applicant meeting the provisions for license issuance under subsection 8.(2) of this by-law, a business license will be issued to the applicant.
- (2) The First Nation will issue a license within fifteen (15) business days of receiving the license application by delivering or mailing the license to the applicant at the address shown in the license application provided:
 - (a) the application complies with this by-law;
 - (b) The First Nation is satisfied that the applicant's business complies with all provisions of any other First Nation by-law(s);
 - (c) the applicant has disclosed all required information in the application form and the First Nation is satisfied under subsections 11.(1)(c) and 11.(1)(d) of this by-law;

- (d) the applicant has not, within the preceding three (3) years, been convicted of an offence under the Criminal Code of Canada relating to the conduct of a business for which the applicant has not been pardoned;
 - (e) the applicant's business would not be detrimental to the health, welfare, safety and environment of the inhabitants on the Reserve;
 - (f) the First Nation's investigations do not disclose any reason to believe that the carrying on of the said business may result in a breach of the law, or may be in any way adverse to the public interest;
 - (g) the required fee for the license has been paid; and
 - (h) the business and the premises occupied by the business complies with all zoning and Development Standards of the First Nation.
- (3) Every license granted pursuant to this by-law will be in duplicate; one copy will be issued to the licensee and the other copy retained by the First Nation.
- (4) If the applicant or licensee fails to comply with or the First Nation is not satisfied with information received from the applicant or licensee under section 8.(1) of this by-law, the First Nation will serve the applicant a **Notice of Business License Refusal (Schedule 2)**. The notice will be served personally or by registered mail to the applicant at the address shown on the Business License Application.

9. APPEAL

- (1) Within thirty (30) days of being served of the notice under subsection 8.(4) of this by-law, the applicant or licensee may apply for a review by Council by completing and filing a **Request for Review Hearing (Schedule 3)**, and paying the fee as referred to in subsection 6.(4) of this by-law, and submitting these to the First Nation.
- (2) The First Nation, upon receipt of **Schedule 3** and the fee referred to in subsection 6.(4) of this by-law, will forthwith transmit to the applicant:
- (a) a copy of the original license application as completed by the applicant and copies of any supporting documentation accompanying the license application;
 - (b) a copy of the applicant's completed **Schedule 3**; and

- (c) a copy of the First Nation's refusal and reasons for refusal.
- (3) Council will determine the time and date of the review hearing, which will be at least fifteen (15) days hence but no more than forty-five (45) days and will forthwith serve notice of the decision in **Schedule 4** on the applicant by personal service or by registered mail at the address shown in the license application. Council will hold the review hearing at the time and date set in **Schedule 4**. The applicant shall be given at least seven (7) days notice of the hearing.
 - (4) The applicant may be represented at the review hearing by counsel and the applicant or counsel may adduce evidence, submit argument in support of the application for license, answer any objections that may arise and examine or cross-examine witnesses.
 - (5) At the review hearing, the First Nation, or its agent, is entitled to submit arguments in reply to evidence and argument presented by or on behalf of the applicant.
 - (6) At the review hearing, the onus will be upon the applicant to show just cause why the license applied for should be granted.
 - (7) Council will notify the applicant of its decision within seven (7) days of the date of the completion of the review hearing along with notification that the applicant has a further right of appeal to a court of competent jurisdiction, by serving a copy of the decision personally or by registered mail to the applicant at the address shown in the applicant's license application.
 - (8) If the applicant agrees at the review hearing to accept conditions upon the license, Council may render a decision granting the applicant the license applied for upon such conditions as it considers fair and appropriate and authorized by law.
 - (9) All review hearings will be held in camera. The decision resulting from the review hearing will be made public forthwith, and any minutes of the review hearing will be available to the public within fifteen (15) days of the decision.
 - (10) If Council renders a decision granting the applicant the license applied for, the license will be issued upon the applicant complying with this by-law.

10. LICENSE INSPECTOR

- (1) Council will appoint, by band council resolution, a License Inspector or other such officers as may be necessary to receive business license

applications, appeals, issue licenses and carry out the licensing administrative functions under this by-law, including enforcement.

11. DUTIES OF THE LICENSE INSPECTOR

- (1) The License Inspector will:
 - (a) receive and process all applications, appeals, renewals, transfers and assignments of licenses to be issued under this by-law;
 - (b) maintain a record of all applications and fees for license and retain on file a copy of all licenses 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 license is accurate;
 - (d) make all investigations required by subsection 8.(2) of this by-law or by the First Nation, relative to an application;
 - (e) in response to receipt of a written complaint, or at least once a year, with the consent of the licensee (such consent not to be unreasonably withheld) make inquiries and inspect premises to determine whether every holder of a license issued under this by-law complies with the license issued and the by-laws, Zoning and Development Standards of the First Nation and no licensee shall obstruct or hinder the making or completing of the inspection.

12. REVOCATION OR SUSPENSION OF LICENSE

- (1) Council will, by Band Council resolution, and after giving notice in **Schedule 5** and holding a hearing:
 - (a) suspend for a period not exceeding ninety (90) days; or
 - (b) revoke, any license issued under this by-law, where it has come to the attention that the licensee:
 - (i) has failed to comply with this by-law;
 - (ii) is carrying on a business that fails to comply with all provisions in any other by-laws of the First Nation;
 - (iii) within the preceding 3 (three) years of license issuance and since license issuance, has been convicted of an offence under the Criminal Code of Canada, relating to the conduct

of a business whether on or off the Reserve, for which the licensee has not been pardoned;

- (iv) has conducted the business in a manner this is detrimental to health, welfare, safety and environment of the inhabitants on the Reserve;
 - (v) is convicted of any offence under any statute of the province in respect of the licensed business or with respect to the premises named in the license; or
 - (vi) is carrying on a business, the purpose of which is to engage in or permit, allow, facilitate, encourage or assist others to engage in, any activity which violates the criminal Code of Canada.
- (2) Council will give the licensee at least seven (7) days notice of the hearing referred to in subsection 12.(1) of this by-law in **Schedule 5** and the First Nation will serve **Schedule 5** personally or by registered mail to the licensee at the address shown in the license application, but if a licensee who by reasonable efforts of the Council cannot be found and has not come forward then the notice will be considered to be duly served and an *ex parte* decision will be issued against the licensee.
 - (3) Subsections 9.(4), 9.(7), and 9.(8) of this by-law also apply to the hearing referred to in subsection 12.(1) of this by-law.
 - (4) The First Nation will post the notice of suspension or revocation of a license upon the premises for which the license was issued and the notice must not be removed until the license is reinstated or the licensee ceases to occupy the premises, or a new business other than the one carried on by the former licensee is licensed on the premises.

13. CONFLICT OF INTEREST

- (1) The Chief and each Councillor must declare any potential conflict of interest, in accordance with the First Nation's conflict of interest guidelines, and withdraw from any decisions where a conflict of interest may arise.

14. PENALTY

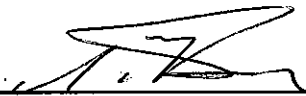
- (1) Every person who contravenes section 3.(1) of this by-law is guilty of an offense and on summary conviction is liable to a fine not exceeding One Thousand Dollars (\$1,000.00).

15. ENFORCEMENT

- (1) For the purpose of ensuring compliance with this by-law, the First Nation, or any person appointed by the First Nation in subsection 10.(1), may, at any reasonable time, enter and inspect any business.
- (2) The First Nation may charge a licensee, whether the license is expired, revoked or suspended, with all reasonable costs which are incurred in the collection of all fees, fines, interest, penalties or other costs imposed by this by-law.

This Business Licensing By-law No. 2005-01 is hereby enacted at a duly convened meeting of the Council of the Whitecap Dakota First Nation this

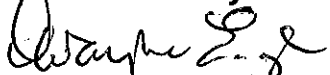
21st day of April, 2005.



Chief Darcy Bear



Councillor Frank Royal



Councillor Dwayne Eagle

A quorum of this Council consists of two (2) Council members.



SCHEDULE 1

BUSINESS LICENSE APPLICATION

Date: _____

1. Applicant's Name: _____
2. Applicant's Date of Birth: _____
3. Applicant's Address: _____
(residence)
4. Name of Company proposed as Licensee: _____
5. Mailing Address: _____
(partnership/corporation if different)
6. Phone Number: residence: _____ office: _____
7. Fax Number: residence: _____ office: _____
8. Name of Business to be licensed: _____
9. Address of Business to be licensed: _____
10. Name of Individual in charge at this location: _____
11. Title of Individual in charge: _____
12. Type of Business: _____
13. Have you previously had a business license from this First Nation? Yes ___ No ___
14. Are you presently registered with the federal government or a self-regulating professional body with respect to the conduct of your business? Yes ___ No ___
(If yes, applicant must provide proof and attach details).
15. Are you bonded with a bonding agency with respect to the conduct of your business?
Yes _____ No _____
(If yes, applicant must provide proof and attach details.)
16. Is this business incorporated? Yes _____ No _____ Federal _____ Provincial _____
(If yes, applicant must provide proof and attach details.)
17. Is the business administered by a partnership? Yes ___ No ___
(If yes, applicant must provide proof and attach details.)
18. Have you, within the previous three (3) years, been convicted of an offense under the Criminal Code of Canada for which you have not been pardoned? Yes _____ No ___



SCHEDULE 2
NOTICE OF BUSINESS LICENSE REFUSAL

TO: (Name of Applicant)

ADDRESS: (Address of Applicant)

RE: (Name of Business)

TAKE NOTICE that pursuant to the Business Licensing Bylaw No. 2005-01 of the Whitecap Dakota First Nation, your application to (receive, renew, transfer or assign) a BUSINESS LICENSE is refused.

AND TAKE NOTICE that you have thirty (30) days from the date of this NOTICE within which you may apply for a review by Council by completing and filing Schedule 4 of the said By-law and paying the fee pursuant to this By-law with the First Nation.

AND FURTHER TAKE NOTICE that if you file a request for a review hearing, you will be notified of the time and place to attend.

REASON(S) FOR REFUSAL

(Date)

License Inspector
Whitecap Dakota First Nation



SCHEDULE 3

REQUEST FOR A REVIEW HEARING

TO: The Council of the Whitecap Dakota First Nation

PURSUANT to the Business Licensing Bylaw No. 2005-01 of the Whitecap Dakota First Nation, I hereby appeal the decision as outlined on the NOTICE OF LICENSE REFUSAL, dated the _____ day of _____, 20__ and signed by the License Inspector to refuse to (receive, renew, transfer or assign) a BUSINESS LICENSE for the following business located at

(Name of business and location)

on the following grounds:

DATED AT _____ this ___ day of _____, 20__.

Printed name of appellant

Appellant's signature

Address to which all notices to appellant are to be sent



SCHEDULE 4

NOTICE OF REVIEW HEARING

TO: _____
(Name of Applicant)

ADDRESS: _____

PURSUANT to the Business Licensing Bylaw No. 2005-01 of the Whitecap Dakota First Nation, Council will hear your Request for Review Hearing dated the ____ day of _____, 20__ relating to the above-noted business.

AND TAKE NOTICE that this Review Hearing will be held at the hour of _____ (a.m./p.m.) on the ____ day of _____, 20__ at the following location:

AND TAKE FURTHER NOTICE that you should bring to the hearing all relevant documents pertaining to this matter.

DATED AT _____ this ____ day of _____, 20__.

License Inspector
Whitecap Dakota First Nation



SCHEDULE 5
NOTICE OF HEARING

TO: _____
(Name of Licensee)

ADDRESS: _____

RE: _____ License Suspension for: _____
(Name of business)

_____ License Revocation for: _____
(Name of business)

PURSUANT TO THE Business Licensing Bylaw No. 2005-01 of the Whitecap Dakota First Nation, Council will be holding a hearing relating to the above-noted business regarding:

- _____ (1) why your business license should not be suspended for a period not exceeding ninety days; or
- _____ (2) why your business license should not be revoked.

AND TAKE NOTICE that this hearing will be held at the hour of _____ (a.m./p.m.) on the _____ day of _____, 20____ at the following location:

AND FURTHER TAKE NOTICE that you should bring to the hearing all relevant documents pertaining to this matter.

DATED AT _____ this _____ day of _____, 20____.

License Inspector
Whitecap Dakota First Nation

SCHEDULE 6

Whitecap Dakota First Nation

BUSINESS LICENSE

(Name of Licensee) is hereby authorized to conduct a business, calling, trade or occupation in the following commercial activity on the Whitecap Dakota First Nation for the period commencing on (Date) and expiring on (Date):

(Name of Business)

License Inspector

Whitecap Dakota First Nation

(Date)

Signature of Licensee or Authorized Agent

(Date)

