

Land Code Enforcement

Model Ticketing and Enforcement Law

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INTRODUCTION AND PRESENTATION OVERVIEW

- Overview of Substantive Content of Model Ticketing & Enforcement Law
- Visual Overview of Model Law
- Questions and Comments



How to Access the Model Ticketing & Enforcement Law

- <https://labrc.com/resource/tmpd-workshop-enforcement-ticketing-east-region/>
- Scan the QR code
- Paper copies to share



There will be Model Law section references throughout this presentation.



**Model Ticketing and
Enforcement Law**

**OVERVIEW OF DRAFT
MODEL LAW**

MODEL LAW IS PROCEDURAL

Offence will be set out in substantive Nation law
(ex: trespass law, nuisance law, environmental
management law)



Every offence under a Nation law plugs into
(and is enforced under) the Model Ticketing &
Enforcement Law



TWO STREAMS UNDER MODEL LAW



**Provincial court system stream,
if available tie-in**



**Internal stream, if no
court tie-in**



MODEL LAW SIMILAR TO SCHEME ALREADY USED IN PROVINCES

In Provinces	In Model Law
Deals with summary offences	Deals with summary offences
Expedited ticketing scheme	Expedited ticketing scheme that can tie-in with provincial scheme, or can happen internally with JP
Procedure available for long form prosecution in court	Tie-in to long form prosecutions in court (already happening)
Appeal available to superior courts	Appeal available to superior courts
	

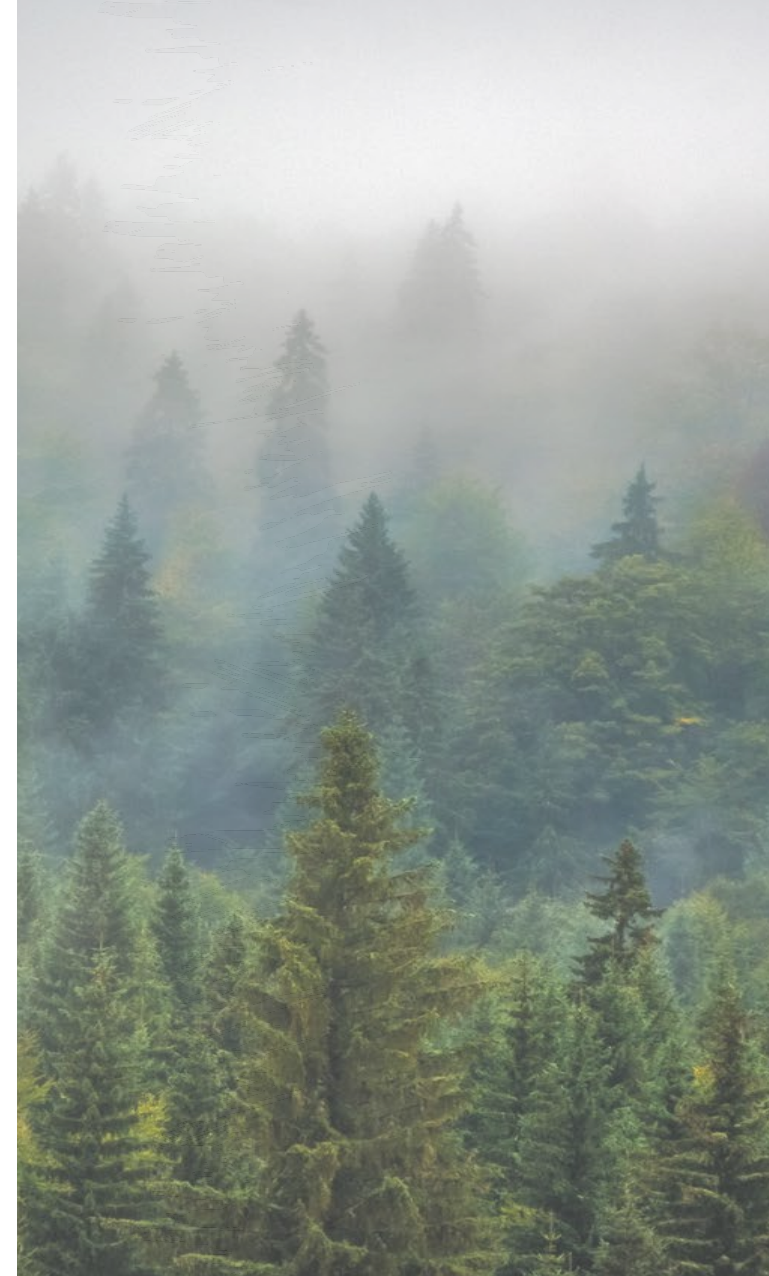


Model Ticketing and Enforcement Law

METHODS OF ENFORCEMENT

SUMMARY CONVICTION OFFENCES

- Offence is set out in substantive Nation law, and then connects to the Model Law for enforcement (*section 9.1*)
 - Ex: trespass offence created in a Nation Trespass Law, enforced through Model Law
- Model Law creates default of strict liability offence (*section 8.1*)
- Time limitation on enforcing offence under Model Law:
 - Within 12 months of subject matter related to offence proceedings arising (*section 9.2*)



4 WAYS TO ENFORCE

- Model Law provides 4 ways to achieve compliance with a Nation law
- Where reasonable and probable grounds that offence under a Nation law was committed, one of 4 things can happen:
 1. Warning issued (*section 10*)
 2. Compliance Notice issued (*section 11*)
 3. Ticket issued (*section 12*)
 4. Seek to commence long form prosecution/trial (*section 24*)





**Model Ticketing and
Enforcement Law**

**APPOINTMENTS AND
DESIGNATIONS**

JUSTICE OF THE PEACE APPOINTMENT (*section 5*)

Appointment by Council BCR



Qualifications & Independence

- Should have some experience relevant to role of JP (*section 5.3 (a)*)
- Cannot be Nation employee or member of Council (*section 5.3(b)*)
- Appointed for initial 3-year term and can be re-appointed (*section 5.4*)

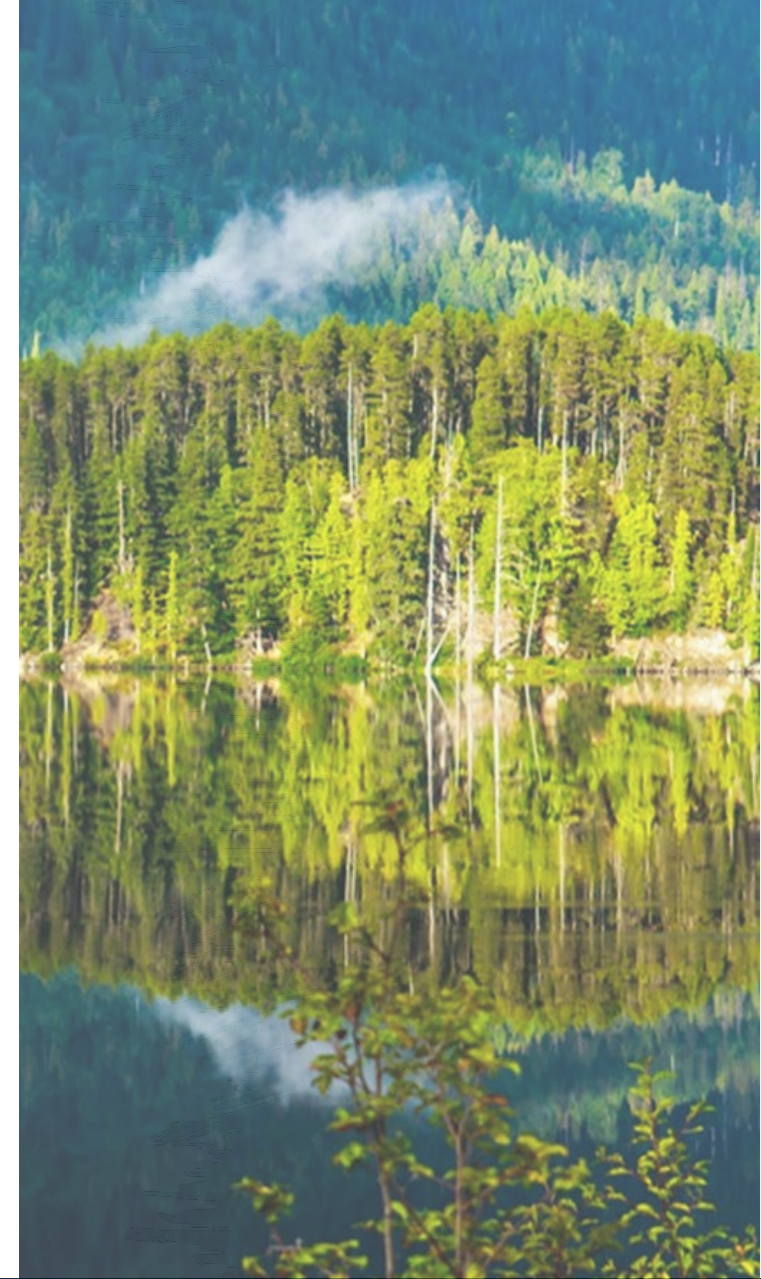
JUSTICE OF THE PEACE

➤ Duties include:

- Holding hearings to review Tickets that are disputed (*sections 5.8 & 18.4*)
- Confirming conviction where person has ignored Ticket (*section 17.2*)
- Reviewing requests for time extensions related to Tickets (*section 21.1*)

➤ Must maintain judicial independence (*section 5.7*)

➤ Can only be removed by Council if misconduct or gross negligence (*section 5.5(b)*)



ENFORCEMENT OFFICER DESIGNATION (*section 6*)

Can be police or other peace officer

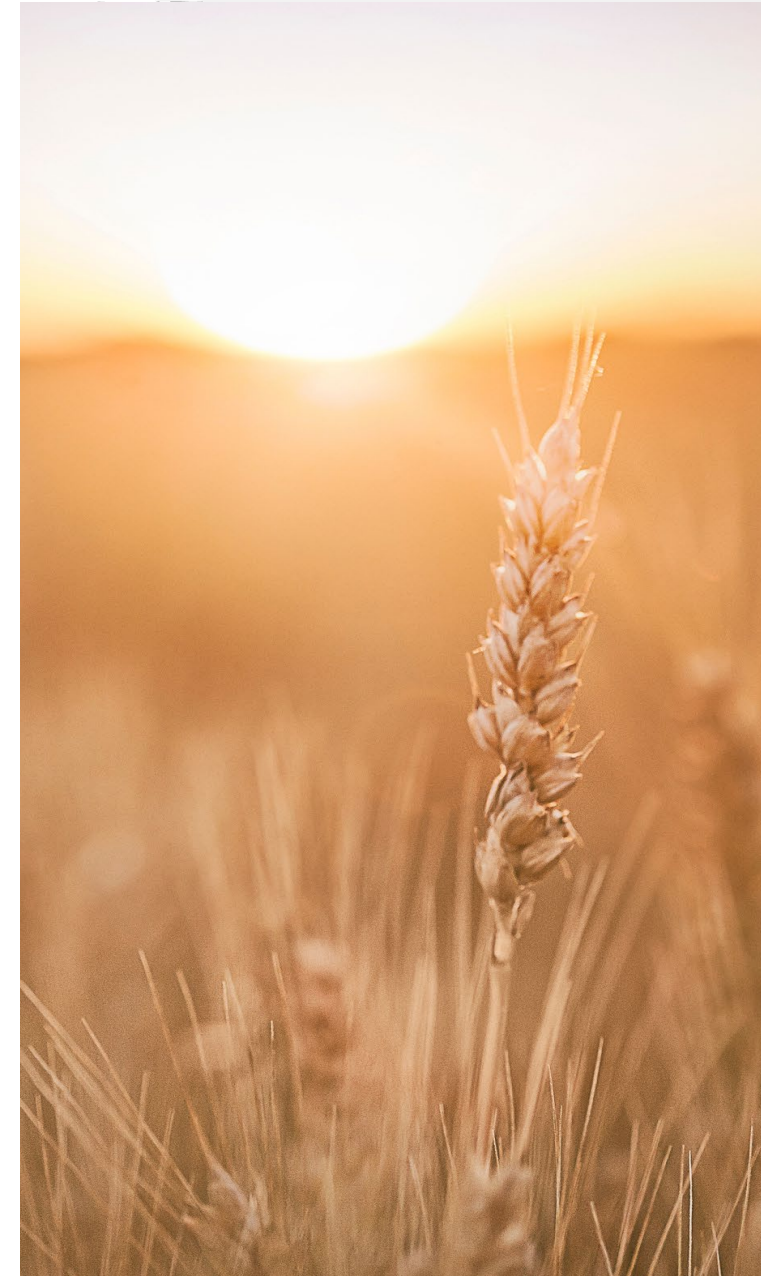


Can be Nation Enforcement Officers



ENFORCEMENT OFFICER

- Ideal to have some experience relevant to role
- Council can limit the scope of their authority (*section 6.2(a)*)
- Officers will issue Tickets, Warnings, Compliance Notices (*sections 10.1, 11.1 and 12.1*)
- Have power to do other things, but subject to other legal requirements (*sections 6.6 to 6.8*)
 - Investigate and gather evidence
 - Inspect property and lands
 - Other powers under the Framework Agreement



PROSECUTOR APPOINTMENT (*section 7*)

Can be any qualified person

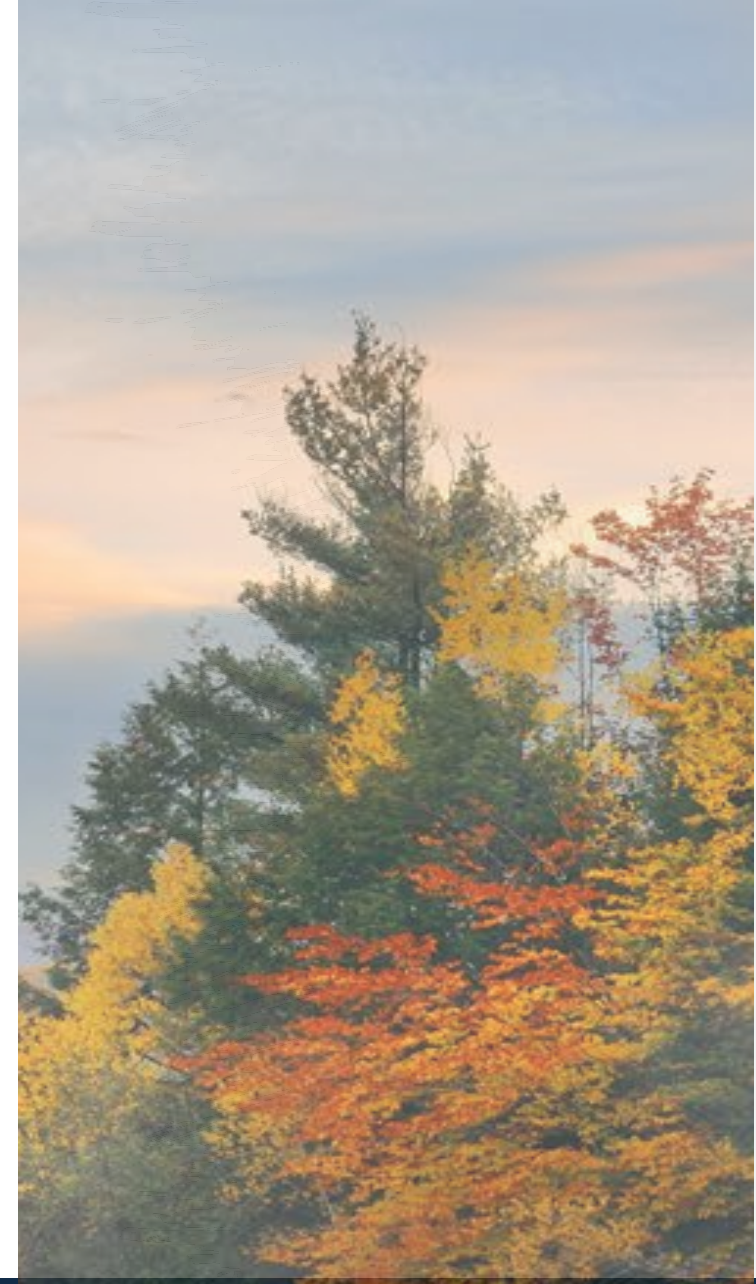


Can be Nation Enforcement Officer
in some cases



PROSECUTOR

- Appointed by BCR (*section 7.1*)
- Must have training or experience relative to the role (*section 7.2*)
- Must maintain prosecutorial independence (*section 7.3*)
- Where a person disputes a Ticket, the Enforcement Officer who issued the Ticket can act as the prosecutor in the hearing, without being appointed by BCR (*section 7.6*)





Model Ticketing and Enforcement Law

WARNINGS AND COMPLIANCE NOTICES

WARNING

- Issued by Enforcement Officer (*section 10.1*)
- Must be reasonable and probable grounds to believe an offence under Nation law was committed to issue a Warning (*section 10.1*)
- No penal consequence attached, but can result in escalated compliance methods for future offences (*section 10.3*)
- Standard form is required for Warnings (*section 10.7*)





ENFORCEMENT NOTICE

Enforcement
Notice Number:

WARNING NOTICE

Issued in accordance with subsection 6.1 of the *K'ómoks First Nation Summary Offence Law*, KFN-2023-01.

This warning notice does not impose any fine or charge on the Defendant. However, this warning notice may be considered in the issuance of future enforcement notices under the *Summary Offence Law*, or in future sentencing decisions under the *Summary Offence Law*, should the Defendant commit another offence.

Issued to the Defendant:

SURNAME	GIVEN NAMES	BIRTHDATE (DD/MM/YYYY)
ADDRESS		PHONE NUMBER
CITY	PROVINCE	POSTAL CODE

The K'ómoks First Nation Law Enforcement Officer believes on reasonable and probable grounds that:

on

DD	MM	YYYY
----	----	------

 at the time of

AM/PM

at

CITY, PLACE OR TOWN

in the Province of British Columbia, the Defendant committed the following offences, which are punishable by summary conviction, under K'ómoks First Nation law:

	Description of Activities Constituting an Offence	Section Contravened	Law Contravened
1.			
2.			

THIS WARNING NOTICE HAS TWO PAGES

The K'ómoks First Nation Law Enforcement Officer has provided the following compliance information to the Defendant:

	Compliance Information
1.	
2.	

Enforcement Officer's Signature

I certify that this Warning
Notice was issued by:

NAME OF LAW ENFORCEMENT OFFICER (TYPED OR PRINTED)		
SIGNATURE		
DD	MM	YYYY

SERVICE OF A WARNING NOTICE

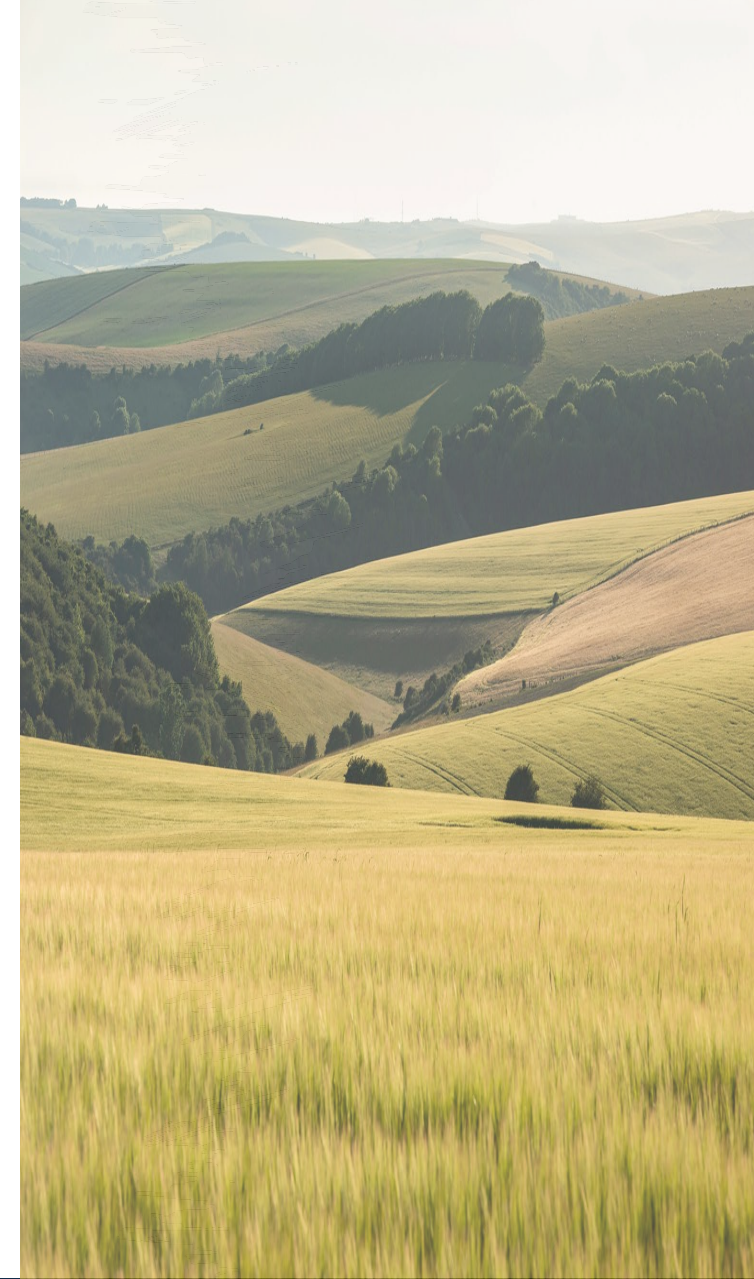
This Warning Notice is deemed Served, in accordance with section 8.1 of the *Summary Offence Law*:

- (a) if the Defendant is an individual, by: (i) leaving a copy of the Warning Notice with the Defendant; or (ii) leaving a copy of the Warning Notice addressed to the Defendant at the Defendant's place of residence with an individual who appears to the KFN Law Enforcement Officer to be over sixteen (16) years of age and who resides with the Defendant;
- (b) if the Defendant is a corporation, business or society, by: (i) leaving a copy of the Warning Notice with an officer, senior manager, director, or other executive officer of the corporation, business or society; or
- (c) if the Defendant is a partnership, by: (i) leaving a copy of the Warning Notice with a partner or other executive officer of the partnership.

THIS WARNING NOTICE HAS TWO PAGES

COMPLIANCE NOTICES

- Issued by Enforcement Officer (*section 11.1*)
- Must be reasonable and probable grounds to believe an offence under Nation law was committed to issue a Compliance Notice (*section 11.1*)
- Includes conditions that must be followed to bring the person into compliance with the Nation law (*section 11.2(e)*)
- No penal consequence attach, but can result in escalated compliance methods for future offences (*section 11.3*)
- Failure to follow conditions contained in Compliance Notice is an offence (*section 11.8*)
- Standard form is required for Compliance Notices (*section 11.7*)



FORM REQUIREMENTS: COMPLIANCE NOTICE



Should include the same ‘Who’, ‘Where’, ‘When’, and ‘What’ as a ticket

Who – Full Name, Date of Birth and Address of the person the ticket is being issued to


Where – Location of Offence

When – Date the Offence Occurred

What – Description of Offence & Law Violated



Fine is replaced with **remediation requirements and time limits** for completion



4690 SALISH WAY
AGASSIZ, BRITISH COLUMBIA
V0M 1A1

COMPLIANCE
NOTICE

Notice Number:

COMPLIANCE NOTICE

Issued in accordance with section 6.5 of the Sts'ailes Enforcement and Ticketing Law

This Compliance Notice does not impose any fine or charge. However, if the Remedy Information in this Compliance Notice is not completed within the specified time further enforcement action may be taken

Issued to:

SURNAME	GIVEN NAMES	BIRTHDATE (DD/MM/YYYY)
ADDRESS		PHONE NUMBER
CITY	PROVINCE	POSTAL CODE

A Sts'ailes Enforcement Officer believes on reasonable and probable grounds that:

on

YYYY	MM	DD
------	----	----

 at

AM/PM

at

CITY, PLACE OR TOWN

In the Province of British Columbia, the person this Compliance Notice was issued to committed the following offences:

	Description of Activities Constituting an Offence	Section Contravened	Law Contravened
1.			
2.			

THIS COMPLIANCE NOTICE HAS TWO PAGES



The Sts'ailes Enforcement Officer has provided the following Remedy Information:

	Remedy Information and Completion Time
1.	
2.	

Enforcement Officer's Signature

I certify that this Compliance Notice was issued by:

NAME OF ENFORCEMENT OFFICER (TYPED OR PRINTED):

SIGNATURE:

YYYY	MM	DD
------	----	----

FORM REQUIREMENTS: COMPLIANCE NOTICE

- Should include the same 'Who', 'Where', 'When', and 'What' as a ticket

Who – Full Name, Date of Birth and Address of the person the ticket is being issued to

Where – Location of Offence

When – Date the Offence Occurred

What – Description of Offence & Law Violated

- Fine is replaced with **remediation requirements and time limits** for completion

Notice of Offence(s)

I, _____
Believe and certify
that on the day of
YEAR MONTH DAY Time

Name _____
Family Name

Given Name _____ Initials _____

Address _____
Number and street name

Municipality _____ P.O. _____ Province _____ Postal Code _____

Commercial Fishing or Status Card or Drivers License # _____
YEAR MONTH DAY SEX _____
Witnesses _____

At _____

Did commit the offence(s) of: _____

Contrary to: _____

Signature of issuing NFN Officer: _____

☐ WARNING

☐ ATTEND COMPLIANCE CONFERENCE

IMPORTANT:

You have 3 business days from the day you receive this notice to contact the Nipissing First Nation Natural Resource Department.

AS A RESULT OF THE DETECTED NON COMPLIANCE, YOU ARE BEING ISSUED THIS NOTICE AND YOU ARE REQUIRED TO CONTACT THE NFN NATURAL RESOURCE DEPARTMENT TO DISCUSS THE OFFENCE(S) IDENTIFIED ABOVE.

You have three (3) business days from the time of receiving this notice to contact the Natural Resource Department Manager at 705-753-2050 or at the office located at: 17 Philip Ave. Garden Village, ON P2B 3K2.

IF YOU FAIL TO DO SO, THIS MATTER MAY BE TRANSFERRED OVER TO THE MINISTRY OF NATURAL RESOURCES AND FORESTRY (MNR) FOR FURTHER INVESTIGATION.

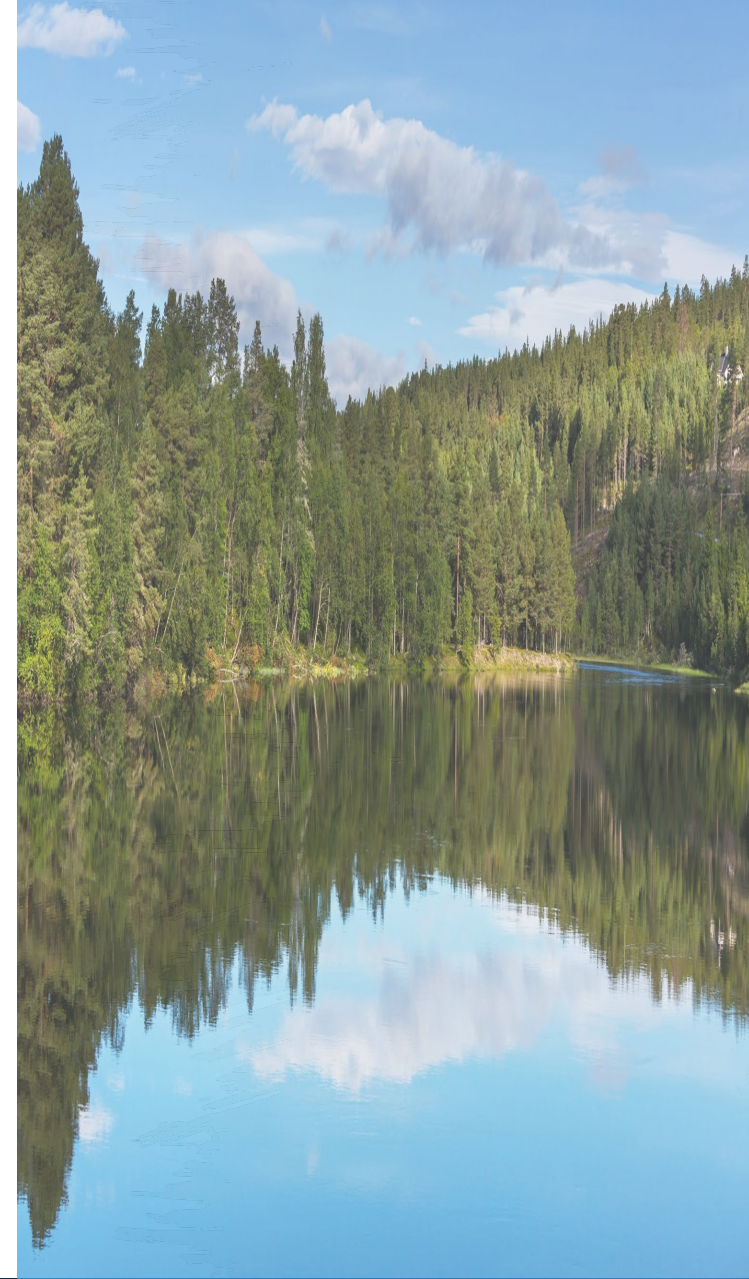


Model Ticketing and Enforcement Law

TICKETS

TICKET

- Issued by Enforcement Officer (*section 12.1*)
- Must be reasonable and probable grounds to believe an offence under Nation law was committed to issue a Ticket (*section 12.1*)
- Issuing a Ticket constitutes the laying of an Information (*section 12.2*)
- Standard form is required for Ticket (*section 12.6*)
- If using provincial summary conviction legislation, recommend revising Model Law to ensure it reflects requirements of the applicable legislation



CONTENTS OF TICKET & SERVICE

- There are specific content requirements for Tickets (*section 13.1*):
 - Set out particulars of offence in some detail
 - Fine amount
 - Options on receipt of Ticket (pay or dispute)
 - Identify person who committed offence
 - Date of issuance
- Service is required for Ticket (*section 13.5*)




FORM REQUIREMENTS: TICKETS

Tickets should include:

- **Who** – Full Name, Date of Birth and Address of the person the ticket is being issued to
- **Where** – Location of Offence
- **When** – Date the Offence Occurred
- **What** – Description of Offence & Law Violated
- **How** – Description of How the Accused can Respond to the Ticket (e.g., pay fine, dispute)
- **Fine** – Dollar amount of the assigned penalty

FORM 1



000201

TSAWWASSEN FIRST NATION
s̓c̓awaθən məsteyəxʷ
Tsawwassen First Nation
TICKET INFORMATION

ISSUED TO:

SURNAME OR CORPORATE NAME		<input type="checkbox"/> YOUNG PERSON	
GIVEN NAMES	YY	MM	DD
ADDRESS		DRIVER'S LICENCE NUMBER	GENDER M F
CITY	PROV / STATE	POSTAL / ZIP CODE	

VEHICLE INFORMATION:

VEHICLE MAKE	TYPE	MODEL	PROVINCE / STATE
LICENCE / VIN			COLOR

THE ENFORCEMENT OFFICER SAYS THAT HE OR SHE HAS REASONABLE AND PROBABLE GROUNDS TO BELIEVE, AND DOES BELIEVE, THAT THE ABOVE NAMED, AS:

☐ DRIVER ☐ PASSENGER
☐ OWNER (Per Section 83(2) of the Motor Vehicle Act) ☐ PEDESTRIAN ☐ CYCLIST
☐ OTHER _____

DATE OF CONTRAVENTION: _____

ON OR ABOUT: 20____ AT THE TIME OF: _____

ON _____ TSAWWASSEN FIRST NATION, BC
NAME OF OFFENSE (IF APPLICABLE): _____
DID COMMIT THE FOLLOWING CONTRAVENTION(S) INDICATED, UNDER THE FOLLOWING TFN ACT OR REGULATION:

☐ COMMUNITY GOVERNANCE ACT ☐ LAND ACT ☐ LAND-USE PLANNING & DEVELOPMENT ACT
☐ COMMUNITY SAFETY & SECURITY ACT ☐ OTHER (SPECIFY) _____

ACT/REGULATION: _____ SECTION: _____

DETAILS OF CONTRAVENTION(S): _____

☐ COMPLIANCE NOTICE ORNT (1) PENALTY: \$ _____
☐ CONTRAVENTION TICKET EARLY PAYMENT DISCOUNT: \$ _____
☐ OFFENCE TICKET LATE PAYMENT SURCHARGE: \$ _____

ACT/REGULATION: _____ SECTION: _____

DETAILS OF CONTRAVENTION(S): _____

☐ COMPLIANCE NOTICE ORNT (2) PENALTY: \$ _____
☐ CONTRAVENTION TICKET EARLY PAYMENT DISCOUNT: \$ _____
☐ OFFENCE TICKET LATE PAYMENT SURCHARGE: \$ _____

DATE OF SERVICE: _____

☐ LEFT ON VEHICLE ☐ HAND DELIVERED TO NAMED PERSON ☐ OTHER _____

SEE REVERSE FOR PAYMENT & DISPUTE PROCESS

ENFORCEMENT OFFICER: _____ NAME & ID NUMBER: _____

FORM REQUIREMENTS: TICKETS

The back of the ticket:

- May include instructions on how to pay or dispute the ticket, including those provisions of the Enforcement and Ticketing Law
- May be kept by the First Nation
- May include space for Enforcement Officer notes and the Certificate of Service



TSAWWASSEN FIRST NATION
st̓awwəḥən məsteyaxʷ

PAYMENT: YOU MAY PAY BY MAIL, SENDING YOUR CHEQUE OR MONEY ORDER, IN CANADIAN FUNDS, PAYABLE TO TSAWWASSEN FIRST NATION, TO THE ADDRESS BELOW; OR IN PERSON, BY CASH, AT THE ADDRESS BELOW, BETWEEN 9:30 AND 4:30 ON NORMAL BUSINESS DAYS. PLEASE DO NOT SEND CASH IN THE MAIL. INCLUDE A COPY OF THE OTHER SIDE OF THIS NOTICE OR A NOTE INCLUDING THE TICKET NUMBER, YOUR FULL NAME AND ADDRESS, THE DATE OF ISSUE, AND THE REGULATION AND SECTION CONTRAVENTED.

IF YOU WISH TO DISPUTE A COMPLIANCE NOTICE, WITHIN 14 DAYS AFTER THE DATE THE NOTICE WAS RECEIVED, OR DEEMED RECEIVED UNDER THE TSAWWASSEN FIRST NATION TICKET REGULATION, 2013, YOU MAY DELIVER A NOTICE, OR APPEAR IN PERSON TO GIVE NOTICE OF DISPUTE, TO THE TSAWWASSEN ADMINISTRATION AT THE ADDRESS BELOW. A SCREENING OFFICER MAY BE ASKED TO REVIEW THE NOTICE. THE NOTICE OF DISPUTE MUST INCLUDE YOUR ADDRESS AND THE ALLEGED CONTRAVENTION THAT IS DISPUTED.

IF YOU WISH TO DISPUTE A CONTRAVENTION TICKET, WITHIN 14 DAYS AFTER THE DATE THE TICKET WAS RECEIVED, OR DEEMED RECEIVED UNDER THE TSAWWASSEN FIRST NATION TICKET REGULATION, 2013, YOU MAY FILE A NOTICE OF DISPUTE IN WRITING WITH THE TSAWWASSEN FIRST NATION JUDICIAL COUNCIL AT THE ADDRESS BELOW. THE NOTICE OF DISPUTE MUST INCLUDE YOUR ADDRESS AND THE ALLEGED CONTRAVENTION THAT IS DISPUTED.

IF YOU WISH TO DISPUTE AN OFFENCE TICKET, WITHIN 14 DAYS AFTER THE DATE THE TICKET WAS RECEIVED, OR DEEMED RECEIVED UNDER THE TSAWWASSEN FIRST NATION TICKET REGULATION, 2013, YOU MAY DISPUTE THE TICKET TO THE PROVINCIAL COURT IN ACCORDANCE WITH THE PROCEDURES SET OUT IN THE OFFENCE ACT (BRITISH COLUMBIA).

IF THE PENALTY IS PAID WITHIN 14 DAYS AFTER THE DATE OF THIS NOTICE, IT IS REDUCED BY THE AMOUNT OF THE EARLY PAYMENT DISCOUNT.

IF A NOTICE OF DISPUTE IS NOT RECEIVED BY THE 14TH DAY AFTER RECEIPT, THIS TICKET WILL BE DEEMED UNDISPUTED AND THE PENALTY NOTED ON THIS TICKET WILL BE IMMEDIATELY PAYABLE. IF THE PENALTY IS NOT PAID IN FULL WITHIN 29 DAYS AFTER THE DATE THIS TICKET WAS RECEIVED OR DEEMED RECEIVED, THE SURCHARGE WILL APPLY IN ADDITION TO THE PENALTY AND BOTH WILL BE TREATED AS A DEBT OWING TO THE TSAWWASSEN FIRST NATION.

TSAWWASSEN ADMINISTRATION:
1926 TSAWWASSEN DRIVE
TSAWWASSEN, BRITISH COLUMBIA
V4M 2G2

JUDICIAL COUNCIL:
1926 TSAWWASSEN DRIVE
TSAWWASSEN, BRITISH COLUMBIA
V4M 2G2

THIS TICKET IS ISSUED PURSUANT TO THE TSAWWASSEN FIRST NATION TICKET REGULATION, 2013, ENACTED UNDER THE LAW ENFORCEMENT ACT (TSAWWASSEN).

Officer's Notes:

Traffic Conditions: _____

Road: _____

Weather: _____

Height	Weight	Eyes	Hair Colour

FINES FOR TICKETS

- Fine amount for Ticket will be set out in either (*section 14.1*):
 - The Nation law creating the offence
 - A regulation established under the Model Law, setting out fines for various offences under various Nation laws (**best practice**)
- Can have surcharges for late payment, or amount for early payment (*section 14.2*)



Westbank First Nation *Business Licensing Law & Notice Enforcement Law* (designate contraventions by Resolution) → *Enforcement Notice Penalty Schedule*

23. VENDING MACHINES

23.1 A person who owns, keeps, or maintains any vending machine must, when applying for a licence under this Law, notify the Business Licence Officer in writing of the number of vending machines owned, kept, or maintained, and advise the Business Licence Officer of any increase in the number of vending machines owned, kept, or maintained during the current period of the licence.

23.2 No person may commercially operate any vending machine unless a certificate or plate supplied by the Business Licence Officer is attached to the vending machine, indicating that the owner or operator thereof has procured a licence under this Law for the current licence period.

23.3 No person other than the Business License Officer or WFN Law Enforcement Officers can alter, remove, damage, deface, or destroy any such certificate or plate affixed or attached pursuant to section 22.2.

24. OFFENCE AND PENALTY

24.1 Every Person who contravenes any provisions of this Law commits an offence punishable upon summary conviction and is liable to a fine not exceeding ten thousand dollars (\$10,000.00).

24.2 If an offence is a continuing offence, each day that the offence is continued constitutes a separate and distinct offence.

Business License Law 2019				
3.2	Carry on a business without a license	125	150	175
6.2	Give false information to obtain a business license	150	200	250
7.1	Fail to display a business license	40	50	60
8.1	Fail to notify change of information related to a business	75	100	125
8.2	Fail to notify change to information related to information based on floor area, ground area, number of persons, number of machines, or number of rental units	75	100	125
12.3	Carry on a business with a suspended license	300	350	400
16.1	Canvass / Solicit business on a street or sidewalk	50	75	100
17.1	Soliciting for a charity without obtaining a license	75	100	125
17.3	Soliciting for a charity without permission from Business License Officer	50	75	100
18.1	Soliciting of any sales for anything without a license	75	100	125
18.4	Soliciting between 2100 hours and 0900 hours	50	75	100
18.5	Selling any goods from a vehicle	75	100	125
23.1	Failure to notify Business License Inspector of number or increase of vending machines	75	100	125
23.2	Keep vending machine without certificate or plate confirming a business license	75	100	125
23.3	Alter, remove, damage, deface or destroy a certificate or plate confirming a business license	150	200	250

Tsawwassen *Land Use Planning and Development Act* → *Sign Regulation* & *Law Enforcement Act* → *Ticket Regulation*

Maintenance and Removal

- 11 (1) Every sign shall be maintained by the sign owner or authorized agent thereof in a clean and sanitary condition and in a state of good repair, free of defects and damage including but not limited to cracks and burned-out illumination.

Offences and Penalties

- 19 (1) Any person who contravenes, violates, or permits any act or thing to be done in contravention of, or neglects or refrains from doing anything required to be done pursuant to the provisions of this regulation, commits a contravention and shall, in addition to any other provisions of this regulation, be liable:
- (a) to a penalty as set out in the Tsawwassen First Nation Ticket Regulation; or
 - (b) if no penalty is set out for the contravention in the Tsawwassen First Nation Ticket Regulation, then to a fine not exceeding \$2,000.
- (2) Every day that a contravention continues under this regulation constitutes a separate and distinct contravention.
- (3) Contraventions of this regulation are designated for enforcement under the *Land Use Planning and Development Act* (Tsawwassen) or the *Laws Enforcement Act* (Tsawwassen).

Sign Regulation					
General Description of Contravention	Section	Early Payment Discount	Penalty	Surcharge	Ticket Type
Contravening requirements of Schedules D-F	8 (1)	\$100	\$200	\$50	CN
Obstructing traffic or sightlines	8 (2)	\$75	\$150	\$40	CN
Non-permitted illumination	9 (1)	\$75	\$150	\$40	CN
Illumination which creates direct glare	9 (2)	\$75	\$150	\$40	CN
Failing to ensure wiring and conduits are not visible	9 (3)	\$50	\$100	\$25	CN
Failing to include English or Hun'qum'inum	10	\$50	\$100	\$25	CN
Failing to maintain sign	11 (1)	\$75	\$150	\$40	CN
Failing to comply with regulation	11 (2)	\$75	\$150	\$40	CN
Failing to display required information	11 (6)	\$25	\$50	\$25	CN
Displaying temporary sign for non-permitted event	12 (1)	\$50	\$100	\$25	CN
Failing to adhere to temporary sign time limits	12 (2)	\$50	\$100	\$25	CN
Maintaining signs unsafely	13 (1)	\$100	\$200	\$50	CT
Signs fastened to window frame	13 (4)	\$50	\$100	\$25	CN
Interfering with egress	13 (5)	\$100	\$200	\$50	CN
Changing construction of sign without approval	13 (6)	\$75	\$150	\$40	CN
Sign projecting over highway	14	\$75	\$150	\$40	CN
Erecting a prohibited sign	15	\$100	\$200	\$50	CN
Hindering an enforcement officer	17	\$100	\$200	\$50	CT

Ontario *Environmental Protection Act* → ON Regulation 361/98 Motor Vehicles
(per ON *Environmental Protection Act* & ON *Provincial Offences Act* → Schedule
6.1 (of *Provincial Offences Act*)

CATALYTIC CONVERTERS

5. (1), (2) REVOKED: O. Reg. 191/10, s. 6.

(3) If a motor or motor vehicle is manufactured with a catalytic converter, no person shall alter or cause or permit the alteration of the motor or motor vehicle in a manner that permits exhaust emissions to bypass the catalytic converter.
O. Reg. 86/99, s. 4.

(4) No person shall operate or cause or permit the operation of a motor or motor vehicle that was manufactured with a catalytic converter if the catalytic converter, or any replacement for the catalytic converter,

- (a) is not capable of performing the function for which the catalytic converter was intended; or
- (b) is disconnected, removed or otherwise altered so that it is not capable of performing the function for which the catalytic converter was intended. O. Reg. 86/99, s. 4.

Penalties

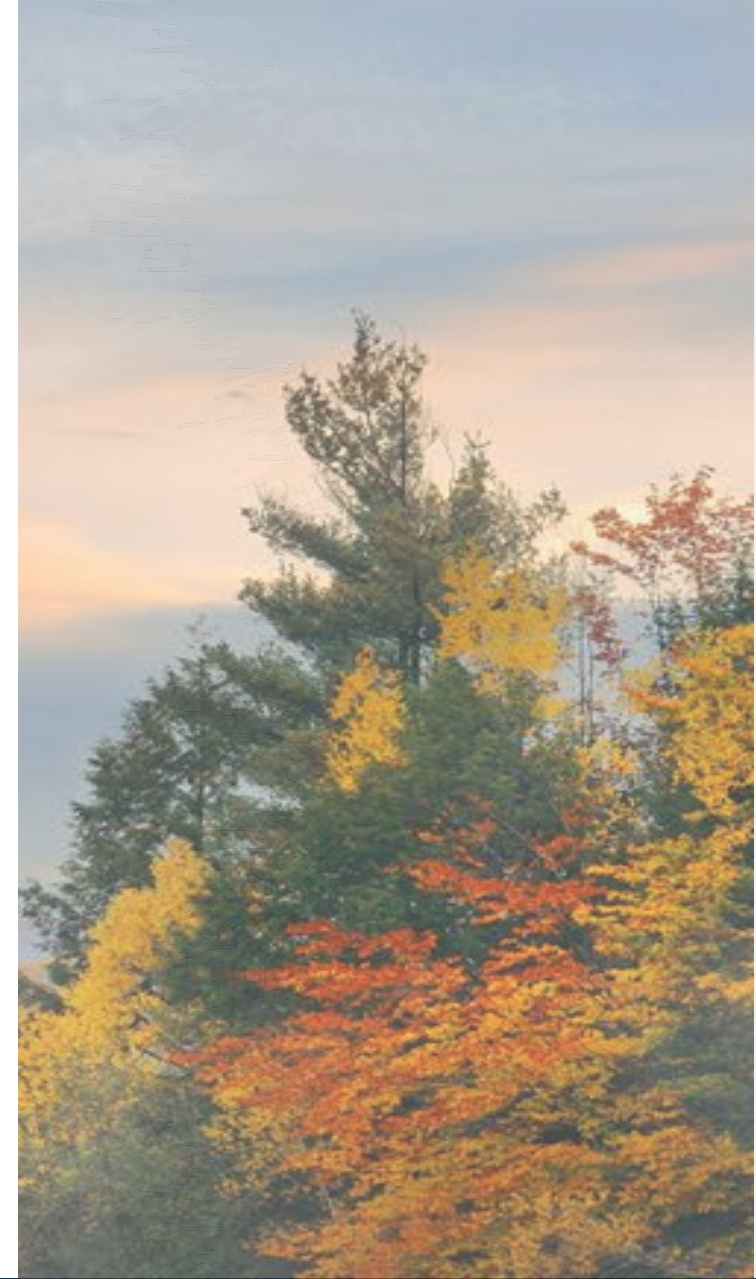
187 (1) Every individual convicted of an offence under section 186, other than an offence described in subsection (3), is liable,

- (a) on a first conviction, for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$50,000; and
- (b) on each subsequent conviction,
 - (i) for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$100,000,
 - (ii) to imprisonment for a term of not more than one year, or
 - (iii) to both such fine and imprisonment. 2005, c. 12, s. 1 (57).

Schedule 6.1 Ontario Regulation 361/98 under the <i>Environmental Protection Act</i>			
ITEM	COLUMN 1	COLUMN 2 SECTION	SET FINE (INCLUDES COSTS)
1.	Use leaded gasoline to operate motor vehicle with catalytic converter	5(1)	\$305.00
2.	Operate motor vehicle – catalytic converter not repaired/replaced	5(2)	\$305.00
3.	Cause operation of motor vehicle with catalytic converter not repaired/replaced	5(2)	\$305.00
4.	Permit operation of motor vehicle with catalytic converter not repaired/replaced	5(2)	\$305.00
5.	Alter motor so that catalytic converter bypassed	5(3)	\$305.00
6.	Cause alteration of motor so that catalytic converter bypassed	5(3)	\$305.00
7.	Permit alteration of motor so that catalytic converter bypassed	5(3)	\$305.00
8.	Alter motor vehicle so that catalytic converter bypassed	5(3)	\$305.00

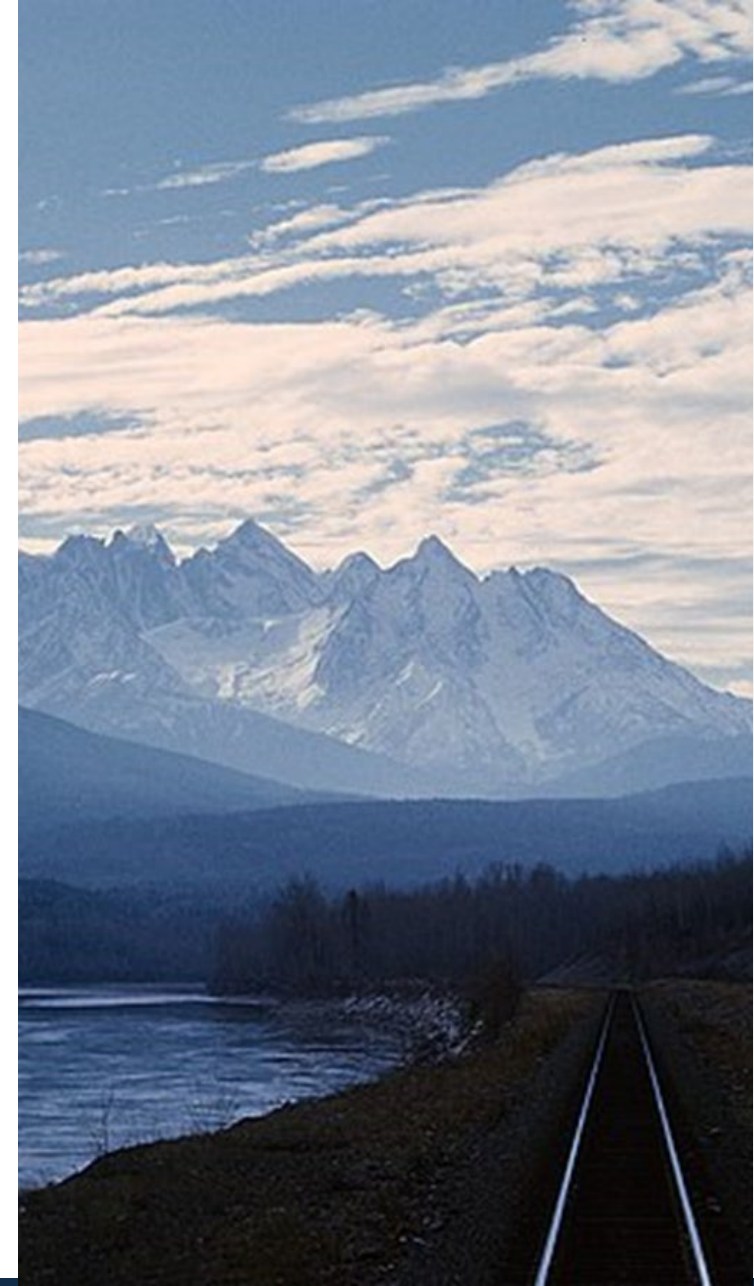
OPTIONS ON RECEIPT OF TICKET

- 2 options when a person receives a Ticket (*section 15.1*):
 - Pay
 - Dispute
- If dispute, the venue for the dispute hearing will depend on whether the provincial legislation is available (*sections 18.1 to 18.4*)
 - If yes, dispute in provincial court system
 - Procedure related to this dispute, and all subsequent appeals, will follow provincial legislation
 - If no, dispute at hearing before Justice of the Peace



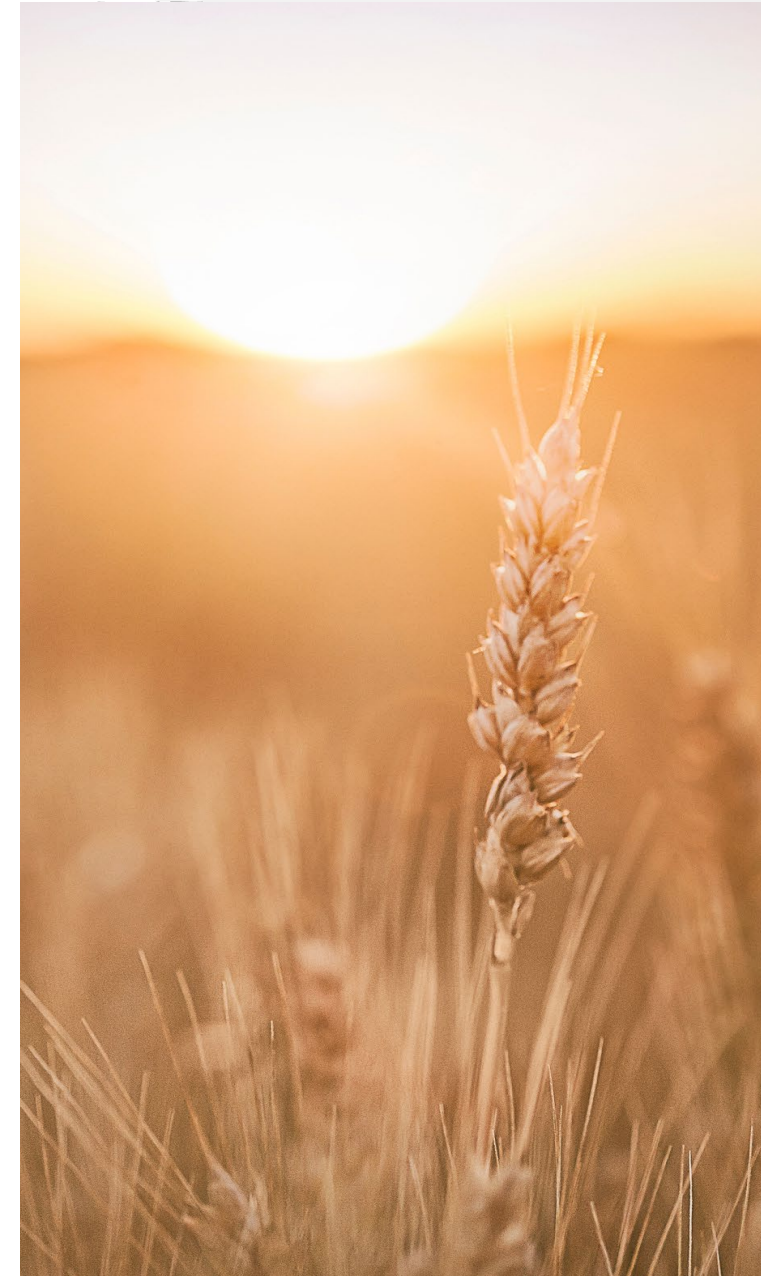
PAY OR FAIL TO RESPOND

- If pay within timeline, deemed guilty, and no further steps (*section 16.1*)
- If do not pay within timeline, Ticket referred to Justice of the Peace who will review, and if no obvious defects, confirm guilt and convict (*section 17*)
 - Fine becomes due and payable to Nation
 - Can still appeal in accordance with Framework Agreement



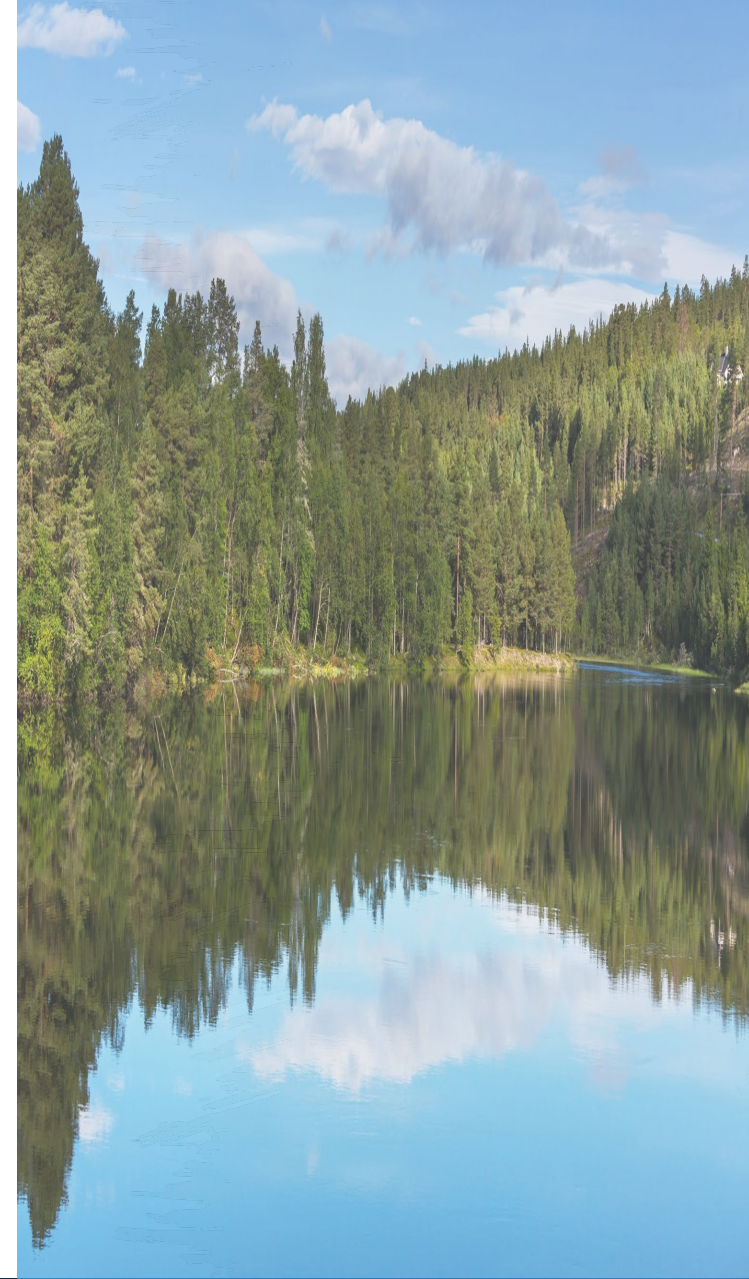
DISPUTE TICKET

- Depending on forum available, dispute will either happen in court or before the Justice of the Peace (*sections 18.1 to 18.4*)
- If before Justice of the Peace, a hearing will follow
 - May be in person, video, or phone (*section 18.6*)
 - May have legal counsel and a prosecutor may be involved (*section 18.11*)
 - May present evidence (*section 18.9*)
 - Decision will be made at end, in which finding of guilt or acquittal (*section 19.1*)
 - If guilty, fine is due and payable to Nation (*section 19.6*)
 - Can appeal in accordance with Framework Agreement (*section 19.7*)



TIME EXTENSIONS

- If, through no fault of person charged, they did not get chance to dispute the Ticket OR they were unable to show up at Ticket hearing, they can apply to Justice of the Peace for a one-time time extension (*section 21.1*)
- If time extension granted, a person may get (*section 21.5*):
 - Additional time to pay
 - Setting down of new Ticket dispute hearing





Model Ticketing and Enforcement Law

RECOVERY OF DEBTS

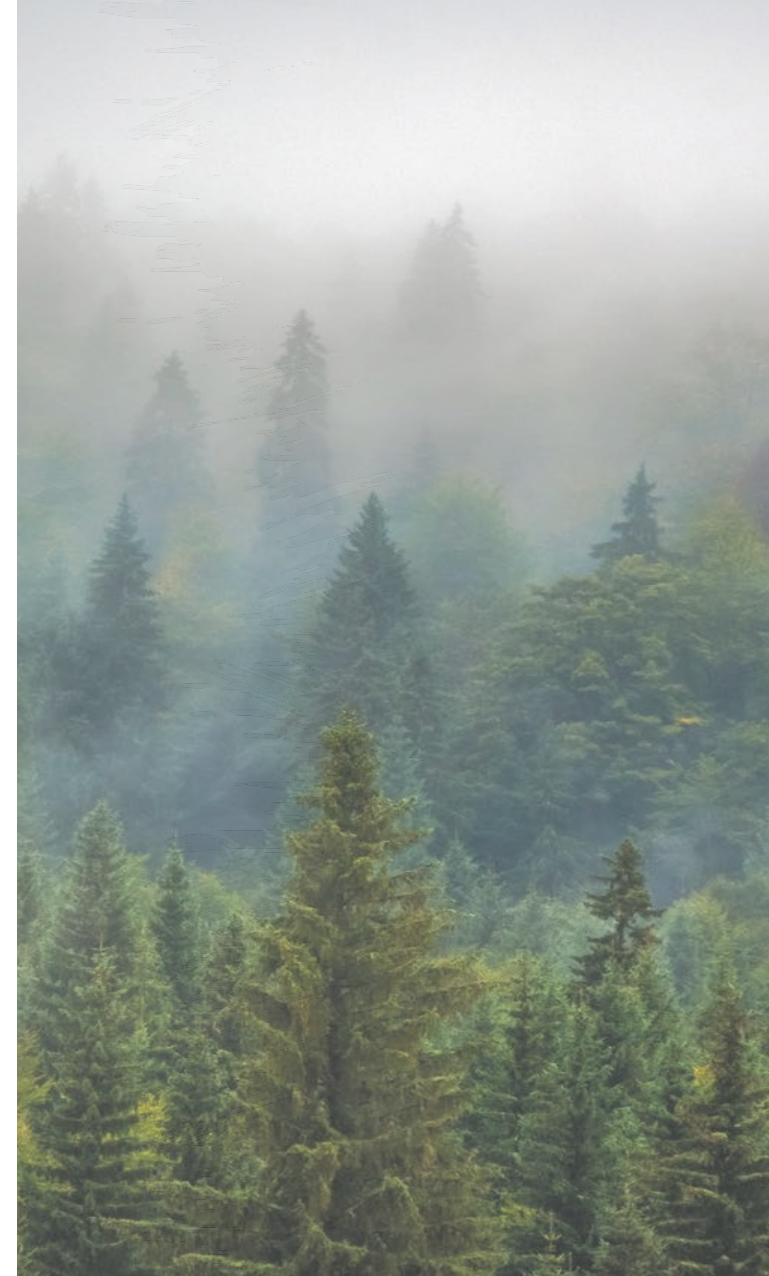
MULTIPLE WAYS TO RECOVER FINE

- Various ways to collect an outstanding fine due to the Nation (*section 22.1*)
 - File debt certificate in court
 - Collections agency
 - Withholding member distributions
 - Withholding member services
- If filing debt certificate in court, it becomes an order of the provincial court (*section 23.3*)
 - May be challenging in some jurisdictions and availability may depend on the language of provincial court legislation
 - If successfully filed in court, this may provide some additional avenues for debt recovery (ex: seizure, garnishment of wages)



DEBT RECOVERY HURDLES

- Debt recovery can be challenging for all governments
- Costs of recovery may significantly outweigh outstanding fine amount in some cases
- Where possible, consider starting with the recovery methods that are easier from an administrative perspective (ex: member holdbacks)
- Provincial and federal governments typically have additional recovery tools not available to Nations (license suspension, income tax refund deduction, add debt on to property tax)
 - If provincial legislation becomes available to enforce Tickets in court, additional mechanisms for recovery may become available





**Model Ticketing and
Enforcement Law**

**LONG FORM
SUMMARY CONVICTION
PROCEEDINGS**

PROCEEDINGS OCCUR IN COURT

- Where someone has reasonable and probable grounds to believe that an offence under a Nation law was committed, Council may seek to commence long form prosecution proceedings (*section 24.1*)
- Proceedings may be taken either under (*section 24.3*):
 - Section 507.1 and Part 27 of Criminal Code (i.e. private prosecution)
 - Any other available long form prosecution legislation (ex: Ontario *Provincial Offences Act*)
- Threshold to commence long form prosecution (*section 24.2*):
 - Multiple non-compliance incidents
 - Need for non-monetary order with conditions
 - Threat to community safety



EXAMPLES OF PRIVATE PROSECUTIONS (507.1 *Criminal Code*)

- *K'omoks First Nation v. Thordarson and Sorbie*, 2018 BCPC 114 (reported decision)
- *Mississauga First Nation v Witty and Pilon* (ONCJ 2024 case, unreported)
- *R v D. Toulouse* (ONCJ 2024 case, unreported)
- *Lower Nicola Indian Band v. Caldwell & Pockrant* (BCPC 2024 case, preliminary hearing is reported decision)
- *Lower Nicola Indian Band v. Purdie* (BCPC case pending, unreported)



Criminal Code of Canada

Criminal Code
FORM 2 Information

FORM 2

(Sections 506 and 788)

Information

Canada,

Province of,

(territorial division).

This is the information of C.D., of, (occupation), hereinafter called the informant.

The informant says that (if the informant has no personal knowledge state that he believes on reasonable grounds and state the offence).

Sworn before me this

..... day of

....., A.D.,

at

(Signature of Informant)

A Justice of the Peace
in and for

.....

Note: The date of birth of the accused may be mentioned on the information or indictment.

R.S., 1985, c. C-46, Form 2; R.S., 1985, c. 27 (1st Supp.), s. 184.

Code criminel
FORMULE 2 Dénonciation

FORMULE 2

(articles 506 et 788)

Dénonciation

Canada,

Province de,

(circonscription territoriale).

Les présentes constituent la dénonciation de C.D., de, (profession ou occupation), ci-après appelé le dénonciateur.

Le dénonciateur déclare que (si le dénonciateur n'a pas une connaissance personnelle de l'infraction, déclarer qu'il a des motifs raisonnables de croire qu'elle a été commise et indiquer l'infraction).

Assermenté devant moi

ce jour de

..... en l'an de

grâce, à

(Signature du dénonciateur)

Juge de paix dans
et pour

.....

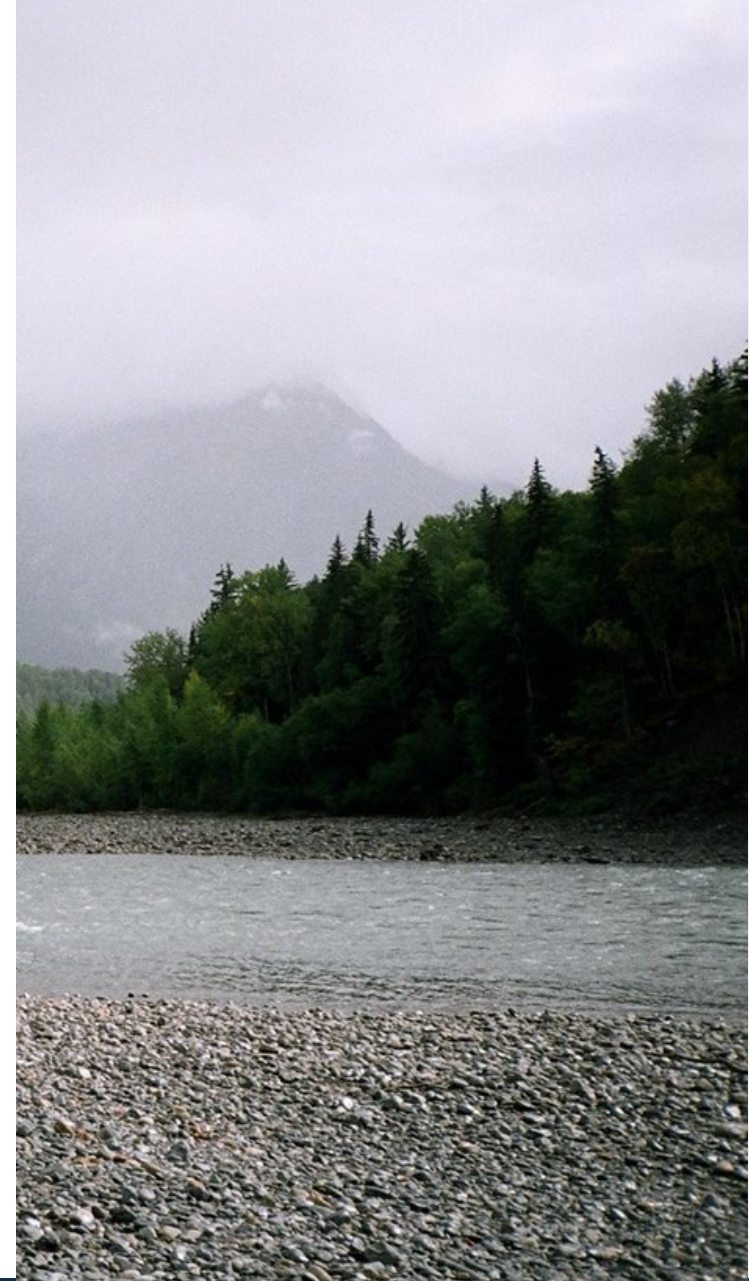
Note: La date de naissance de l'accusé peut être indiquée sur la dénonciation ou l'acte d'accusation.

L.R. (1985), ch. C-46, formule 2; L.R. (1985), ch. 27 (1^{er} suppl.), art. 184.



Model Ticketing and Enforcement Law

VISUAL SUMMARY OF MODEL LAW





Thank You

QUESTIONS & COMMENTS?

For more information, please visit:

www.labrc.com