

FEB 27 2009

CERTIFICATION

Pursuant to Section 86, Indian Act RSC 1985 C.I-5 and amendments thereto, I certify that the attached copy of the **?Akisqnuq First Nation Trespass By-Law No. 2008-01**, which came into effect **March 2, 2009**, is a true copy of the said by-law.

Kathy Hankin

Kathy Hankin

A/Associate Director, Lands and Trust Services,
a superintendent as defined in
Section 2(1) Indian Act RSC 1985

AKISQ'NUK FIRST NATION
TRESPASS BY-LAW No. 2008-01

BACKGROUND:

- A. The Council of the Akisq'nuk First Nation desires to establish a By-law to regulate access to the Reserve and to provide for removal of persons trespassing.
- B. The Council of the Akisq'nuk First Nation is empowered to make such a By-law, and any matter ancillary thereto pursuant to paragraphs 81(1)(p), (q) and (r) of the *Indian Act*.
- C. It is deemed to be expedient and necessary, for the benefit, comfort and safety of the residents and members of the Reserve, to provide for the removal of persons trespassing.

NOW THEREFORE the Council of the Akisq'nuk First Nation hereby resolves to make the following Trespass By-law:

Short title

1. This By-law may be cited as the "Trespass By-law".

Interpretation

2. In this By-law,

"Council" means the Council of the Akisq'nuk First Nation as defined in the *Indian Act*;

"Occupier" includes,

- a) the Council in its capacity of managing Premises owned by the Akisq'nuk First Nation;
- b) a person who is in lawful possession of a Premise pursuant to a certificate of possession, lease, permit or allotment by Council; or
- c) a person who has the responsibility for and control over the condition of a Premise or the activities carried on there, or control over persons allowed to enter the Premises;

"Officer" means any police officer, peace officer or other person charged with the duty to preserve and maintain the public peace, and any person appointed by the Council for the purpose of maintaining law and order on the Reserve;

"Premise" means a residential home, building, improvement, structure, trailer, portable structure or fenced lot used for a residence, business or by the Akisq'nuk First Nation;

"Reserve" means the Reserves of the Akisq'nuk First Nation, including the Columbia Lake Indian Reserve No. 3; and

"Trespass" means entering or remaining without lawful authority in a Premise, on the Reserve or without the authorization of an Occupier.

Designation of Areas

3. The Council may, by Band Council resolution,
 - a) designate locations and lots on the Reserve, including the foreshore, which are open or restricted to the public and at which "no Trespass" notices shall be installed; and
 - b) designate locations on the Reserve in which the carrying on of certain activities is permitted or prohibited, including the use of an all terrain vehicle (ATV).

Prohibited Purposes and Trespass

4. A person, other than a person referred to in paragraph 5, who conducts any of the following activities on the Reserve, namely
 - a) hunting, fishing or trapping, except by Band members who have the exclusive right to hunt, fish and trap on the Reserve;
 - b) hawking or peddling or wares or merchandise;
 - c) loitering;
 - d) camping, except in areas of the Reserve designated by Council pursuant to paragraph 3;
 - e) accessing the foreshore, except in areas of the Reserve designated by Council pursuant to paragraph 3;
 - f) operation of an all terrain vehicle (ATV), non-motorized vehicle or vehicle on roads and trails that are not open to the public, except in areas of the Reserve designated by the Council pursuant to paragraph 3;

- g) dumping of refuse;
- h) soliciting financial assistance; or
- i) any other activity that is prohibited by law or a Band By-law,

shall be deemed to be frequenting the Reserve for a prohibited purpose and in Trespass.

Right of Access

5. Paragraph 4 does not apply to the following persons who have a right of access to the Reserve:
- a) members of the First Nation;
 - b) a person who is a lawful resident of the Reserve and their invitees subject to the terms and conditions of the residential tenancy agreement;
 - c) a person who has authorization from the First Nation;
 - d) a lessee and their invitees subject to the terms and conditions of the lease;
 - e) a permittee and those granted a right of access under the permit subject to the terms and conditions of the permit;
 - f) a person authorized by a law or Band By-law;
 - g) a person traveling on a public road through the Reserve;
 - h) a person participating in authorized activities of the Band; or
 - i) a person who is accessing the Reserve for any social or business purpose at the permission of the First Nation,

except as may be limited by paragraph 3.

Trespass of Premise an Offence

6. Every one who does not act under a right or authority conferred by law and who, without the express permission of the Occupier or the Council, whichever is applicable,
- a) enters a Premise when entry is prohibited by notice,
 - b) engages in an activity in the Premise when the activity is prohibited by notice, or
 - c) does not leave the Premise immediately after he or she is directed to do so by the Occupier of the Premise or a person authorized by the Occupier,
- is guilty of an offence.
7. Entry on a Premise may be prohibited by notice to that effect and entry is prohibited without any notice on a Premise that is enclosed or fenced in a manner that indicates the Occupier's intention to keep persons out of the Premise or to keep animals on the Premise.

Method of Giving Notice

8. A notice under this By-law may be given,
- a) orally or in writing; or
 - b) by means of signs posted so that a sign is clearly visible in daylight under normal conditions from the approach to each ordinary point of access to the Premise or the area of the Reserve to which it applies.
9. For purposes of this By-law, a person has notice not to Trespass or not to engage in certain activities when he or she has been given notice by word of mouth or in writing by the Council, an Officer or an Occupier, as applicable, to refrain from entering or from remaining on the Premises or the Reserve.
10. A sign posted for purposes of this section shall bear the words "no trespassing" or "carrying on of [describe the activity] is prohibited within [describe the area]".
11. Every person who tears down, removes, damages, defaces or covers up a sign posted under this By-law that has been posted by the Council or the Occupier commits an offence.

Enforcement

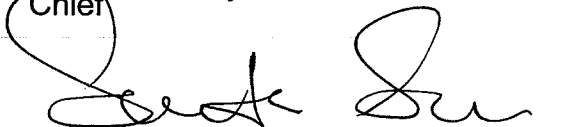
12. An Officer may order any person who is in Trespass to leave the Reserve or Premises immediately and may order any person who engages in a prohibited activity to cease immediately.
13. Where a person fails or refuses to obey an order made under paragraph 12, an Officer may take such reasonable measures as may be necessary to remove the person from the Premises or the Reserve.
14. No person shall fail or refuse to comply with an order made under paragraph 12, or shall resist or interfere with an Officer acting under paragraph 13.

Penalty

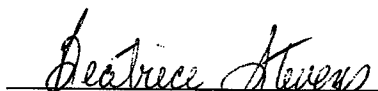
15. A person who violates any provision of this By-law commits an offence and is liable on summary conviction to a fine not exceeding \$1,000.00 or to imprisonment for a term not exceeding thirty days, or both.

THIS BY-LAW IS HEREBY made and approved at a duly convened meeting of the Council of the Akisq'nuk First Nation this 20 day of January 2009.

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


Chief

Councilor


Councilor


Councilor

Councilor

being the majority of those members of the Council of the Akisq'nuk First Nation present at the aforesaid meeting of the Council.

The quorum of the Council is 3 members. The number of members of the Council present at the meeting: ____

I, Wilfred Teneese, Chief of the Akisq'nuk First Nation, do hereby certify that a true copy of the foregoing By-law was mailed to the Minister of Indian Affairs and Northern Development pursuant to subsection 82(1) of the *Indian Act*, this 20 day of January, 2009.

Chief Wilfred Teneese
Chief

Adrian Bergler
Witness