

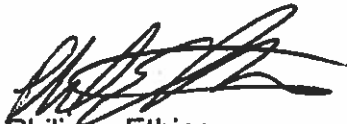
E4216-719

Katherine Blair
A/Manager, Governance and Capacity Development

WILLIAMS LAKE INDIAN BAND TRESPASS AND NUISANCES BY-LAW

Please note that the First Nation Council was notified directly by Headquarters on March 20, 2007. Please retain two (2) certified true copies of the original by-law enclosed for your records and return to the First Nation Band Council the original by-law along with certified true copies made pursuant to s.86 of the *Indian Act*. Thank you.

Sincerely,



Philippe Ethier
Manager
By-Laws Advisory Services Unit
Band Governance Directorate
Lands and Trust Services
(819) 997-6450

**By-Law No. _____ of the Williams Lake Indian Band
A By-Law for the Abatement, Removal and Punishment
of Persons Trespassing, Creating Nuisances or Frequenting
the Reserve for Prohibited Purposes**

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**By-Law No. _____ of the Williams Lake Indian Band
A By-Law for the Abatement, Removal and Punishment
of Persons Trespassing, Creating Nuisances or Frequenting
the Reserve for Prohibited Purposes**

WHEREAS the Chief and Council of the Williams Lake Indian Band desires to make a by-law governing the abatement, removal and punishment of persons trespassing on the reserve, creating nuisances on the reserve and frequenting the reserve for prohibited purposes;

AND WHEREAS the Chief and Council of the Williams Lake Indian Band is empowered to make such by-law, and any matter ancillary thereto, pursuant to subparagraphs 81(1)(a), (c), (d), (e), (n), (o), (p), (q) and (r) of the *Indian Act*, R.S.C. 1985, c. I-5;

AND WHEREAS it is considered to be expedient and necessary for the benefit, comfort and safety of the inhabitants of the Williams Lake Indian Band reserve to provide for the abatement, removal and punishment of persons trespassing on the reserve, creating nuisances on the reserve or frequenting the reserve for prohibited purposes;

NOW THEREFORE the Chief and Council of the Williams Lake Indian Band hereby makes the following by-law:

1.0 Short Title

1.1 This by-law may be cited as the "Williams Lake Indian Band Trespass and Nuisances By-Law".

2.0 Interpretation

2.1 In this by-law,

- (a) "*Act*" means the *Indian Act*, R.S.C. 1985, c. I-5;
- (b) "*Band*" means the Williams Lake Indian Band;
- (c) "*Council*" means the duly elected Chief and Council of the Band;
- (d) "*Officer*" means any police officer, police constable or other Person charged with the duty to preserve and maintain public peace, and any Person appointed by the Council for the purpose of maintaining law and order on the Reserve;
- (e) "*Person*" includes a corporation; and

- (f) *“Reserve”* means the lands held as reserves, within the meaning of the Act, for the use and benefit of the Band.

3.0 Trespass

- 3.1 A Person who resides, enters onto or remains on the Reserve without the express permission of the Band, as represented by Council, shall be deemed to be in trespass.
- 3.2 An Officer may order any Person who trespasses on the Reserve to leave the Reserve immediately.
- 3.3 Where a Person fails or refuses to comply with an order made under section 3.2, an Officer may take such reasonable measures as are necessary to remove the Person from the Reserve.
- 3.4 A Person who fails or refuses to comply with an order made under section 3.2, or who resists or interferes with an Officer acting under section 3.3, commits an offence.
- 3.5 Livestock leaving their owner's pastures or hayfields and found on the Reserve shall be deemed to be in trespass.
- 3.6 An owner of livestock referred to in section 3.5 commits an offence.
- 3.7 An owner of livestock referred to in section 3.5 shall be solely liable for any and all damage, cost, loss or expense, whether or not arising from or related to any claim, action, suit or other proceeding concerning trespass.
- 3.8 Nothing in this by-law replaces the application of the common law, which continues to apply, and owners of livestock referred to in section 3.5 will be strictly liable in tort for such trespass.
- 3.9 Without limiting the generality of sections 3.6 to 3.8, the Band may take such measures as the Council, in its sole discretion, decides are reasonable and necessary to remedy the trespass, all at the sole cost of the owner.

4.0 Nuisance

4.1 A Person who conducts on the Reserve any of the following activities, namely:

- (a) the abandonment or storage of cars, household appliances or furniture, or parts of cars, household appliances or furniture;**
- (b) the dumping or storage of tires, garbage or other refuse;**
- (c) the burning of tires, grass, garbage, leaves or other refuse;**
- (d) the discharge of any substance into the air, soil or water; or**
- (e) any activity or condition that materially impairs the use and enjoyment of a Person's property, or that prejudicially affects a Person's health, comfort or convenience, or the public health, safety or welfare of the community of the Band, but excluding an activity or condition to the extent that is necessary for carrying on any business or other means of livelihood authorized by the Council;**

shall be deemed to be causing a nuisance.

4.2 An Officer may order any Person who is responsible for, causes or threatens to cause a nuisance on the Reserve to cease, abate, or cause to cease or abate, such nuisance within a reasonable period of time.

4.3 In determining whether a period of time fixed under section 4.2 is reasonable, the Officer shall take into account:

- (a) the nature and extent of the nuisance;**
- (b) the methods available to cease or abate the nuisance;**
- (c) the approximate time required to cease or abate the nuisance; and**
- (d) the effect of the order on any business or means of livelihood of the Person who is the subject of an order.**

4.4 Where a Person fails or refuses to comply with an order made under section 4.2, an Officer may take such reasonable measures as are necessary to prevent or abate the nuisance.

4.5 A person who fails or refuses to comply with an order made under section 4.2, or who resists or interferes with an Officer acting under section 4.4, commits an offence.

5.0 Frequenting for Prohibited Purposes

5.1 Subject to section 5.2, a Person who conducts on the Reserve any of the following activities, namely:

- (a) hunting, fishing or trapping;
- (b) hawking or peddling of wares or merchandise;
- (c) operating a business for the sale, manufacture or distribution of products or services;
- (d) loitering; or
- (e) soliciting;

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

5.2 A Person who produces a valid licence or express written permission given by Council to conduct an activity referred to in subsections 5.1(a), (b) or (c) is not frequenting the Reserve for a prohibited purpose.

5.3 An Officer may order any Person who frequents the Reserve for a prohibited purpose to leave the Reserve immediately.

5.4 Where a Person fails or refuses to comply with an order made under section 5.3, an Officer may take such reasonable measures as are necessary to remove the Person from the Reserve.

5.5 A Person who fails or refuses to comply with an order made under section 5.3, or resists or interferes with an Officer acting under section 5.4, commits an offence.

6.0 Penalties

6.1 A Person who commits an offence under this by-law is liable on summary conviction to a fine not exceeding one thousand dollars (\$1,000) or to imprisonment for a term not exceeding thirty (30) days, or to both.

7.0 Miscellaneous

7.1 Nothing in this by-law shall be interpreted as limiting the application of the Act, the *Canada Wildlife Act*, R.S.C. 1985, c. W-9, the *Canadian Environmental Protection Act*, 1999, S.C. 1999, c. 33, the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19, the *Criminal Code*, R.S.C. 1985, c. C-46, the *Fisheries Act*, R.S.C. 1985, c. F-14, the *Forestry Act*, R.S.C. 1985, c. F-30, all as amended from time to time, or any other legislative enactment or law relevant and applicable to the subject matter of this by-law.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council this 12th day of February, 2007.

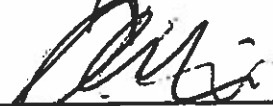
Voting in favour of the by-law are the following members of the Council:



(Member of the Council)




(Member of the Council)



(Member of the Council)



(Member of the Council)



(Member of the Council)

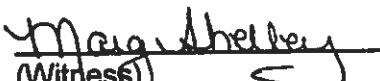
(Member of the Council)

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

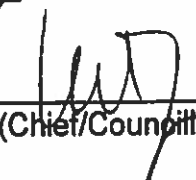
The quorum of the Council is 3 members.

The number of members of the Council present at the meeting is 5.

I, Willie Alphonse, Chief or Councillor of the Band, do hereby certify that a true copy of the foregoing by-law was mailed to the Minister of Indian Affairs and Northern Development at the office of the department pursuant to subsection 82(1) of the Act, this 12th day of February, 2007.



(Witness)



(Chief/Councillor)