

DISORDERLY CONDUCT


By-Law No.7




CHIEF WAYNE CHRISTIAN


COUNCILLOR JEAN M. BROWN

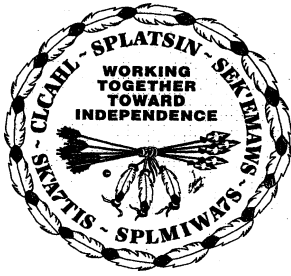

COUNCILLOR RON CHRISTIAN


COUNCILLOR SHANNON JONES


COUNCILLOR GEORGE WILLIAM


COUNCILLOR LAWRENCE WILLIAMS

PASSED ON THE 1th DAY OF June, 2010



SPLATSIN
A.K.A Spallumcheen Indian Band
BY-LAW NO.7

A BY-LAW FOR THE PREVENTION OF DISORDERLY CONDUCT AND
NUISANCES ON THE RESERVES OF SPLATSIN

WHEREAS pursuant to the powers vested in the council of the Splatsin pursuant to the subsections 81(1) (c), (d), and (q) of the Indian Act, by-laws may be enacted for, inter alia, the observance of the law and order, and disorderly conduct and nuisances;

NOW THEREFORE the Council of the Splatsin, in an open meeting assembled, enacts as follows:

Short Title

1. This by-law may be cited for all purposes as the "Prevention of Disorderly Conduct and Nuisances".

Recitals

2. The Chief and Council of the Splatsin desires to make a By-law governing the prevention of disorderly conduct and nuisances and promoting the safety on Splatsin Reserves.

DEFINITIONS

3. In this by-law, or in any resolution of the Council passed relating to this by-law, unless the context otherwise requires, the following words shall have the meanings hereinafter attributed to them:

"Band" means the Splatsin Band.

"Council" means the Chief and Council of the Splatsin.

"Reserve" means any of Splatsin Salmon River Indian Reserve #1, Enderby Indian Reserve #2 or Sicamous Indian Reserve #3.

"Public Place" means Band Hall, Band Office, Arbours, Store, School, Ball Park, Church and Public Works

"Disorderly Conduct" means any act or behaviour disrupts the peace of the Community, such as but not limited to:

- a) exposing or discharging any firearm in the vicinity of residences or in any other public place except for hunting or a designated area for target practice
- b) fighting;
- c) using abusive, threatening or offensive language in a public place;
- d) using offensive or indecent gestures or displays;
- e) being drunk or under the influence of an illegal substance drugs in a public place;
- f) interfering with the orderly conduct of private business (es) on the reserves;
- g) interfering with the orderly conduct of band governance or service delivery of any band programs;
- h) loitering ;

“nuisance” means any act, activity or condition such as, but not limited to:

- a) out-door burning that could constitute a fire hazard for forests or residences;
- b) out-door burning of anything that causes smoke or gasses to be emitted that are a health hazard or cause a noxious odour,
- c) the abandonment of vehicles or vehicle parts, household appliances or furniture;
- d) the storage of un-used household appliances or furniture that is visible from a public road;
- e) the dumping or storage of tires, garbage, Animal carcasses, hides or other refuse;
- f) the discharge of any substance into the air or water which could constitute a health hazard or which would contravene local environmental regulations;
- g) making or causing unreasonable noise that interferes with the quiet enjoyment of other members of the community;
- h) failing to prevent any animal owned or under a person’s control from intruding upon others’ premises; refer to Dog Control By-Law
- i) failing to prevent any animal owned or under a person’s control from causing unreasonable noise;
- j) the abandonment of animals on reserve;

or any other act that materially impedes other members of the community from the use and enjoyment of their property, premises or public areas of the community.

“Officer” means any police officer, police constable, or other person employed for the preservation and maintenance of the public peace and without limiting the generality of the foregoing shall include any member of the Royal Canadian Mounted Police and any by-law officer or any other person appointed by the Council for the purpose of maintaining law and order on the reserve.

“person” means a man, woman, men, Women, Minor children or any other legal entity including limited companies, partnerships, corporations or group identifying themselves as a business.

3. Disorderly Conduct

- 1) Every one who commits an act of disorderly conduct is guilty of an offence.
- 2) An Officer may order any person who is engaging in any disorderly conduct to stop such conduct immediately.

4. Nuisance

- 1) Every one who creates or causes a nuisance is guilty of an offence.
- 2) An officer may order any person who is causing or who threatens to cause a nuisance on reserve to refrain from causing the nuisance or to abate the nuisance within such time period as is reasonable in the circumstances.
- 3) In determining whether a period fixed under subsection 4(2) was reasonable in the circumstances, the officer shall take into account:
 - a) the nature and extent of the nuisance;
 - b) the methods available to abate the nuisance;
 - c) the approximate time required to abate the nuisance; and;
 - d) the affect of the order on any business or means of livelihood of the person who is the subject of an order.

5. Enforcement

- 1) Where a person who has been ordered to stop from engaging in disorderly conduct, or to refrain from causing a nuisance or to abate a nuisance within a specified period, fails or refuses to comply with the order, an officer may take such reasonable measures as are necessary to stop the disorderly conduct, or to prevent abate the nuisance
- 2) A person who fails or refuses to comply with an order made under subsection 3(2) or subsection 4(2), or who resists or interferes with an officer acting under subsection 5(1), commits an offence.

6. **Penalty**

- 1) (a) A person who commits an offence under this by-law is liable on a summary conviction of a fine not to exceed \$1,000.00 or to imprisonment for a term not to exceed 30 days, or both.

(b) Restorative Justice Action Plan

7. **Validity**

Should a court determine the provision of this by-law is invalid for any reason, the provision shall be severed from the by-law and the validity of the remaining provisions of this by-law shall not be affected.

8. **Effective Date**

This by-law comes into force 40 days after the date of mailing to the Minister of Indian Affairs and Northern Development as required pursuant to section 82 of the Indian Act.

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THIS BY-LAW NO. 7 IS HEREBY enacted by the Council of the Splatsin a.k.a Spallumcheen Indian Band at a duly convened meeting of the Council dated on the 7th day of June, 2010.

Voting in favor of the By-Law are the following members of the Council


CHIEF WAYNE CHRISTIAN


COUNCILLOR JEAN M. BROWN


COUNCILLOR RON CHRISTIAN


COUNCILLOR SHANNON JONES


COUNCILLOR GEORGE WILLIAM


COUNCILLOR LAWRENCE WILLIAM

Being the priority of those members of Council of the Splatsin a.k.a Spallumcheen Indian Band present at the foresaid meeting of the Council

The quorum of the Council is four members

Number of members of the Council present at the meeting 5

I CHIEF WAYNE CHRISTIAN, of the Splatsin 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 District offices 82(1) of the Indian Act this 1st day of June, 2010.


WITNESS


CHIEF WAYNE CHRISTIAN