

\* SAMPLE NUISANCE BY-LAW

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REGISTRY

~~Please note that this is a sample by-law only. Any submission of a by-law based on this sample by-law does not automatically ensure that the by-law will be allowed to come into force. The by-law must be considered in its entirety before such a determination can be made. It will probably need some amendments in order to adapt it to the specific needs of a band. The Department cannot guarantee its' present or future validity or enforceability.~~

BY-LAW NO. 19<sup>92</sup> ~~92~~  
of the Stelloax Band

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

or  
The Stelloax Band  
By-law Number \_\_\_\_\_

BEING A BY-LAW TO REPEAL AND REPLACE

BY-LAW NO. \_\_\_\_\_

ENACTED ON THE 16<sup>TH</sup> DAY OF February 19<sup>92</sup>  
SEPTEMBER

WHEREAS the Council of the Stelloax Band desires to make a by-law governing the prevention of disorderly conduct and nuisances, with respect to any matter arising out of or ancillary to the exercise of powers under section 81, and for the imposition of a penalty for a violation thereof;

AND WHEREAS the Council of the Stelloax Band is empowered to make such by-law pursuant to paragraphs 81(1)(d), (q) and (r) of the Indian Act;

AND WHEREAS it is considered to be expedient and necessary for the benefit, comfort and safety of the inhabitants of the Stelloax Band to provide for the prevention of disorderly conduct and nuisances on the reserve;

~~AND WHEREAS the Council of the Band did enact By-law Number \_\_\_\_\_ on the 16 day of February 1992, and wishes to repeal the said By-law Number \_\_\_\_\_ and replace it with this by-law; (this recital should only be included if you are repealing an already existing by-law)~~

NOW THEREFORE the Council of the Stelloax Band hereby makes the following by-law:

Handwritten notes: SCUMS 920924

## Short Title

1. This by-law may be cited as the "Stelloquo Reserve Disorderly Conduct and Nuisances By-law".

## Interpretation

2. In this by-law,

"Band" means the Stelloquo Band;

"Council" means the Council of the Stelloquo Band;

"Disorderly conduct" means any act or behaviour, including

- (a) fighting;
- (b) making or causing unreasonable noise;
- (c) using abusive language;
- (d) using offensive or indecent gestures or displays;
- (e) being drunk;
- (f) loitering;
- (g) exposing, firing or discharging any gun, pistol or other firearm, or using or threatening to use any other article as a weapon, except in defence of life or property; or
- (h) interfering in any manner with the orderly conduct of commercial, administrative, educational, recreational, health care, religious or ceremonial activities on the Reserve,

that disrupts public order on the reserve, scandalizes the community, or causes public inconvenience, annoyance or alarm;

"Nuisance" means any act, activity or condition, including

- (a) the abandonment of cars, household appliances or furniture, or parts of cars, household appliances or furniture;
- (b) the storage of abandoned cars, household appliances or furniture, or parts of cars, household appliances or furniture;
- (c) the dumping or storage of tires, garbage or other refuse;
- (d) the burning of tires, grass, garbage, leaves or other refuse;
- (e) the discharge of any substance into the air or water;
- (f) noise;

that materially impairs, otherwise than by direct physical interference, 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 reserve

community, but does not include any act, activity or condition to the extent it is unavoidably necessary for carrying on any business or other means of livelihood authorized by the Council;

"Officer" means any police officer, police constable or other person charged with the duty to preserve and maintain the public peace, ~~and a by-law officer or any other person appointed by the Council for the purpose of maintaining law and order on the reserve pursuant to By-law No. \_\_\_ Relating to Law and Order;~~

"Person" includes a corporation;

"Reserve" means the reserve of the Stelco Band and includes the Band's Reserves No. 1 and No.    .

### Disorderly Conduct

3.(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.

### Nuisance

4.(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 the reserve to refrain from causing the nuisance or to abate the nuisance within such period as is reasonable in the circumstances.

(3) In determining whether a period fixed by an officer under subsection (2) was reasonable in the circumstances, a court 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 effect of the order on any business or means of livelihood of the person who is the subject of an order.

Enforcement

- 5.(1) Where a person who has been ordered to stop 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 or to 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 3(2) or subsection 5(1), commits an offence.

Penalty

- 6. A person who commits an offence under this by-law is liable on summary conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding thirty days, or to both.

Repeal

*( The following section is to be incorporated into this by-law only if you already have a by-law regulating disorderly conduct and nuisances in place for your community that you wish repeal.)*

7. By-law number \_\_\_\_\_ enacted on the 6th day of February 1992, and being a By-law to regulate disorderly conduct and nuisances, be and the same is hereby repealed.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Stelloquo Band this 6<sup>th</sup> day of February 1992

SEPTEMBER

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

[Signature]  
(Member of the Council)

[Signature]  
(Member of the Council)

Bruce Allan  
(Member of the Council)

(Member of the Council)

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

The quorum of the Council is 2 members.

Number of members of the Council present at the meeting:     .

I, Robert McNeil Chief/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 District/Regional/ Hull office (as the case may be) pursuant to subsection 82(1) of the Indian Act, this 16<sup>th</sup> day of February, 1978

SEPTEMBER

[Signature]  
(Witness)

[Signature]  
(Chief/Councillor)