

A F F I D A V I T

CANADA

PROVINCE OF BRITISH COLUMBIA

TO WIT: BY-LAW PURSUANT TO SECTION 81(1) INDIAN ACT RSC 1985  
C.I.5 AND AMENDMENTS THERETO

I, BARBARA SMITH of VANCOUVER  
make oath and say:

- (1) That I have personal knowledge of the facts hereinafter deposed to, save and except where stated to be based upon information and belief and whereso stated I verily believe the same to be true.
- (2) That attached to this my Affidavit and marked as Exhibit "A" is a true copy of a document which has been produced and shown to me purporting to be the original by-law made pursuant to the Indian Act having compared the said copy with the original by-law.

SWORN BEFORE ME AT the City of )  
Vancouver, in the Province of )  
British Columbia, this 4TH )  
day of OCTOBER, 1991. )  
)  
)

Barbara Smith

Patricia Leukner  
Commissioner for taking Affidavit for B.C.

**CERTIFIED TRUE COPY**

Exhibit "A"

By-Law No.   #6  

of the Lower Kootenay Band

**A BY-LAW FOR THE REMOVAL AND  
PUNISHMENT OF PERSONS TRESPASSING OR  
FREQUENTING THE RESERVE FOR  
PROHIBITED PURPOSES**

**ENACTED ON THE 19th DAY OF SEPTEMBER, 1991**

WHEREAS the Council of the Lower Kootenay Band desires to establish a by-law to provide for the removal and punishment of persons trespassing on the reserve or frequenting the reserve for prohibited purposes;

AND WHEREAS the Council of the Lower Kootenay Band is empowered to make such by-law, and any matter ancillary thereto pursuant to paragraphs 81(1)(p), (q) and (r) of the Indian Act;

AND WHEREAS it is deemed to be expedient and necessary, for the benefit, comfort and safety of the inhabitants of the Lower Kootenay Indian reserve, to provide for the removal and punishment of persons trespassing on the reserve or frequenting the reserve for prohibited purposes;

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

**Short title**

1. This by-law may be cited as By-law No.   #1   Respecting Trespass in the Lower Kootenay reserve.

**Interpretation**

2. In this by-law:

"Council" means the Council of the Lower Kootenay Band as defined in the Indian Act;

"Minister" means the Minister of Indian Affairs and Northern Development;

"officer" means any police officer, police constable 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 or as a by-law enforcement officer;

"reserve" means the reserve of the Lower Kootenay Band and includes the Band's Reserve No. #1;

"trespass" means the entry onto, or the presence on, the reserve by a person without lawful jurisdiction.

### Prohibited Purposes

3.(1) A person, other than a person referred to in subsection (2), 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) loitering; or
- (d) soliciting financial assistance

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

(2) Subsection (1) does not apply to

- (a) a person who is a lawful resident of the reserve;

or

- (b) a person who, under a by-law of the Council, holds a valid licence to conduct any activity referred to therein or is otherwise permitted to conduct that activity.

4.(1) An officer may order any person who trespasses on the reserve or who frequents the reserve for a prohibited purpose to leave the reserve immediately.

(2) Where a person who has been order to leave the reserve fails or refuses to do so, an officer may take such reasonable measures as may be necessary to remove the person from the reserve.


- (3) No person shall fail or refuse to comply with an order made under subsection (1) to leave the reserve, or shall resist or interfere with an officer acting under subsection (2).

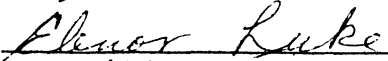
#### Penalty

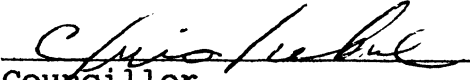
5. A person who violates any provision of this by-law commits an offence and is liable on summary conviction to a fine not exceeding \$1,000.00 or to imprisonment for a term not exceeding thirty days, or to both.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Band Council of the Lower Kootenay Band this 19th day of September, 1991.

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

  
Chief

  
Councillor

  
Councillor

being the majority of those members of the Band Council of the Lower Kootenay Band present at the aforesaid meeting of the council.

The quorum of the Band Council is 3 members.

Number of members of the Band Council present at the meeting: 3

I, Wayne Louie, Chief/Councillor of the Lower Kootenay 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 BAND office pursuant to subsection 82(1) of the Indian Act, this 20th day of September, 1991.

  
Chief/Councillor

  
Witness