

BY-LAW NO. 1, 1997 of the Cowichan Indian Band
Cowichan Waste Management By-law

Since it is expedient for the purposes of protecting the well-being of the residents of this First Nation from the health hazards associated with the dumping of waste within the lands of this First Nation; and

Since paragraphs (a), (d), (q), and (r) of Section 81(1) of the Indian Act R.S.C. 1985, empower the Council of Cowichan Indian Band to enact by-laws respecting the health of residents on the reserve and any matter ancillary thereto, and for the imposition of a penalty for a violation therefor;

NOW THEREFORE the Council of Cowichan Indian Band enacts the following by-law;

Short Title

This by-law may be cited as the "Cowichan Indian Band Waste Management By-law".

Interpretation

2. In this by-law;

- (a) "Band" means the Cowichan Indian Band;
- (b) "Council" means the Council, as defined in the Indian Act, of the Indian Band;
- (c) "Agricultural waste" includes animal and human manure, and agricultural vegetable waste;
- (d) "Household waste" means material disposed by residents in the course of their daily activities at home and by commercial businesses, as a result of normal operating activities, excluding industrial or hazardous waste;

- (e) "Nuisance" means any act or activity that impairs by direct physical interference the use and enjoyment of a person's property or could prejudicially affect a persons health or comfort, including:
- (i) the indiscriminate throwing or dumping of household and/or agricultural waste on roads and road allowances;
 - (ii) the emission of smoke from the burning of tires, construction materials, household wastes or waste;
- (f) "Officer" means any peace officer or any other person assigned by the Cowichan Indian Band Council to administer and enforce the provisions of the by-law;
- (g) "Reserve" means the reserves of Cowichan Indian Band and includes the Bands' Reserves No. 1 through Number 9;
- (h) " Resident" means a person who
- (i) has their principal residence on reserve; or
 - (ii) is authorized to reside on reserve pursuant to the Indian Act;
- (i) "Waste" means all waste other than household waste and agricultural wastes, including industrial wastes, liquid and semi-liquid substances, landfill, construction debris, scrap metals, of all kinds and any combination thereof.

Exclusion of Dumping

3. No person shall dump agriculture, household or any other waste materials on Reserve lands.

Application of Agricultural Wastes

4. No person shall apply agricultural wastes, unless it is immediately incorporated into the soil.
5. No person shall apply agricultural wastes under the following conditions
- (a) under conditions precluding its incorporation into the soil.
 - (b) at rates of application that exceed the amount required for crop growth,
 - (c) if runoff or leaching of agricultural waste causes pollution of a watercourse or of groundwater.

Certificate of Transport

6. No person shall transport agricultural or any other waste onto the Reserve without
- a) first, completing a Certificate of Transportation Application Form;
(see schedule "A", attached);
 - b) being in possession of a Certificate of Transport as authorized by Council and signed by the Officer (see Schedule "B", attached).
7. A Certificate of Transport shall specify;
- (a) the type of vehicle used to transport the waste;
 - (b) the date and route of transport;
 - (c) the type and amount of waste being transported; and
 - (d) any other appropriate condition as determined by Council.

Cancellation of Permits

8. If the holder of a certificate issued pursuant to section 6
- a) applies agricultural wastes under unfavourable conditions
 - b) varies the type of wastes being transported
 - c) exceeds the amounts specified
 - d) causes environmental damage

The Council may cancel the certificate and order the holder of the certificate to clean up the land on the reserve.

9. Notwithstanding section 6, everyone who is a resident on Reserve may transport household waste to an approved sanitary landfill without a Certificate of Transport.

The Burning of Household Waste

10. The burning of household waste by a resident shall be done in a manner so as not to impair by direct physical interference, the use and enjoyment of a persons' property or prejudicially affect a persons health or comfort and shall be done as follows;

- (a) in a container such as a drum where the container is;
 - (i) cleaned of any hazardous inner coating before initial use;
 - (ii) in good repair
 - (iii) ventilated consisting of holes punched at the base of the burning area;
 - (iv) located in a clearing a reasonable distance from any structure, timber or vegetation
- (b) so as not to cause harm to the neighbours property; and
- (c) material burned shall be household waste that is dry and does not include any hazardous materials such as plastics, paints, aerosols, etc.

Officer

11. The Council may, by resolution, appoint one or more officers to administer and enforce this by-law;

Enforcement

12. No person shall interfere with or obstruct an officer acting within the lawful execution of his/her duties under this by-law.

13. An officer, acting under the direction of Council, may order any person who causes or threatens to cause a nuisance on-Reserve to refrain from such activities, or to abate the nuisance within a reasonable timeframe.

14. In determining a reasonable timeframe, Council shall take into account ;

- (a) the nature and extent of the nuisance;
- (b) the methods available to abate the nuisance; and
- (c) the approximate time required to abate the nuisance.

15. Where, at any time, an officer has reasonable grounds that a person is violating a provision of this by-law, the officer may, on reasonable notice to that person, inspect the area where he believes the violation is occurring

Offenses and Penalties

16. Everyone who is found creating or causing a nuisance is guilty of an offence under this by-law and is liable to a fine not exceeding one thousand dollars (\$ 1,000) and / or imprisonment for a term not exceeding thirty days, for each contravention of this by-law.
17. Every person who contravenes any of the provisions of this by-law is guilty of an offence and is liable to a fine not exceeding one thousand dollars (\$1,000) and / or imprisonment for a term not exceeding thirty days, for each contravention of this by-law.
18. Pursuant to section 13, if a abatement order is given by an "Officer", for each day that passes, an additional contravention of this by-law occurs.

Additional Enforcement Measures

19. (1) Where this by-law is contravened and a fine is imposed, in addition to remedy described in sections 16 and 17 of the by-law, the Band Council may make an order pursuant to section 81(2) of the Indian Act, prohibiting the continuation or repetition of the offence by the person convicted.
- (2) Where this by-law is contravened, such contravention may be restrained by a court action pursuant to section 81 (3) of the Indian Act, at the demand of the presiding Council.

Be it known that this by-law entitled "Cowichan Indian Band Waste Management By-Law" is hereby enacted by the Council of the Cowichan Band of Indians at a duly convened meeting of the said Council held on the 21st day of January 1997.

Chief [Signature]
Chief

Louise Underwood
Councillor

Dennis & Alphonse
Councillor

[Signature]
Councillor

[Signature]
Councillor

[Signature]
Councillor

Calvin Sawantus
Councillor

[Signature]
Councillor

Benedict R. George
Councillor

[Signature]
Councillor

Len Antoine
Councillor

[Signature]
Councillor

[Signature]
Councillor

A quorum of the Band consists of five members.

SCHEDULE 'A'

COWICHAN INDIAN BAND

CERTIFICATE OF TRANSPORT APPLICATION FORM

- 1. Applicant's Name in Full: _____
- 2. Permanent Address: _____

- 3. Phone Number: (Home) _____ (Work) _____
- 4. Driver's License No. _____
- 5. Occupation/Type of Business: _____
- 6. Date of Transport: _____
- 7. Type of Vehicle to be Used for Transport: _____
- 8. License Number of Vehicle: _____
- 9. Type of Waste Being Transported: _____
- 10. Amount of Waste Being transported (approximate weight): _____
- 11. Originating Site of Waste Pickup (Address): _____
- 12. Destination of Waste-- Lot: _____ Reserve: _____
- 13. Proposed Route of Transportation: _____

SCHEDULE 'B'

COWICHAN INDIAN BAND
CERTIFICATE OF TRANSPORT

Name: _____

Address: _____

is hereby authorized, pursuant to Section 6 of the Cowichan Indian Band Waste Management By-Law to transport:

_____ (amount of waste), _____ (type of waste)

waste by use of _____ (vehicle type), _____ (license number)

to be applied on Reserve: _____ Lot: _____ Date: _____

Route: _____

This certificate is subject to the following restrictions:

1. _____
2. _____
3. _____
4. _____
5. _____

I hereby agree upon issuance of this certificate of transport to follow the terms and conditions as set out in the Cowichan Indian Band Waste Management By-Law.

Date

Signature of Applicant

Date

Signature of By-Law Officer