

BY-LAW NO. 1/2000,
of the Okanese First Nation
A BY-LAW FOR THE PRESERVATION, PROTECTION
AND MANAGEMENT OF FUR BEARING ANIMALS
AND OTHER GAME

WHEREAS the Council of the Okanese First Nation desires to make a by-law governing the preservation, protection and management of fur bearing animals and other game on the reserve, matters ancillary thereto, and a penalty for the violation thereof;

AND WHEREAS the Council of the Okanese First Nation has the power to make such by-law pursuant to Aboriginal and Treaty rights as well as paragraphs 81(1)(o), (q) and (r) of the *Indian Act*;

AND WHEREAS it is considered to be expedient and necessary to provide for the preservation, protection and management of fur bearing animals and other game on the reserve;

NOW THEREFORE the Council of the Okanese First Nation hereby makes the following by-law:

PART I
SHORT TITLE and INTERPRETATION

Short Title

1. This By-law may be cited as the "Okanese Hunting By-law".

Interpretation

2. In this By-law,
 - (a) "**Council**" means the Council, as defined under the Okanese Band Custom Election Act;
 - (b) "**Elders Advisory Committee**" means the elders of the First Nation who are appointed by the Council to advise the Council and to assist in the administration of this By-Law;
 - (c) "**firearm**" means any device from which any shot, bullet or other missile can be discharged and, without limiting the generality of the foregoing, includes a rifle, shotgun, pellet gun, air gun, pistol, revolver, spring gun, long bow or cross bow;
 - (d) "**First Nation**" means the Okanese First Nation;

- (e) **"fur bearing animal"** includes a bear, fox, beaver, mink, otter, fisher, marten, muskrat, skunk, raccoon, weasel, cougar, bobcat, lynx, coyote, squirrel and varying hare;
- (f) **"game"** means any vertebrate animal or bird, excluding fish, amphibians and reptiles, that is wild by nature, and includes deer, moose, elk, caribou and fur bearing animals;
- (g) **"game bird"** means (include list of birds) and includes those birds listed in the *Migratory Birds Convention Act*;
- (h) **"game officer"** means a game officer appointed under section 3, and includes an officer who has been designated by the Council, pursuant to section 4, to administer and enforce this by-law and; it also includes a police officer, police constable or other person charged with the duty to preserve and maintain the public peace;
- (i) **"hunting"** means taking, wounding, killing, chasing, pursuing, worrying, capturing, following after or on the trail of, searching for, shooting at, stalking or lying in wait for any game, whether or not the game is subsequently captured, wounded or killed;
- (j) **"Member"** means any person whose name is registered on the membership list of the First Nation
- (k) **"permit"** means a permit, certificate, license, quota or allocation issued pursuant to this By-law;
- (l) **"person"** means any individual, association, partnership or corporation;
- (m) **"Reserve"** means the tracts of land, the legal title to which is vested in Her Majesty, that has been set apart by Her Majesty for the use and benefit of the Okanese First Nation;
- (n) **"resolution"** means a written Band Council Resolution which is evidence of a duly constituted meeting of the Band Council.
- (o) **"snare"** means any device for the taking of game whereby it is caught in a noose;
- (p) **"take"** includes the capturing or the taking into possession of game, whether dead or alive;
- (q) **"trap"** means any spring trap, gin, deadfall box or net used to capture game;
- (r) **"trapping"** means taking game by a snare or trap.

PART II ADMINISTRATION

Administration

3.(1) The Council may, by resolution, appoint one or more game officers to perform such functions in respect of the administration and enforcement of this By-law as are prescribed herein.

(2) The Council may, by Resolution, designate any officer to perform such functions in respect of the administration and enforcement of this by-law as are prescribed herein to be performed by a game officer.

4. The Council may, by Resolution, provide for reasonable remuneration to be paid to a game officer appointed under subsection 3(1) at such rates as determined, from time to time by the Council.

Elders Advisory Committee

5.(1) The Council may, by Resolution, appoint an Elders Advisory Committee to act in an advisory capacity to the Council or the game officer on matters of general interest respecting the provisions of this By-law.

(2) The appointment of the Elders Advisory Committee shall be on such terms and of such duration as the Council determines.

(3) The Council may, by Resolution, pay remuneration for services of an Elders Advisory Committee at rates established, from time to time by the Council.

General Prohibition on Hunting and Trapping

6.(1) No person shall engage in hunting or trapping within the Reserve except as permitted by this By-Law.

(2) Notwithstanding anything in this By-Law, a person may, where necessary for the prevention of:

- (a) damage to private property, livestock, or other domestic animals, or
- (b) injury to persons on the reserve, whether or not they are members of the First Nation,

hunt, take, trap, snare, shoot or kill game at any time if the incident is immediately reported to the Council, and such game or carcass is surrendered to the nearest game officer.

No Effect on Members

7. Members of the First Nation may engage in hunting and trapping within the Reserve at any time without any restrictions on the mode and method of hunting and trapping. Nothing in this By-law shall be interpreted as affecting Members rights to hunt on the Reserve

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(2) The application shall specify:

- (a) the name & address of the applicant;
- (b) the applicant's age;
- (c) whether the applicant has attended a hunting safety course;
- (d) the species of game for which the permit is sought;
- (e) the type of hunting or trapping equipment to be used;
- (f) whether the applicant has any previous convictions under federal or provincial hunting regulations; and
- (g) such other information as is required to enable the Council to address the considerations set out in subsection (3) and the criteria set out in subsection (4).

(3) In determining whether or not a permit should be issued, the Council shall take into consideration:

- (a) whether or not the applicant is a resident of the Reserve;
- (b) whether or not the applicant has previously held a permit and, if so, has complied with the provisions of the permit and this By-law with respect to hunting and trapping;
- (c) the extent of the contribution, if any, the applicant makes to the reserve community.
- (d) the number of permits already issued for the species of game for which the permit is sought; and
- (e) whether or not there is sufficient game of that species in the reserve at the time to meet the needs of First Nation members and permit holders without detrimentally affecting the species.

(4) Where the Council determines that:

- (a) the issue of a permit will not detrimentally affect the species of game in respect of which the permit is sought; and
- (b) the applicant is a suitable person to have a permit to hunt or trap on the reserve,

the Council may issue a written permit authorizing the person to hunt or trap on the reserve, specifying therein the time, place, type of equipment, bag limit, size limit and species of game that may be hunted or trapped by the person holding the permit.

(5) The fee for a permit shall be as follows:

- (a) Non-resident Native - \$10.00 per permit;
- (b) Resident non-Band member - \$10.00 per permit; and
- (c) Non-native - \$300.00 per permit.

- (6) A permit issued pursuant to this section is non-transferable.
9. A permit issued under this by-law is invalid:
- (a) if it is not signed by the person to whom it is issued,
 - (b) if the date of expiry has been omitted, removed or defaced.
- 10.(1) A person hunting or trapping under the authority of a permit issued pursuant to section 8 shall have the permit on his person while hunting or trapping within the reserve.
- (2) A Game Officer may at any time require any permit holder who is hunting or trapping within the reserve to produce his permit.
- 11.(1) The Council may cancel the permit of any person where it is satisfied:
- (a) that the person has contravened the terms of the permit or of this By-law, or
 - (b) that the continuation of the permit would be detrimental to the preservation or protection of fur bearing animals or other game on the reserve.
- (2) Subject to this By-law, the decision of the Council to cancel a permit is final.
12. The holder of a permit obtained by any false or misleading statement or information made or given in respect of any information required for the issuance of the permit shall be deemed to be the holder of a void permit and the holder may be prosecuted in the same manner and with the same effect as he could be prosecuted if he were not the holder of a permit.

PART IV HUNTING, TRAPPING and TAKING

Hunting and Trapping by a Person Under the Age of Sixteen Years

13.(1) A non-First Nation member who is under the age of sixteen years may only hunt and trap without a permit if accompanied by and under the supervision of a First Nation member over the age of sixteen years or a person holding a permit issued under section 7.

(2) A non-First Nation member who is under the age of 16 years must comply with time restrictions, place, type of equipment, bag limit, size limit, and species of game that may be hunted as part of the supervising permit holder's allowances which are granted pursuant to section 8(4).

Hunting Season

14. No permit shall be issued to authorize hunting for any game between January 1st and August 31st of any year.

Trapping Season

15. No permit shall be issued to authorize the trapping of the following fur bearing animals between May 31st to October 1st of any year.

Prohibited Zones

16. No person shall at any time engage in hunting or in trapping within any game management zones of the Reserve or engage in hunting within the main feeding area of the game.

Trapping Equipment

17. The equipment used by any person for trapping game shall meet the standards determined by provincial and federal legislation and regulations as well as those established, from time to time, by the Council by Resolution.

18. No person shall trap game using equipment that is prohibited by provincial and federal legislation and regulations or that is prohibited, from time to time, by the Council by Resolution.

Hunting with Firearms

19. No person, while engaged in hunting, shall discharge a firearm within five hundred meters of:

- (a) a residential building;
- (b) a public road or bridge; or
- (c) a game preserve or bird or fish sanctuary.

20. No person, while engaged in hunting, shall discharge a firearm:

- (a) on or from a public road;
- (b) across a public road; or
- (c) from a vehicle, aircraft or power boat.

21. No person while engaged in hunting in the reserve shall conceal his identity or wear a mask or disguise with the exception of those persons hunting with the aid of a tree stand.

22. No person while engaged in hunting or trapping or while going to or returning from a hunting camp, or while in a locality that game usually inhabits or in which game is usually found, shall not have a firearm in their possession, unless it is unloaded and encased, between one half -hour after sundown and one half-hour before sunrise.

23. No person while engaged in hunting shall have a firearm in his possession while he is under the influence of alcohol or a drug.

24. Every person is guilty of the offence of hunting carelessly who, being in possession of a firearm for the purpose of such hunting, discharges or causes to be discharged or handles the firearm without due care and attention or without reasonable consideration for person and property.

25. No person shall use any poison, explosive or deleterious substance for hunting purposes.

26. No person shall use any device which connects a firearm to a trap or to a remote control or delayed-action mechanisms or which causes a firearm to discharge without the hunter himself pressing upon the trigger of such firearm.

Rules of Hunting and Trapping

27. No person shall hunt a moose, deer, elk or caribou by means of a trap or snare.

28. No person shall kill or attempt to kill any species of game by the use of poison.

29. No person shall:

- (a) hunt game in any day later than one-half hour after sunset or earlier than one-half hour before sunrise; or
- (b) hunt game by means of or with the assistance of an artificial light.

30.(1) No person shall hunt moose, deer, elk, caribou or any fur bearing animal by means of, or with the assistance of, a dog or when accompanied by a dog.

(2) Subsection (1) does not apply where the hunting of game with a dog is necessary for the prevention of:

- (a) damage to private property, or
- (b) injury to occupants of occupied land,

if the incident is reported, and the carcass is surrendered, immediately to the nearest game officer.

31. No person shall hunt game using a handgun, fully automatic weapons and those weapons using projectiles smaller than a .22 caliber.

32. No person shall use an aircraft, sail boat, powerboat or motorized vehicle in connection with hunting, except as a means of transportation before and after any hunting activity.

PART V GAME MANAGEMENT

Protected Species

33. No person shall at any time engage in the hunting or trapping of any species, which may, from time to time, be designated by resolution of the Council a protected species.

34.(1) The Council may, time to time impose a temporary ban or restriction on the hunting or trapping of any species not mentioned in section 35, by giving notice in accordance with subsections (2) and (3).

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(2) Notice of the ban or restriction shall be posted not less than 24 hours prior to the ban or restriction coming into force.

- (a) in conspicuous places in areas of the reserve in which hunting or trapping is engaged in; and
- (b) in the office of the Band Council.

(3) The notice shall specify the date and time the ban or restriction is to come into force and to cease, and the particulars of the ban or restriction imposed.

(4) No ban or restriction imposed under this section shall remain in force for a period of more than fourteen days, unless a further ban or restriction is imposed and further notice is given in accordance with subsections (2) and (3).

Conservation

35. No person shall:

- (a) disturb, destroy, injure, gather or take the nest or eggs of any game bird except waterfowl;
- (b) disturb, destroy or injure the shelter or habitat of any game.

36.(1) No person shall cut, break or destroy a beaver house or beaver dam, except where the cutting, breaking or destroying is necessary to prevent damage to the property of that person.

(2) Pursuant to subsection 32(a), a person is required to give notice to the Council and obtain their approval prior to destroying such a dam.

Game Management Zones

37. The Council may, by Resolution, designate any area or areas of the Reserve as a game management zone for the purpose of feeding any game on the Reserve throughout the year.

38. The game management zone may be designated by posting signs around the area or areas advising that hunting is prohibited in the game management zone.

PART VI ENFORCEMENT and PENALTIES

Enforcement

39. A person who:

- (a) fails to observe or who otherwise contravenes any provision of this By-law or any ban or restriction imposed hereunder, or
- (b) resists or willfully obstructs a game officer in the performance of any duty or in the exercise of any power under this By-law,

commits an offence.

40. Where an act or omission in contravention of this By-law or any ban or restriction imposed hereunder continues for more than one day, such act or omission shall be deemed to be a separate offence committed on each day during which it continues, and may be punished as such.

Penalty

41. A person who commits an offence under this By-law is liable on summary conviction to a fine of not more than \$1,000.00.

Other Provisions

42. If any section or portion of this By-law is for any reason held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, that section or portion of the By-law shall be deemed severable and shall not affect the validity of the remaining portions of the By-law.


43. This by-law is passed by the Council pursuant to the Council's powers under the *Indian Act*.

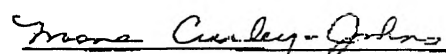
THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Okanese First Nation this ____ day of August, 2000.

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


Chief Marie-Anne Day Walker-Pelletier


Councillor Sandra D. Walker


Councillor Ronda Tuckanow O'Watch


Councillor Mona J. Creeley

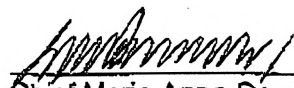

Councillor Ronald Elliott

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


The quorum of the Council is 3 members.

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

THIS BY-LAW was approved by the members of the First Nation present at a duly called First Nation meeting held on the ____ day of August, 2000.


Chief Marie-Anne Day Walker-Pelletier

I, Marie-Anne Day Walker-Pelletier Chief 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 Indian Act, this 03 day of NOVEMBER, 2000.


Witness -
(Sign and Print Name below)


Chief Marie-Anne Day Walker-Pelletier