

BY-LAW NO. 2000/01 – 02
Of the Muskoday First Nation
A By-Law for the Prevention of
Disorderly Conduct and Nuisances

WHEREAS the Council of the Muskoday First Nation 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 of the Indian Act, and for the imposition of a penalty for violation thereof;

AND WHEREAS the Council of the Muskoday First Nation is empowered to make such by-law pursuant to Section 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 citizens of the Muskoday First Nation to provide for the prevention of disorderly conduct and nuisances within the Muskoday First Nation;

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

Short Title

1. This by-law may be cited as the “Muskoday First Nation Disorderly Conduct and Nuisances By-Law”.

Interpretation

2. In this by-law;

“Council” means the Council of the Muskoday First Nation;

“Disorderly conduct” means any act or behavior, including

- (a) fighting;
- (b) making or causing unreasonable noise;
- (c) using abusive language;
- (d) using offensive or indecent gestures or displays;
- (e) being drunk and disorderly;
- (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; 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 within the Muskoday First Nation, 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, house 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, grass, garbage, leaves 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 Muskoday First Nation 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 selected by the Council for the purpose of maintaining law and order on the first nation;

“Person” includes a corporation;

“First Nation” means the Muskoday First Nation No. 99.

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 First Nation 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 reasonable measures as are necessary to stop the disorderly conduct, or to prevent or to abate the nuisance.
- (2) A person who fails or refused 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 \$1,000.00 or to imprisonment for a term not exceeding 30 days, or to both.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Muskoday First Nation this ~~8th~~¹³ day of June, ~~2000~~²⁰⁰²

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



(Member of the Council)



(Member of the Council)

Jim Bear
(Member of the Council)

(Member of the Council)

(Member of the Council)

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

The quorum of the Council is 4 members.

Number of members of the Council present at the meeting: 4.

I, Jim Bear Chief/Councillor of the, 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 8th day of June, 2000.

13th 2000

[Signature]
(Witness)

[Signature]
(Chief/Councillor)