



WATERHEN LAKE FIRST NATION

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BY-LAW NO 3 2004 OF THE WATERHEN LAKE FIRST NATION

A BY-LAW FOR THE PRESERVATION, PROTECTION AND MANNAGMENT OF BIG GAME

WHEREAS the Council of Waterhen Lake First Nation desires to make a Law governing the preservation, protection and management of Game on the Reserve, matters ancillary thereto, and penalty for the violation thereof;

AND WHEREAS the Council of Waterhen Lake First Nation has the power to make such a Law pursuant to its Indigenous and Aboriginal right of self-governance as recognized be Treaty No.6 and section 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 Big Game on the Reserve;

NOW THEREFORE, without prejudice to the Indigenous and Aboriginal right of self-determination and the treaty 6 relationship, the Council of Waterhen Lake First Nation hereby makes the following Law:

Short Title

1. This By-law may be cited as the "Game Hunting Law" on Waterhen Lake First Nation.

Interpretation

2. "**Band**" means the Waterhen Lake First Nation;

"**Game**" means wild birds, deer, elk, bear and antelope together with such other vertebrate animal this is wild by nature and hunted by members of Waterhen Lake First Nation and non-members alike;

"**Council**" means the Band Governance of the Band and includes both the Chief and Council of Waterhen Lake First Nation as defined in the *Indian Act*;

“Gaming 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;

“Hunting” means taking, wounding, killing, chasing, pursuing, worrying, capture, following after or on the trail of, search for, shooting at, stalking or lying in wait, for any game, whether or not the Game is subsequently captured, wounded or killed;

“Officer” means a Police Officer, Police Constable or other person charged with the duty to preserve and maintain the public peace and a By-law Enforcement Officer or any other person appointed by the Council for the purpose of maintaining law and order on the Reserve;

“Person” means both members of Waterhen Lake First Nation and non-members, except where expressly stated to not apply to members of Waterhen Lake First Nation;

“Reserve” means the Waterhen Lake First Nation as it may exist from time to time and includes all lands added to the Reserve after the date of the By-law;

“Snare” means any device for the taking into possession of Game whereby it is caught in a noose;

“Take” includes the capturing or the taking into possession of Big Game, whether dead or alive.

“Trap” means any spring trap, gin deadfall box or net used to capture Game.

Administration

- 3.1 The Council may, by Band Council Resolution, appoint one or more Game Officers perform such functions in respect of the administration and enforcement of this By-law as are prescribed herein.
- 3.2 The Council may, in Resolution, provide for reasonable remuneration to be paid to a Game Officer appointed under subsection (1).
- 3.3 The Council may 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;

General Probation on Hunting and Trapping

- 4.1 No person shall engage in hunting Game within the Reserve except as permitted by this By-law.
- 4.2 Notwithstanding anything in this By-law, a person may, where necessary for the prevention of;
 - (a) Damage to private property;
 - (b) Injury to occupants of occupied land; and
 - (c) Notify the Council and post their immediate location that there shall be no hunting within five hundred (500) meters in accordance with section 16 of this Law.

Hunting and Trapping by Band Members

5. Members of the Band may engage in hunting within the Reserve pursuant to their inherent and Aboriginal right, rights under Treaty 6. and subject to the terms of this law pertaining to conservation of Game and safety.

Hunting Permits

- 6.1 A person who is not a member of the Band may apply to the Council for a permit to hunt Game within the Reserve.
- 6.2 The Application shall specify:
 - (a) the place of which the permit is sought;
 - (b) the species of Game for which the permit is sought;
 - (c) the type of hunting equipment to be used; and
 - (d) 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).
- 6.3 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 complied with the provisions of the permit and this or any previous By-law with respect to hunting;
 - (c) the extent of the contribution, if any, the applicant makes to the Reserve;

- (d) the number of permits already issued for the species of Game of which the permit is sought; and
 - (e) whether or not there is sufficient Game of the species in the Reserve at the time to meet the needs of Band members and permit holders without detrimentally affecting the species.
- 6.4 No person except a member of Waterhen Lake First Nation shall hunt on the Reserve unless guided by a person approved by the Council of the Band Council Resolution. The approved guide shall enter into a Guide Agreement with the Band and shall comply with all relevant laws and carry insurance to cover all liabilities and risks.
- 6.5 A subsisting guiding agreement between the permittee and the guide or guides stating the fees and a description of the services to be rendered that is acceptable to the Council and not inconsistent to this By-law shall be a condition precedent to eligibility for any person who applies for a permit under this section.
- 6.6 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 on the Reserve,
- The Council may issue:
- (a) a written permit authorizing the application to hunt 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, and allowing the permittee to take Game taken on the Reserve to the residence of the permittee; and/or
 - (b) a permit requiring the permittee to provide a written report of the above hunting activity.
- 6.7 The fee for a permit will be set by the Council.
- 6.8 A permit issued pursuant to this section is non-transferably.
7. A person holding a permit under subsection 7(4) shall not hunt within the reserve, except in accordance with the terms of the permit issued by the Council.
8. A permit issued under this By-law is invalid:
- (a) if unsigned by the person to whom it is issued; and
 - (b) the date of expiry has been omitted, removed or defaced.

- 9.1 A person hunting or trapping under the authority of a permit issued pursuant to section 7 shall have the permit on his person while hunting on the Reserve, and shall produce the permit for inspection upon request.
- 9.2 The Chief, a Band Councilor or a Game Officer may at any time require any permit holder who is hunting within the Reserve to produce his/her permit.
10. 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.
 - (b) that the continuation of the permit be detrimental to the preservation or protection of Game animals or other Game on Reserve.
11. The holder of a permit which has been obtained by any false or misleading statement or information provided 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 if the person were not the holder of the permit.
12. No permit shall be issued to a non-member of Waterhen Lake First Nation to authorize hunting for game between January 1 and August 31 of any year, save and except as permitted in section 14.
13. Notwithstanding section 13, a permit for spring black bear may, in the discretion of Council, be issued between April 1st and May 31st of any year.

Prohibited Zones

14. No person shall at any time engage in hunting within the following areas of the reserve:
 - (a) within five hundred (500) meters of any occupied residence on the Reserve; and
 - (b) within five hundred (500) meters of any settlement, public structure or construction site on the Reserve; or
 - (c) within five hundred (500) meters of any sign authorized by Council which posts the area as a no hunting zone.

Hunting with Firearms

15. No person while engaged in hunting shall discharge a firearm within five hundred (500) meters of:
 - (a) a residential building;
 - (b) a public road or bridge;
 - (c) a game preserve or bird or fish sanctuary;
 - (d) a Band member hunting; or
 - (e) a sign posted in accordance with section 15.

16. No person while engaged in hunting shall discharge a firearm:
 - (a) on or from a public road;
 - (b) across a public meeting place or highway; or
 - (c) from a vehicle, aircraft or power boat.

17. No person, while engaged in hunting in the Reserve, shall conceal his/her identity or wear a mask or disguise himself/herself in such a manner that the person is not readily identifiable.

18. No person, while engaged in hunting or while going to or returning from hunting camp, or while in a locality where game usually inhabits or in which Game is usually found, shall between one-half (1/2) hour after sundown and one-half(1/2) hour before sunrise have a firearm in his/her possession unless it is unloaded and encased.

19. No person while engaged in hunting, shall have a loaded firearm in his/her possession while he/she is under the influence of alcohol, prescribed or non-prescription drugs.

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

21. No person shall use any poison or explosive substance for hunting purposes.

22. No person shall use any device which connects a firearm to a trap or to a remote control or delayed-action mechanism or which causes a firearm to discharge without the hunter physically and directly pressing upon the trigger of such firearm.

Protected Species

23. No person shall at any time engage in the hunting of any species which may, from time to time, be designated by Resolution of the Council a protected species.
24. (1) The Council may, notwithstanding and in addition to any other applicable Legislation of Canada or the Province, designate a species of Game as a protected species and impose a temporary ban or restriction on the hunting of any species of Game under section 4, by giving notice in accordance with subsections (2) and (3);
- (2) Notice of the ban or restriction shall be posted not less than twenty four (24) hours prior to the ban or restriction coming into force in;
- (a) conspicuous places in areas of the Reserve in such hunting is engaged in; and
- (b) 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; and
- (4) No ban or restriction imposed under this section shall remain in force for a period of more than thirty (30) days, unless a further ban or restriction is imposed and further notice is given in accordance with subsections (2) and (3).

Conservation

25. A person shall not:
- (a) destroy, injure, disturb, gather or take the nest or eggs of any game bird; or
- (b) destroy, injure the shelter or habitat of any Game.
26. A person shall not cut, break or destroy a beaver house or a beaver dam, except where the cutting, breaking or destroying is necessary to prevent damage to the property of that person.

Rules of Hunting

27. No person shall hunt a bird, moose, deer, elk, bear or antelope by means of a trap or snare.
28. No person shall kill any species of Game by use of poison.
29. (1) No person shall:
 - (a) hunt Game in any day later than one-half (1/2) hour after sunset or earlier than one-half (1/2) hour before sunrise; or
 - (b) hunt Game by means of or with the assistance of light.
- (2) Section 30 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 of any Game is surrendered immediately to the nearest Game officer:
30. No person shall hunt Game using a crossbow.
31. No person shall use a aircraft, sailboat, power boat or motorized vehicle in connection with hunting, except as a means of transportation before and after any hunting activities.

Enforcement

32. A person who:
 - (a) fails to observe or who otherwise contravenes any provisions of this 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 Law, commits an offence.
33. Where an act or omission is in contravention of the Law or any ban or restriction or penalty imposed thereunder continues for more than one (1) day, such an 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

- 34. (1) A person who commits an offence under the Law is liable on summary conviction to a fine not exceeding one thousand (\$1000.00) dollars, or to imprisonment for a term not exceeding thirty (30) days, or both; and
- (2) In addition to any penalty imposed under section 36(1), the Council of Waterhen Lake First Nation may impose such other penalty as it deems appropriate in its discretion.

Amendments

- 35. This Law may be amended as required from time to time by the Waterhen Lake First Nation Council.

THIS LAW HEREBY made at a duly convened meeting of the Council of the Waterhen Lake First Nation this 27 day of August, 2007.

Voting in favor of the Law are the following members of the Council:


Chief


(Member of the Council)


(Member of the Council)


(Member of the Council)


(Member of the Council)

(Member of the Council)

(Member of the Council)

Being the majority of those members of the Council of Waterhen Lake 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: 5

I, RICHARD FIDDLER, Chief/Councilor of the Band, do hereby certify that a true copy of the foregoing 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 27 day of Aug., 2007

Dwayne Lass
Witness

Richard Fiddler
Chief/Councilor

DRAFT BAND COUNCIL RESOLUTION

RE: The Adoption of a Law; “Game Hunting Law on the Waterhen Indian Reserve”

WHEREAS the Waterhen Lake First Nation is desirous in enacting a Law respecting the regulation, preservation and management of Game on the Waterhen Lake First Nation;

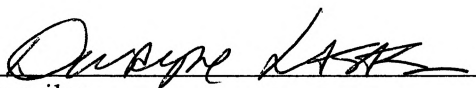
The Council of the Waterhen Lake First Nation have the power to enact such a Law as a By-Law pursuant to it Indigenous and Aboriginal rights of Self-government as recognized by Treaty No. 6 section 81 of the *Indian Act*;

The Council deems expedient and necessary the provision for the regulation, protection, preservation and management of Game on this Reserve;

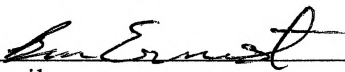
THEREFORE, the Chief and Council of the Waterhen Lake First Nation hereby approve and adopt the attached By-Law which may be cited as the “Game Hunting Law on the Waterhen Indian Reserve” and the said By-Law shall hereinafter be enforced by the Council and in a Court of law.



Chief

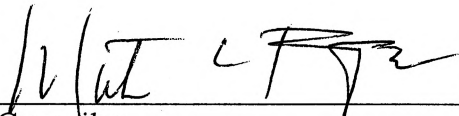


Councilor



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