

**BY-LAW NO. __ FN 01-02
OF THE WHITE BEAR FIRST NATION
A BY-LAW FOR THE PRESERVATION,
PROTECTION AND MANAGEMENT OF BIG GAME**

WHEREAS the Council of the White Bear First Nation desires to make a By-law governing the preservation, protection and management of Big Game on the reserve, matters ancillary thereto, and penalty for the violation thereof:

AND WHEREAS the Council of the White Bear First Nation has the power to make such By-law pursuant to paragraph 81 (l), (o), (q) and (r) of the Indian Act:

AND WHEREAS it is considered expedient and necessary to provide for the preservation, protection and management of Big Game on the reserve;

NOW THEREFORE, the Council of the White Bear First Nation, without prejudice to the inherent rights and Treaty rights and powers of the First Nation and its citizens, hereby makes the following By-law under the Indian Act:

PART I

Short Title and Interpretation

Short Title

1. This By-law may be cited as the “Big Game Hunting By-law on the White Bear Indian Reserve.”

Interpretation

2. In this By-law:

- (a) **“First Nation”** means the White Bear First Nation;
- (b) **“big game”** includes:
 - (i) pronghorn antelope;
 - (ii) bear;
 - (iii) bison, other than domestically raised bison; and
 - (iv) any member of the deer family, whether known as caribou, deer elk, moose or otherwise;
- (c) **“Council”** means the Council, as defined in the Indian Act, of the White Bear First Nation;
- (d) **“Game Officer”** means a member of the Royal Canadian Mounted Police and an enforcement officer having exclusive lawful jurisdiction as approved by the Council by Band Council Resolution to administer and enforce this By-law;

- (e) **“Hunting”** includes taking, wounding, killing, chasing, pursuing, worrying, capturing, following after or following on the trail of, search for, shooting at, trapping, setting snares for, stalking or lying in wait for any Big Game, or attempting to do any of those things, whether or not the Big Game is then or subsequently captured, wounded or killed;
- (f) **“Outfitter”** means a guide who has entered into a subsisting guiding agreement with the permittee pursuant to subsection 7(5) of this By-law.
- (g) **“Reserve”** means the White Bear Reserve as it may exist from time to time and includes all lands added to the reserve after the date of this By-law.

PART II

Administration

Administration

3. Council may, by Band Council Resolution:
 - (a) appoint a Game Officer, and such other officers as may be necessary, who will carry out the Big Game administrative functions under this by-law including enforcement;
 - (b) provide for reasonable remuneration to be paid to the Game Officer, and other appointed officers;
 - (c) appoint the Game Officer for a fixed term of not less than four (4) years after which reappointment shall be discussed by both parties;
 - (d) dismiss the Game Officer from the appointed position, for failure to carry out duties as described in this by-law; or, for having been convicted of an employment related offense under the Criminal Code (Canada), or, for contravening the White Bear First Nation’s Conflict of Interest guidelines; and
4. 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.

PART III

Hunting and Trapping Rights for Members

Hunting and Trapping by First Nation Members

5. Notwithstanding any provision of this By-law, members of the First Nation may Engage in hunting within the reserve at any time pursuant to their right under Treaty No. 4.

PART IV

General Prohibition on Hunting

General Prohibition on Hunting

6. (1) No person who is not a member of the First Nation shall hunt any Big Game within the Indian Reserve except as permitted by this By-law; and
- (2) Notwithstanding anything in this By-law, a person may, where necessary for the Prevention of
 - (a) injury to persons on the reserve, whether or not they are members of the band, hunt, take, trap, snare, shoot or kill big 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; or
 - (b) damage to private property, livestock or other domestic animals.

PART V

Hunting Permits

7. (1) A person who is not a member of the First Nation may apply to the Council for a permit to hunt Big Game within the reserve.
- (2) The application shall specify
 - (a) the name and address of the applicant;
 - (b) the applicant's age;
 - (c) the location for which the permit is sought;

- (d) the species of Big Game for which the permit is sought;
 - (e) 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 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;
 - (b) the number of permits already issued for the species of game for which the permit is sought.
- (4) No person shall hunt on the reserve unless guided by a person or persons approved by the Council by Band Council Resolution.
- (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 with this By-law shall be a condition precedent to the eligibility for any person who applies for a permit under this section.
- (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 written permit authorizing the applicant to hunt on the reserve, specifying therein the time, place, type of equipment, bag limit, and species of big game that may be hunted by the person holding the permit and to issue a written export permit allowing the permittee to take Big Game taken on the Reserve to his place of origin.
- (7) The fee for consideration of a permit is Five Hundred Dollars (\$500.00).
- (8) A permit issued pursuant to this section is non-transferable.
8. A person holding a permit under subsection 7(6) shall not hunt within the reserve except in accordance with the terms of the permit issued by the Council.

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 under the authority of a permit issued pursuant to section 7(6) shall have the permit on his person while hunting on the reserve.
 - (2) A First Nation Councilor or Game Officer may at any time require any permit holder who is hunting within the reserve to produce his permit.
11. The Council may, after notice and hearing, 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 be detrimental to the preservation or protection of Big Game animals or other game on the reserve.
12. The holder of a permit obtained by any false or misleading statement or information made or given in respect to 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 would be prosecuted if he were not the holder of a permit.
13. No permit shall be issued to authorize hunting for Big Game between January 1 and August 15.

PART VI

Prohibited Zones

Prohibited Zones

14. No person shall at any time engage in hunting within the following areas of the reserve:
 - (a) within 150 metres of any occupied residence on the reserve;
 - (b) within 150 metres of any settlement, public structure or construction site on the reserve.

PART VII

Hunting with Firearms

Hunting with Firearms

15. No person while engaged in hunting shall discharge a firearm within one hundred and fifty metres of:
 - (a) a residential building;
 - (b) a public road or bridge; or
 - (c) a game preserve or fish sanctuary.

16. 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 an aircraft or powerboat.

PART VIII

Safety

Safety

17. No person while engaged in hunting in the reserve, shall conceal his identity or wear a mask or disguise.

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

19. Everyone 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 or property.

20. Everyone is guilty of the offence of jacklighting that, while hunting at any time, uses a searchlight, spotlight, or jacklight for the purpose of hunting any wildlife on the reserve.

21. No person shall use any poison, explosive, or deleterious 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 himself pressing upon the trigger of such firearm.

PART IX

Conservation

Conservation

23. A person shall not:
- (a) destroy, injure, disturb, gather or take the nest or eggs of any game bird;
 - (b) destroy or injure the shelter or habitat of any wildlife.

PART X

Leaving Game in the Field

Leaving Game in the Field

24. (1) A person who has killed or is in possession of any game shall not allow its edible flesh to be wasted, destroyed, spoiled or abandoned in the field.
- (2) A person who kills or injures any game shall make every reasonable effort to retrieve the game.

PART XI

Property in Big Game

Property in Big Game

25. Property in all game on the Reserve is hereby declared to be collectively vested in the First Nation, and no person shall acquire any prior or exclusive right or property to any Big Game otherwise than in accordance with this By-law.

PART XII

Storage and Use of Big Game Taken on Reserve

Storage and Use of Big Game Taken on Reserve

26. (1) A person who is not a member of the First Nation and who has obtained a permit pursuant to section 7:
- (a) may take the antlers, horns, and capes of any game that he or she has killed or is in possession thereof for his or her use and may transport such antlers, horns and caper out of the reserve; and
 - (b) shall give the edible flesh of any game that he or she has killed or is in possession thereof to the Outfitter.
- (2) The Outfitter shall provide a permanent refrigerated facility for use as storage for any edible flesh of any game that it has or they have received pursuant to subsection 2(b).
- (3) The Outfitter shall distribute the game that it has or they have obtained pursuant to subsection 2(b) to the elders of the First Nation and any other members of the First Nation for use as food.

PART XIII

Enforcement

Enforcement

27. A person who:
- (a) fails to observe or who otherwise contravenes any provision of this By-law or any ban or restriction 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.
28. Where an act or omission is in contravention of this By-law or any ban or restriction imposed hereunder continues for more than one 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.

PART IV

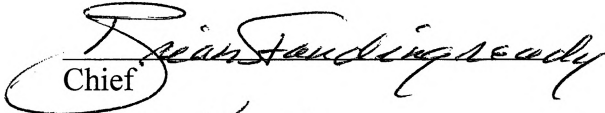
Penalty

Penalty

- 29. A person who commits an offence under this By-law is liable on summary conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding thirty days, or to both a fine and imprisonment.
- 30. Should a court determine that a provision of this By-law is invalid for any reason, the provision shall be severed from the By-law and the validity of the rest of the By-law shall not be affected.
- 31. This By-law comes into force 40 days after the date of mailing to the Minister of Indian Affairs and Northern Development as required pursuant to section 82 of the Indian Act.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the White Bear First Nation this 5 day of December, 2007.

Voting in favor of the By-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

Member of the Council

Being the majority of those members of the Council of the White Bear First Nation present at the aforesaid meeting of the Council.

The Quorum of the Council is 5 members.

Number of members of the Council present at the meeting: Nine

I, Brian Standingyearly Chief/Councilor of the White Bear First Nations do hereby certify that a true copy of the foregoing By-law 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 5th Day of December 2007.

Allen Leckell
Witness

Brian Standingyearly
Chief/Councilor