

# **BY-LAW**

## **To Provide For The Protection of Fire And The Protection of Persons and Property**

### **The Kinistin Indian Reserve #91 and #91A Fire Prevention By-Law No. 02-03. #01**

**WHEREAS** the Kinistin Band deems it expedient to prevent the outbreak of fire for the health and welfare of the inhabitants, in order to maintain law and order and to prevent nuisances on the Kinistin Reserve;

**AND WHEREAS** paragraphs 81(1)(a), (c), (d), (h), (q) and (r) of the *Indian Act* empowers the Council of a Band to make by-laws to provide for the health of residents on the reserve, for the observance of law and order, for the prevention of disorderly conduct and nuisances, for the regulation of the construction, repair and use of buildings, with respect to any matter arising out of or ancillary to the exercise of powers under section 81, and for the imposition of a penalty for a violation thereof;

**NOW THEREFORE** the Council of the Kinistin Band, pursuant to section 81, of the Indian Act, enacts as a by-law thereof as follows;

#### **Short Title**

1. This by-law may be cited as the “ Kinistin Band Fire Prevention By-law”

#### **Interpretation**

2. In this by-law;

“ **Approval**” means the acceptance as satisfactory to the Kinistin Band and Kinistin Fire Prevention Officer.

“ **Building inspector**” means the person or persons appointed from time to time by the Kinistin Band Council to carry out the duties and responsibilities that are applicable under this by-law.

“ **Band**” means the Kinistin Band.

“ **Band Council**” means the Council of the Kinistin Band, as defined in the Indian Act.

**“ Electrical inspector”** means the person or persons appointed from time to time by the Kinistin Band Council to carry out the duties and responsibilities that are applicable under this by-law. This shall include the appointment of an electrical inspector from a municipal or provincial body who may be appointed by title and by specific reference to that municipal or provincial body.

**“ Occupant or occupier”** means any tenant, lessee; agent and any other person who has access to and control of any building or premises to which this by-law applies.

**“ Authority having jurisdiction”** means the Kinistin Band Fire Prevention Officer.

**“ Fire prevention officer”** means the person or persons appointed from time to time by the Kinistin Band Council to carry out the duties and responsibilities under this by-law.

**“ Reserve”** means that tract of land set apart by her Majesty for the use and benefit of the Band and known as the Kinistin Indian Reserve No. 377 ( 91A & 91B).

### **Fire Prevention Officer**

3. (1) The Kinistin Band may appoint, from time to time, a Fire Prevention Officer and deputies and assistants as it sees fit, for the purpose of enforcing and carrying out the duties and responsibilities as set out within the various Codes and Acts as detailed herein, as herein adopted as part of this by-law.
- (2) The Fire Prevention Officer shall take all proper measures for the prevention of fire and shall enforce all Codes and by-laws respecting fire prevention, life safety and investigations.

### **Permits and Licenses**

4. (1) A permit is required from the Fire Prevention Officer in order to maintain, store, or handle materials, or to conduct processes which may produce conditions hazardous to life or property, or to install equipment used in connection with such activities.
- (2) Such permit is in addition to and does not take the place of any license otherwise required by law.
- (3) A permit shall not be transferable and any change in use of a building or premises shall require a new permit.

- (4) Before a permit may be issued by the Fire Prevention Officer may inspect and approve the receptacles, vehicles, buildings or storage places to be used.

### **Permit Application**

- 5. (1) The application for a permit shall be made in the form prescribed by the Fire Prevention Officer and contain the following requirements:
  - (a) the signature of the applicant
  - (b) a statement of the intended use of the occupancy showing:
    - i) the dimensions of the building and its locations;
    - ii) the proposed use of each room or floor area;
    - iii) fire protection installation including portable extinguishers, fire alarms and detectors;
    - iv) means of egress; and
    - v) A plot plan showing the location of all flammable liquid tanks and pumps in relation to buildings and property lines.

### **Issuing and Posting of Permits**

- 6. (1) The Fire Protection Officer shall issue a permit where
  - (a) an application is made;
  - (b) the proposed operation or occupancy conforms with applicable by-laws, codes and regulations, and
- (2) The Fire Prevention Officer may revoke a permit where there is a violation of
  - (a) any condition under which the permit was issued, or
  - (b) Any requirements of this by-law, codes or regulations.
- (3) Permits and licenses shall be posted in the premises in a conspicuous place to the satisfaction of the Fire Prevention Officer.

### **Gasoline and Oil Storage and Use**

- 7. (1) No person shall store gasoline; oil and flammable liquids in Non CSA approved containers.
- (2) No person shall store gasoline, oil and flammable liquids in the area of any dwelling house.

- (3) No person shall use gasoline, oil and flammable liquids for lighting fires in stoves, heating units or outside fires.
- (4) Gasoline or oil lamps shall be filled outdoors in well-ventilated areas, away from any open flame or anything that can cause fire.

## **Burning**

### **Open Air Burning**

- 8. (1) Except as hereinafter provided, no person shall light, ignite or start, or allow, or cause to be lighted, ignited or started, a fire of any kind whatsoever in the open air.
- (2) Materials resulting from demolition may only be burned on-site with the approval of the Fire Prevention Officer.
- (3) The Fire Prevention Officer may refuse to issue or may cancel a special permit whenever burning, having regard to all the prevailing circumstances, would likely be hazardous or create a nuisance.

### **Burning With A Permit**

- 9. (1) With a permit being secured, dry garden refuse of brush, grass, weeds, cuttings and like materials resulting from the cleaning of gardens and lots may be burned in the open air in small fires at times designated and advertised by the Fire Prevention Officer.
- (2) Every person who starts a fire during a designated open burning period shall place and keep a competent person at all times in charge of such fire while the same is burning or smoldering and until such fire is completely extinguished and shall provide that person with sufficient appliances and equipment in order to prevent the fire from getting beyond control or causing damage or becoming dangerous to life or property. These fires shall not be started when wind and weather conditions are such that to do so is likely to be hazardous or create a nuisance.
- (3) Burning during the designated open burning period shall be carried out only during daylight hours.
- (4) This regulation does not apply to:
  - (a) Small confined fires used for cooking food in grills and barbecues;
  - (b) Necessary burning authorized by Band Administration.
  - (c) Monitored cultural activities/ceremonies.

- (5) A portable incinerator or other portable device or appliance for burning garbage, rubbish, or other waste material shall not be erected or used nor shall any enclosed fire be built, set or maintained outside the walls of a building without a permit from the Fire Prevention Officer.

## **Public Assistance and Fire Control**

10. (1) No person shall impede, hinder or obstruct the extinguishment of any fire. Any person who fails to comply with the orders or instructions of an officer of the Kinistin Fire Department engaged or about to be engaged in the extinguishment of a fire shall be liable to the penalties provided herein and such person may be forceably removed from the scene of such emergency or fire by a police officer or firefighter.
- (2) No person shall refuse to permit any member of the Kinistin Fire Department to enter into or upon any premises for which an alarm of fire has been received or in or upon which such member has reasonable grounds to suspect that a fire exists.

## **Enforcement**

### **Issuance of Order**

11. (1) If the Fire Prevention Officer finds that any provision of this by-law has been contravened or has not been complied with, or has been complied with improperly or only in part, or that conditions exist in or upon a building or property to which the by-law applies and which, in his opinion, constitutes a fire hazard or otherwise constitutes a hazard to life and property, he may make such order to ensure full and proper compliance with this by-law and in particular, but without limiting the generality of the foregoing, he may
- (a) make to the owner, occupier or lessee of the building or property such recommendations as he deems necessary to correct the contravention or to ensure compliance with this by-law or to remove the hazards referred to in the by-law or,
  - (b) Make such orders, as he deems necessary with respect to any of the matters referred to in this by-law.
- (2) An order made under this by-law shall be in writing and shall be directed to either the owner, occupier or lessee of the building or property in respect of which the order is made, or to both.

## Service of Order

12. An order made under this by-law shall be served by delivering it or causing it to be delivered to the person to whom it is directed.

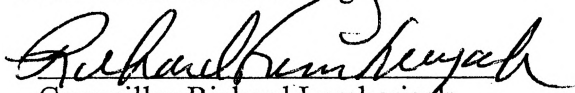
## Compliance with Order

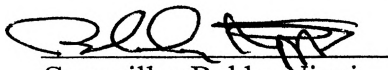
13. Every person served with an Order made under this by-law shall fully comply with the terms of the Order.
14. Any person contravening any of the provision of this by-law shall be liable on summary conviction to a fine minimum of one hundred (\$100) dollars and not exceeding five hundred (\$500) dollars or to imprisonment for a term not exceeding thirty (30) days, or both fine and imprisonment.
15. 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.
16. This by-law comes into force 40 days after the 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 Kinistin Band this 05 day of June, 2002.

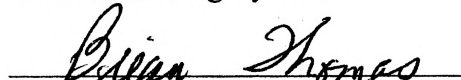
Voting in favour of the by-law are the following members of the Council:

  
Chief Donna Renneberg

  
Councillor Richard Lumberjack

  
Councillor Bobby Nippi

  
Councillor Gregory Scott

  
Councillor Brian Thomas

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Councillor Wayne Thomas Wayne Thomas

Being the majority of those members of the Council of the Kinistin Band 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, Sheneberg, Chief/Councillor 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 District office pursuant to subsection 82(1) of the Indian Act, this 05 day of June, 2002.

[Signature]  
Witness

Wayne Thomas  
Councillor