

JAMES SMITH CREE NATION 370

BY-LAW NO. 1-01 of the James Smith Cree Nation 370 A By-law for the Preservation, Protection and Management of Fur Bearing Animals and Other Game

Preamble:

WHEREAS the James Smith Cree Nation 370 have the inherent, treaty and statutory right to control and regulate hunting, trapping and fishing on their own lands and territories.

AND WHEREAS the Council of the James Smith Cree Nation 370 considers it expedient and necessary to provide for the preservation, protection and management of Game on Peter Chapman Band Cumberland 100A lands and territories,

AND WHEREAS the Council of the James Smith Cree Nation 370 desires to make a by-law to govern, preserve, protect and manage game on their lands and territories and matters ancillary thereto, and to dispense penalty for the violation thereof,

THEREFORE the Council of the James Smith Cree Nation 370 hereby enacts the following by-law.

Short title:

1. This by-law will be cited as "The Game Hunting By-Law on James Smith Cree Nation 370 lands."

Interpretation:

2. In this by-law

- 2.1 "Band" means the James Smith Cree Nation 370
- 2.2 "Council" means the duly elected officers responsible for the making of, and the administration of by-laws to govern the affairs of the James Smith Cree Nation 370 people and James Smith Cree Nation 370 lands.
- 2.3 "Game" means deer, moose, elk, bear and any other vertebrate animal wild by

nature and/or being designated so by the Council.

- 2.4 "Game Officer" means an appointed officer who is responsible for the administration and enforcement of this by-law.
- 2.5 "Inherent Right" means a right given by the Creator to a person or a group of people, and being Divinely given the inherent right to be passed on from generation to generation.
- 2.6 "Hunting" means taking wounding, killing, chasing, capturing, searching for, shooting at, stalking or ambushing any Game, whether or not the game is subsequently killed.
- 2.7 "Officer" means a police officer, police constable or other person charged with the duty to preserve and maintain public order and peace, or any other person appointed by the Council for the purpose of maintaining law and order on James Smith Cree Nation 370, Peter Chapman Band Cumberland 100A lands.
- 2.8 "Lands" means all land owned by the James Smith Cree Nation 370, Peter Chapman Band Cumberland 100A by way of treaty right, and through purchasing of land.
- 2.9 "Snare" means any device used to capture or take Game.
- 2.10 "Trap" means any spring trap, gin, dead-fall box or net used to capture game.

Administration

- 3.1 The Council may by resolution, appoint one or more game officers to carry out duties pertaining to the administration and enforcement of this by-law as prescribed herein.
- 3.2 The Council may, in the resolution, provide, for a reasonable remuneration to be paid to a game officer appointed under subsection 3.1.
- 4. The Council may designate any officer to perform such functions pertaining to the administration and enforcement of this by-law as prescribed herein to be performed by a game officer.

General Prohibitions on Hunting

- 5.1 No person other than James Smith Cree Nation 370 members shall engage in hunting Game on Peter Chapman Band Cumberland 100A lands except as permitted by this by-law.

- 5.2 Notwithstanding anything in this by-law a person on may, where necessary to prevent damage to private property or injury to occupants of occupied Peter Chapman Band Cumberland 100A lands, hunt, take, snare, shoot or kill Game at anytime if the incident is reported, and such game or carcass is surrendered forthwith to the nearest game officer.
6. Subject to the provisions of this by-law, members of the Band may engage in hunting on James Smith Cree Nation 370, Peter Chapman Band Cumberland 100A lands at any time.

Hunting Permits

- 7.1 A person who is not a member of the band may apply to the Council for a permit to hunt Game on Peter Chapman Band Cumberland 100A lands and such a person shall be subject to a permit fee which can be increased when needed, to address changes of conditions and circumstances related to this by-law.
- 7.2 The application shall specify:
- a) the name, age and address of the applicant;
 - b) the date and place for which the permit is sought;
 - c) the species of Game for which the permit is sought;
 - d) the specific type of equipment used; and
 - e) such other information as is required to enable the council to address the considerations set out in subsection 7.3 and the criteria set out in subsection 7.4.
- 7.3 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 James Smith Cree Nation 370;
 - b) whether or not the applicant has previously held a permit, and if so, has complied with the provisions of the permit and any previous by-law pertaining to hunting.
- 7.4 Where the Council determines that:
- a) the issuing of a permit will not detrimentally affect the species of game for which the permit is sought and the lands and properties of the Peter Chapman Band Cumberland 100A, and
 - b) the applicant is a suitable person to have a permit to hunt on Peter Chapman Band Cumberland 100A lands, the Council may issue a written permit authorizing the person to hunt on Peter Chapman Band Cumberland 100A lands, specifying therein the name and address of the applicant, the time and place, the specific type of equipment, the type of Game species to be hunted and the bag limit and size of the species of game that may be hunted by the permit holder.
 - c) the number of permits already issued for the species of game for which the permit is sought, and

d) whether or not there is sufficient game of that species on any of Peter Chapman Band Cumberland 100A owned lands at the time to meet the needs of Band members and permit holders without detrimentally affecting that species.

7.5 Notwithstanding the criteria and considerations in subsections 7.1, 7.2, 7.3, and 7.4, the Band from time to time may issue a special permit to allow a non-band member to hunt on Peter Chapman Band Cumberland 100A lands under the supervision of trained Band outfitters and guides.

7.6 A permit issued pursuant to this section is non-transferrable.

8. A person holding a permit issued under subsections 7.4 and 7.5 shall not hunt on Peter Chapman Band Cumberland 100A lands except in accordance with the terms of the permit issued by the Council.

9. A permit issued under this by-law is not valid if:

9.1 it is not signed by the person to whom it is issued,

9.2 the date of expiry has been omitted, removed or defaced.

10.1 A person hunting under authority of a permit issued pursuant to section 7 shall have the permit on his person while hunting on James Smith Cree Nation 370, Peter Chapman Band Cumberland 100A lands.

10.2 A Band Councillor or game officer may at any time require any permit holder who is hunting on Peter Chapman Band Cumberland 100A lands to produce his permit.

11. The Council may after a notice and hearing, cancel the permit of any person where it is satisfied that;

11.1 the person has contravened the terms of the permit of this by-law, or

11.2 the continuation of this permit would be detrimental to the preservation or protection of Game animals or other game on Peter Chapman Band Cumberland 100A lands.

12. The holder of a permit obtained through any false or misleading statement of information made or given pertaining to any information required for the issuance of the permit, shall be deemed to be a holder of a void permit and the holder of the void permit may be prosecuted in the same manner and with the same effect as he could be prosecuted if he were not a holder of a permit.

13. For the purpose of preserving Game on the Peter Chapman Band Cumberland 100A

lands, the Council reserves the right not to issue a Game hunting permit to anyone during the period between January 1 and August 31.

Prohibited Hunting Areas - this is for safety reasons

14. No person hunting under permit shall at any time engage in hunting within the following areas of Peter Chapman Band Cumberland 100A land
 - 14.1 within 150 metres of any occupied residence on Peter Chapman Band Cumberland 100A land.
 - 14.2 within 150 metres of any settlement on Peter Chapman Band Cumberland 100A land, which for the purpose of this by-law means any public buildings situated on Peter Chapman Band Cumberland 100A lands.
 - 14.3 on lands with standing crops or
 - 14.4 on lands on which herds of domesticated livestock are pastured or housed or are known to be or seen on any grazing lands in the pasture.

Hunting with Firearms

15. No person hunting under permit shall discharge or cause to be discharged a firearm within 150 metres of
 - 15.1 A residential building or settlement building as per subsection 14.
 - 15.2 A public road or bridge
 - 15.3 Any game preserve or bird sanctuary that may be set up by the Band.
16. No person hunting under permit shall discharge a firearm:
 - 16.1 on or from a public road
 - 16.2 across a public road
 - 16.3 from a motor vehicle, aircraft or power boat.
17. No person hunting under permit shall have a loaded firearm in his possession.
 - 17.1 while he is under the influence of alcohol or a drug.
 - 17.2 while he is in a motor vehicle, aircraft or power boat.
18. No person who is in possession of a firearm for the purpose of hunting shall discharge or cause to be discharged carelessly that firearm, or in other ways handle the firearm without due care, attention, or without consideration of the safety of other persons and property.
19. No person shall use any devices which connects a firearm to a trap or remote control or

19. No person shall use any devices which connects a firearm to a trap or remote control or delayed - action mechanism or which causes a firearm to be discharged without the hunter himself pressing upon the trigger.

Hunting Rules

20. No person hunting under permit shall hunt deer, bears, moose, elk or any other Game in restricted areas set out in section 14 of this act.
21. No person hunting under permit shall hunt deer, bears, moose, elk or any other Game by using a trap or snare.
22. No person hunting under permit shall use any poison, explosive or deleterious substance for hunting purposes.
- 23.1 No person hunting under permit shall hunt deer, bears, moose, elk or other Game by means of, or with the assistance of a dog or when accompanied by a dog.
- 23.2 Subsection 23.1 d does not apply where the hunting of Game is necessary for the prevention of
- a) damage to private or public property, or
 - b) injury to occupants of occupied land, if the incident is reported and the carcass is surrendered immediately to the nearest game office.
24. No person while engaged in hunting on Peter Chapman Band Cumberland 100A lands shall conceal his identity in any way, shape or form.
25. All persons engaged in hunting on Peter Chapman Band Cumberland 100A lands are subject to the rules and guidelines set down in this act and in any amendments to this act.

Conservation

26. A person shall not disturb, destroy or injure the shelter or habitat of Game or any other game.
27. No person shall at any time engage in the hunting of any species which may from time to time be designated by Band Council Resolution, a protected species.
- 27.1 The Council may 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 26, by giving notice in accordance with subsections 27.2 and 27.3.
- 27.2 Notice of the ban or restriction shall be posted not less than 24 hours prior to the ban or restriction coming into force. The notice shall be posted:

- a) in conspicuous places in areas of James Smith Cree Nation 370, Peter Chapman Band Cumberland 100A land on which hunting is engaged in and
- b) in the Band Council Office and other public buildings on James Smith Cree Nation 370, Peter Chapman Band Cumberland 100A land.

27.3 The notice shall specify the date and time the ban or restriction is to come into effect and cease and the particulars of the ban or restriction imposed.

27.4 No ban or restriction imposed under this section shall remain in force for a period of more than thirty days, unless a further ban or restriction is imposed and further notice is given in accordance with subsections 27.2 and 27.3.

Enforcement

28. A person who:
- 28.1 fails to observe or otherwise contravenes any provision of this by-law or any ban or restriction imposed hereunder; or
 - 28.2 resists or wilfully obstructs a game of officer in the performance of any duty or in the exercise of any power under this by-law, commits an offence and is thus subject to a penalty as set down in section 3.1.

29. 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 acts 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

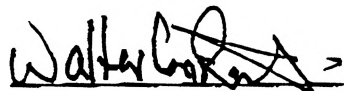
30. A person who commits an offence under this by-law is liable on summary conviction to a fine not exceeding \$1,000.00 or to imprisonment not exceeding thirty days or both.

Amendment


31. This by-law can be amended by the Council to suit any changes and circumstances that pertain to Game Hunting on James Smith Cree Nation 370, Peter Chapman Band Cumberland 100A lands.


THIS BY-LAW IS HEREBY made at a duly convened meeting of the council of the James Smith Cree Nation 370 this 14 day of JUNE, 2001.

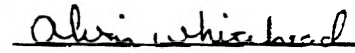
Voting in favour of the By-Law are the following members of the Council:

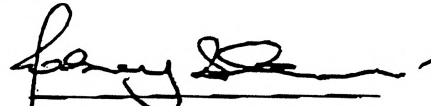

(Chief)

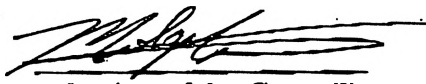

(Chief)

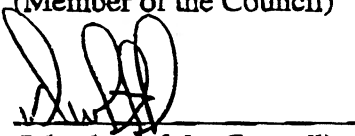

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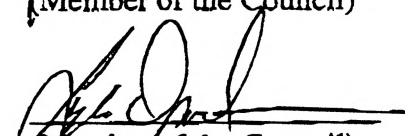

(Member of the Council)


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being the majority of those members of the Council of the James Smith Cree Nation 370 present at the aforesaid meeting of the Council.

The quorum of the Council is _____ members.
Number of members of the Council present at the meeting: _____.

I, GERALD WHITEHEAD 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 North Central District office of the department pursuant to subsection 82(1) of the Indian Act, this 7th day of September, 2001.

