

# LAKE BABINE NATION DISORDERLY CONDUCT & NUISANCE BY-LAW 2024-2

*A by-law to prevent and abate disorderly conduct and nuisance on LBN reserves*  
2024-07-26

Approved by Council on July 26, 2024



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## **PREAMBLE**

**WHEREAS** LBN has an inherent right of self-government that emanates from our people, culture, and land and is recognized and affirmed by s. 35(1) of the *Constitution Act, 1982*;

**AND WHEREAS** LBN's inherent right of self-government includes jurisdiction over its reserve lands;

**AND WHEREAS** LBN, since time immemorial, has had traditional laws and teachings regarding protection of members, residents, and community, including a traditional practice of banishment where an individual has, through certain acts, lost the trust of the community;

**AND WHEREAS** the Chief and Council of LBN have an obligation to protect LBN members and residents, particularly Elders, children, and other vulnerable community members, from acts or threats of acts that may cause harm or diminish the health and safety of LBN members, residents, and the community;

**AND WHEREAS** it is considered necessary for the health and welfare of LBN to regulate the conduct of LBN residents and other persons on the reserve lands;

**AND WHEREAS** LBN deems it advisable and in the best interests to enact a by-law for the prevention of nuisances and disorderly conduct within its reserve lands;

**AND WHEREAS** LBN is empowered to make such a by-law pursuant to paragraphs 81(1)(a), (c), (d), (e), (h), (q), and (r) of the *Indian Act*;

**AND WHEREAS** nothing in this by-law may be interpreted as abrogating or derogating from the rights of LBN in its unceded territories;

**NOW THEREFORE** the Chief and Council of LBN hereby make the following by-law:



## 1.0 Short Title

1.1 This by-law may be cited as the *“Lake Babine Nation Disorderly Conduct and Nuisance By-law.”*

## 2.0 Interpretation

2.1 In this by-law:

**“Council”** means the duly elected Chief and Council of LBN;

**“Disorderly Conduct”** means any act or behaviour that disrupts the public order on a Reserve, including, but not limited to:

- a) fighting;
- b) making or causing unreasonable noise;
- c) using abusive language;
- d) using offensive or indecent gestures or displays;
- e) consuming alcohol, drugs, or illegal substances in a public place;
- f) being drunk or under the influence of an illegal substance in a disorderly manner;
- g) loitering;
- h) exposing, firing, or discharging any gun, pistol, or other firearm, or using or threatening to use any other article as a weapon; or
- i) interfering in any manner with the orderly conduct of commercial, administrative, educational, recreational, health care, religious, or ceremonial activities on the Reserve;
- j) any behaviour that may, from time to time, be specified by Council.

**“Officer”** means

- a) any person designated in writing by Council to enforce this by-law;
- b) RCMP officers; and
- c) any other person charged by Canada or the province of British Columbia with the duty to preserve and maintain public peace in accordance with their laws.

**“False Alarm”** means unreasonably calling 9-11 or activating an alarm system resulting in the delivery of fire, police, or emergency response services where the providers of the service do not find any evidence of unlawful acts; fire; fire damage; smoke in relation to the building, structure, residence, or facility; or where there has been no other fire or emergency.





**“Housing Policy”** means LBN’s Housing Policy, as amended from time to time;

**“LBN”** means Lake Babine Nation, Band #607;

**“Nuisance”** means any act, activity, or condition that takes place on a Reserve which substantially and unreasonably interferes with a Person’s use and enjoyment of land; adversely affects a Person’s health, comfort, or convenience; or adversely affects the public health, safety, or welfare of the LBN community. Without limiting the generality of the foregoing, **“Nuisance”** includes the following:

- a) abandoning cars, household appliances, furniture, or any parts thereof;
- b) storing abandoned cars, household appliances, furniture, or any parts thereof;
- c) dumping or storing of tires, garbage, or other refuse;
- d) burning tires, grass, garbage, or other refuse;
- e) discharging a potentially noxious substance into the air or water;
- f) driving or parking heavy trucks in residential areas, other than for short periods of time for the purposes of delivering goods and materials to a residence;
- g) making or causing any noise or sound which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of the public, the neighbourhood, or members or Persons in the vicinity;
- h) creating noxious or unpleasant smells;
- i) vandalism, including removing, defacing, destroying, mutilating, or in any manner whatsoever damaging or attempting to damage land, structures, or property;
- j) 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 on the Reserve, scandalizes the community, or causes public inconvenience, annoyance, or alarm;
- k) committing three (3) or more False Alarms on the same Premises within a twelve (12) month period; or
- l) failing to control dangerous or unruly animals of any kind.

**“Occupier”** means the owner, tenant, lessee, agent, or other Person who has the right of access to and responsibility for any building or Premises and includes an “Occupant” as defined in the LBN Housing Policy, as amended from time to time.

**“Officer”** means:

- a) any person designated in writing by Council to enforce this by-law;



- b) RCMP officers; and
- c) any other person charged by Canada or British Columbia with the duty to preserve and maintain the public peace in accordance with their laws;

“**Owner**” means, in respect of Private Property, the registered owner(s) of the lands or the registered lease holder(s), as the context requires, and includes a “Tenant” as defined in the LBN Housing Policy.

“**Person**” in addition to its ordinary meaning, includes any association, society, corporation, or partnership.

“**Premises**” means a building or structure together with its appurtenances, and for greater certainty, includes Premises on Private Property.

“**Private Property**” means land on Reserve held or occupied by a Person for residential or commercial purposes, whether via leasehold, life estate, or other form of tenure, and for greater certainty, includes a “Rental Home” as defined in the Housing Policy.

“**Reserves**” means those lands which have been set apart as “reserves” within the meaning of the *Indian Act* for the use and benefit of LBN, and includes Fort Babine Indian Reserves #6 and #16, Old Fort #11, Tachet #25, Donald’s Landing/Pinkut Reserves #21B and #22, and Woyenne #27, and “**Reserve**” means any one of the Reserves.

### 3.0 Application

3.1 This by-law applies to all of the Reserves.

### 4.0 Prohibitions

4.1 No person shall:

- (a) commit an act of Disorderly Conduct or Nuisance; or
- (b) in the case of an Owner or Occupier, permit an act of Disorderly Conduct or Nuisance to occur.

4.2 No Person shall obstruct, interfere with, or hinder an Officer in the carrying out of their duties and responsibilities under this by-law.

### 5.0 Abatement Order

5.1 An Officer may order any Person who is engaging in or threatens to engage in any Disorderly Conduct or Nuisance to stop such conduct immediately.



- 5.2 An Officer may order any Person who is causing or threatens to cause an act of Disorderly Conduct or Nuisance to refrain from so doing, or to abate the Disorderly Conduct or Nuisance within such period as is reasonable in the circumstances.
- 5.3 If an Officer orders a Person to abate a Nuisance, the Officer may order the Person to remove any object from the Reserve or Reserves, as the case may be, that contributes to or is a result of that Nuisance.
- 5.4 In determining whether a period fixed by an Officer under section 5.2 is reasonable in the circumstances, a court shall consider:
- (a) the nature and extent of the Disorderly Conduct or Nuisance;
  - (b) the methods available to abate the Disorderly Conduct or Nuisance;
  - (c) the approximate time required to abate the Disorderly Conduct or Nuisance; and
  - (d) the effect of the order on any business or means of livelihood of the Person who is the subject of the Officer's order.
- 5.5 Where a person fails or refuses to comply with an order under section 5.1 or 5.2, an Officer may take such reasonable measures as are necessary to stop the Disorderly Conduct or Nuisance, as the case may be.
- 5.6 For the purposes of section 5.5, an Officer may enter onto any property on the Reserve (including Private Property) and remove any object from the Reserve that contributes to or is a result of a Nuisance.

## **6.0 Inspection and Investigation**

- 6.1 An Officer is authorized to enter onto any property on the Reserve (including Private Property) upon reasonable notice and during business hours, or, if emergency or other exigent circumstances exist, without notice and at any time, to inspect and determine whether or not any acts of Disorderly Conduct or Nuisance have occurred or are occurring.
- 6.2 An Officer that makes an order under this by-law shall cause the order to be served on the Person subject to the order within seven (7) days of issuing the order.
- 6.3 An Officer shall serve an order made under this by-law:
- (a) by delivering it or causing it to be delivered to the Person subject to the order;



- (b) where the order is directed at an Owner or Occupier, by mailing the order to that Person at their last known address; or
- (c) if the Person subject to the order cannot be found, is not known, or refuses to accept service of the order, by posting a copy of the order in a conspicuous place on the Premises where the alleged Disorderly Conduct or Nuisance occurred.

## 7.0 Offences and Penalties

7.1 A Person commits an offence if they:

- (a) contravene or violate any provisions of this by-law;
- (b) allow any act or thing to be done in contravention of this by-law; or
- (c) fail or neglect to do anything required to be done by this by-law.

7.2 Each day a violation of this by-law continues will be deemed to be a separate offence for which a fine or imprisonment may be imposed.

7.3 Upon being convicted of an offence under this by-law, a Person shall be liable:

- (a) on summary conviction, to a fine not exceeding One Thousand Dollars (\$1,000.00) or imprisonment for a term not exceeding thirty (30) days, or both; and
- (b) for any costs LBN incurs for services provided that are a consequence of the offence.

7.4 The penalties listed in Schedule "A" of this by-law shall be imposed for the applicable offences listed therein. The fine for any offence not listed in Schedule "A" is discretionary, subject to 7.3(a).

7.5 Council may, by band council resolution, modify the penalties listed in Schedule "A" from time to time.

7.6 LBN may recover any fines imposed under section 7.3 and 7.4 through the set-off of any Nation distributions of any kind which a Person liable for an offence under this by-law is entitled, including:

- (a) cash;
- (b) other property;
- (c) in the case of an employee, through garnishment of their employee wages.





7.7 In addition to any penalties under this Part of the by-law, LBN may apply to a court of competent jurisdiction for an order prohibiting the continuation or repetition of the offence.

## **8.0 Enforcement**

8.1 Any Officer is authorized to enforce this by-law.

8.2 It is acknowledged and agreed by Council and the members of LBN that an Officer has full and sufficient authority to enforce this by-law and other lawful by-laws of LBN to the best of their ability, including the authority to arrest and if necessary, use reasonable force against a Person who has committed an offence under this by-law.

## **9.0 Cost Recovery**

9.1 If LBN incurs costs to stop, prevent, abate, or remediate any Disorderly Conduct or Nuisance, LBN may bill and recover those costs from the Person or Persons who committed the Disorderly Conduct or Nuisance through any of the means described in section 7.6.

## **10.0 Judicial Review**

10.1 On any application for judicial review in respect of a decision or resolution made pursuant to this by-law, the Court shall take notice of the decision-maker's specialized knowledge about LBN's customary law, history, culture, values, and best interests.

## **11.0 Severability**

11.1 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.

## **12.0 Immunity**

12.1 No action for damages lies or may be instituted against past or present Council members, LBN employees, members, servants, or agents, or any Officer for:

(a) anything said, done, or omitted to be said or done by such a person in the performance or intended performance of such person's duties or the exercise of that person's authority under this by-law; or

(b) any alleged neglect or default in the performance or intended performance of such person's duty or the exercise of such person's authority under this by-law.




- 12.2 Past and present Council members and LBN employees, members, servants, and agents are not liable for any damages or other loss, including economic loss, sustained by any Person or to the property of any Person as a result of neglect or failure, for any reason, to discover or detect any contravention of this by-law or any other LBN by-law, or from the neglect or failure, for any reason or in any manner, to enforce this by-law or any other LBN by-law.
- 12.3 This by-law does not create any duty of care whatsoever on the part of LBN or its elected officials, officers, employees, or agents in respect of enforcement or failure to enforce this by-law. Neither the failure to administer or enforce, nor the incomplete or inadequate administration or enforcement of this by-law or inspections made by LBN staff, agents, or contractors gives rise to a cause of action in favour of any Person.
- 12.4 Nothing in this Part of the by-law provides a defence where past or present Council members, LBN employees, members, servants, or agents, or any Officer are guilty of dishonesty, gross negligence, malicious or wilful misconduct, or where the cause of action is in defamation.


### 13.0 Amendments


- 13.1 This by-law may only be amended by a quorum of Council at a duly convened Council meeting.


**THIS BY-LAW IS HEREBY** enacted at a duly convened meeting of the Council of Lake Babine Nation this 26<sup>th</sup> day of July, 2024.

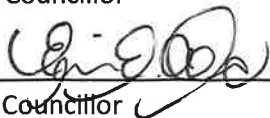
The quorum of Council is five (5) Members

  
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## Schedule "A": Mandatory List of Penalties

Offence(s)	1 <sup>st</sup> Offence	2 <sup>nd</sup> Offence	3 <sup>rd</sup> Offence
<ul style="list-style-type: none"> <li>• Fighting</li> <li>• Using abusive language</li> <li>• Using offensive or indecent gestures or displays</li> <li>• Loitering</li> <li>• Making or causing unreasonable noise</li> <li>• Driving or parking heavy trucks in residential areas, other than for short periods of time for the purposes of delivering goods and materials to a residence</li> <li>• Consuming alcohol, drugs, or illegal substances in a public place</li> <li>• Being drunk or under the influence of an illegal substance in a disorderly manner</li> <li>• Creating noxious or unpleasant smells</li> </ul>	\$150	\$250	\$500
<ul style="list-style-type: none"> <li>• Vandalism, including removing, defacing, destroying, mutilating, or in any manner whatsoever damaging or attempting to damage land, structures, or property</li> <li>• Failing to control dangerous or unruly animals of any kind</li> <li>• Committing three (3) or more False Alarms on the same Premises within a twelve (12) month period</li> </ul>	\$200	\$300	\$600
<ul style="list-style-type: none"> <li>• Abandoning cars, household appliances, furniture, or any parts thereof;</li> <li>• Storing abandoned cars, household appliances, furniture, or any parts thereof</li> <li>• Dumping or storing of tires, garbage, or other refuse</li> <li>• Burning tires, grass, garbage, or other refuse</li> <li>• Discharging a potentially noxious substance into the air or water</li> </ul>	\$250	\$500	\$750
<ul style="list-style-type: none"> <li>• Exposing, firing, or discharging any gun, pistol, or other firearm, or using or threatening to use any other article as a weapon</li> </ul>	\$500	\$1000	\$1000 + 30 days incarceration
<ul style="list-style-type: none"> <li>• Interfering with the duties or conduct of an officer</li> </ul>	\$500	\$750	\$1000

