

Eel Ground Indian Band

Box 9, Site 3, R.R. 1

Newcastle, N. B. E1V 3L8

DEC 13 03 08 06 27

BAND COUNCIL RESOLUTION

Council :	Eel Ground First Nation
District :	New Brunswick
Province :	New Brunswick
Date :	October 30, 1995

N^o 338

A quorum for this Band consists of 5 Council Members.

DO HEREBY RESOLVE:

BY-LAW NO. 1995.01

Of the Eel Ground Band

A BY-LAW TO DEAL WITH THE PREVENTION OF UNSIGHTLY OR DANGEROUS PREMISES AND NUISANCES ON THE EEL GROUND RESERVES.

WHEREAS the Council of the Eel Ground Band desires to make a by-law governing the prevention of unsightly or dangerous premises and nuisances, 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 violation thereof;

AND WHEREAS the Council of the Eel Ground Band is empowered to make such by-law pursuant to paragraphs 81(1)(a), (d), (f), (h), (q) of the Indian Act;

AND WHEREAS it is considered to be expedient and necessary for the benefit, comfort and safety of the inhabitants of the Eel Ground Band to provide for the prevention of unsightly or dangerous premises and nuisances on reserves;

NOW THEREFORE the Council of the Eel Ground Band hereby makes the following by-law:

Short Title

1. This by-law may be cited as the **Eel Ground Safe Property by-law**;

Interpretation

2. Band means the **Eel Ground Band**;

Council means the **Council of the Eel Ground Band**;

Dangerous Premises means a property or piece of land which contains such things as are potentially harmful or detrimental to the health of the residents of the reserve;

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Nuisance means any act, activity or condition, including

- . The abandonment of cars, household appliances or furniture, or parts of cars, household appliances or furniture in non-designated areas;
- . The storage of abandoned cars, household appliances or furniture, or parts of cars, household appliances or furniture in non-designated areas
- . The dumping or storage of tires, garbage or other refuse in non-designated areas;
- . The burning of tires, grass, garbage, or other refuse in non-designated areas;
- . The discharge of any substance in the air or water;
- . The abandonment of buildings or structures which are or have become unsafe for the habitation or other viable uses and there by constitutes a dangerous premise;

that materially impairs, otherwise than by direct physical interference, the use and enjoyment of a person's property, or that prejudicially affects a person's health, comfort or convenience or the public health, safety or welfare of the reserve residents, but does not include any act, activity or condition to the extent that it is unavoidably necessary for the carrying on of any business or other means of livelihood authorized by the Council;

Officer means any police officer, police constable, or other person charged the duty to maintain the public peace, a by-law officer, or the property inspector as appointed by the Council.

Nuisance

- 3.(1) Everyone who creates or causes a nuisance is guilty of an offence.
- (2) An officer may order any person who is creating or causing or who threatens to create or cause a nuisance on reserve to refrain from creating or causing the nuisance or to abate the nuisance within such period as is reasonable in the circumstances.

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- (3) In determining whether a period fixed by an officer under subsection (2) was unreasonable in the circumstances, a court shall take into account
- . The nature of the nuisance;
 - . The methods available to abate the nuisance;
 - . The approximate time required to abate the nuisance;
 - . The effect of the order on any business or means of livelihood of the person who is the subject of the order.

Enforcement

- 4.(1) The Council may, by resolution, appoint one or more property inspectors to administer and enforce this by-law. A property inspector may enter upon any premises between the hours of 9:00a.m. and 6:00p.m. to inspect the premises for compliance with this by-law.
- (2) Where a person who has been ordered to refrain from creating or causing or threatening to create or cause a nuisance or to abate a nuisance within a specified period, fails or refuses to comply with the order, an officer may take such reasonable measure to prevent or abate the nuisance. The cost of taking these measures may be recovered by the Council in an action against the owner or occupier of the premises in question.
- (3) A person who fails or refused to comply with an order may under subsection 3(2) or subsection 4(2), commits an offence.

Penalty

5. 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 for a term not exceeding thirty days or to both

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THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the Eel Ground Band this 21st day of November 1995.

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

[Signature]
Chief

[Signature]
Councillor

[Signature]
Councillor

[Signature]
Councillor

[Signature]
Councillor

[Signature]
Councillor

[Signature]
Councillor

[Signature]
Councillor

being the majority of those members of the Council of the Eel Ground Band 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 _____.

I, _____, Chief/Councillor of the Band, do hereby certify that a copy of the foregoing by-law was mailed to the Minister of Indian Affairs and Northern Development at the Atlantic Regional Office pursuant to the subsection 82(1) of the Indian Act, this _____ day of _____, 1995.

Witness

Chief/Councillor