

By-law No. 1998. 1

**A BY-LAW FOR THE PREVENTION OF
DISORDERLY CONDUCT AND NUISANCES**

or

**BEING A BY-LAW TO REPEAL
AND REPLACE BY-LAW 85.1 Intoxicants**

WHEREAS the Council of English River First Nation desires to make a by-law governing the prevention of disorderly conduct and nuisances, with respect to powers under section 81, 85.1 and for the imposition of a penalty for a violation thereof;

AND WHEREAS the Council of English River First Nation is empowered to make such by-law pursuant to paragraphs 81(1)(d), (q) and ® Section 85.1 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 English River First Nation to provide for the prevention of disorderly conduct and nuisances on the reserve;

AND WHEREAS the Council of the English River First Nation did enact By-law No. 1 on the 3rd day of August, 1988 and wishes to repeal the said By-law No. 1 and replace it with this by-law;

NOW THEREFORE the Council of English River First Nation hereby makes the following by-law:

Short Title

1. This by-law may be cited as the “ English River First Nation Reserve Disorderly Conduct and Nuisances By-law”.

Interpretation

2. In this by-law,
“First Nation” means the English River First Nation

“Council” means the Council, representative body elected by the members of English River First Nation

“Disorderly conduct” means any act or behavior, including

- a) fighting;
- b) making or causing unreasonable noise;
- c) using abusive language;
- d) using offensive or indecent gestures or displays;
- e) being intoxicated or possessing an intoxicant
- f) selling, bartering, supplying or manufacturing of intoxicants;
- 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,

that disrupts public order on the reserve, scandalizes the community, or causes public inconvenience, annoyance or alarm;

“Nuisance” means any act, activity or condition, including

- a) the abandonment of cars, household appliances or furniture, or parts of cars, household appliances or furniture;
- b) the storage of abandoned cars, household appliances or furniture, or parts of cars, household appliances or furniture;
- c) the dumping or storage of tires, garbage or other refuse;
- d) the burning of tires, grass, garbage, leaves or other refuse;
- e) the discharge of any substance into the air or water;
- f) noise;

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 community, but does

not include any act, activity or condition to the extent it is unavoidably necessary for carrying on any business or other means of livelihood authorized by the Council;

“Officer” means any police officer, police constable or other person charged with the duty to preserve and maintain the public peace, and a by-law officer or any other person appointed by the Council for the purpose of maintaining law and order on the reserve;

“Person” includes a corporation;

“Intoxicants” includes alcohol, alcoholic, spirituous, vinous, fermented malt, or other intoxicants liquor, or a combination of liquors and mixed liquor, part of which is spirituous, vinous, fermented or otherwise intoxicating, and all drinks or human consumption that are intoxicating;

“Reserve” means all those tracts of land, the legal title of which is vested in the her majesty, that has been set apart for the use and benefit of the English River First Nation membership, known as the:

La Plonge # 192
Elak Dase # 192A
Knee Lake # 192B
Wapachewanak # 192D
Ile a La Crosse # 192E
Primeau Lake # 192F
Cree Lake # 192G

Disorderly Conduct

- 3.(1) Every one who commits an act of disorderly conduct is guilty of an offense.
- (2) An officer may order any person who is engaging in any disorderly conduct to stop such conduct immediately.

Nuisance

- 4.(1) Every one who creates or causes a nuisance is guilty of an offense.
- (2) An officer may order any person who is causing or who threatens to cause a nuisance on the reserve to refrain from causing the nuisance or to abate the nuisance within such period as is reasonable in the circumstances.
- (3) In determining whether a period fixed by an officer under subsection (2) was reasonable in the circumstances, a court shall take into account
 - a) the nature and extent of the nuisance;
 - b) the methods available to abate the nuisance;

- c) the approximate time required to abate the nuisance;
- and
- d) the effect of the order on any business or means of livelihood of the person who is the subject of an order.

Enforcement

- 5.(1) Where a person who has been ordered to stop engaging in disorderly conduct, or to refrain from causing 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 measures as are necessary to stop the disorderly conduct, or to prevent or to abate the nuisance.
- (2) A person who fails or refuses to comply with an order made under subsection 3(2) or subsection 4(2), or who resists or interferes with an officer acting under subsection 3(2) or subsection 5(1), commits an offense.

Penalty

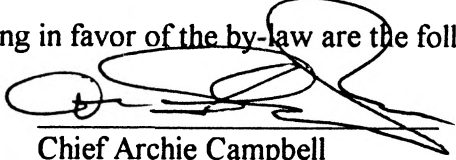
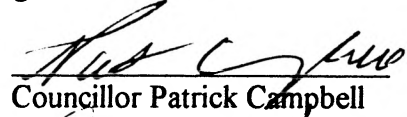
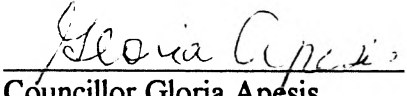
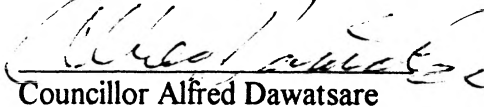

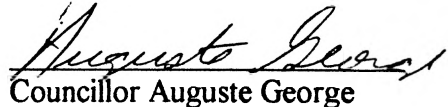
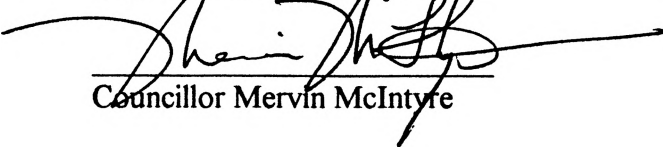
- 6.(1) A person who commits an offense under this by-law is liable on summary conviction to a fine not exceeding \$1,000.00 or to imprisonment for a term not exceeding three months, or to both.
- (2) No person shall, sell, barter, supply or manufacture intoxicants on the reserves of the English River First Nation, and every persons who, in contravention of any provision of this by-law sells, barter, supplies or manufacturers intoxicants on the reserves of the English River First Nation is guilty of an offense and liable on summary conviction to a fine of not more than \$1,000.00 or to imprisonment for a term not exceeding 6 months, or to both.

Fine Dispositions

Section 104 of the Indian Act, under this section, fines imposed for by-law offenses are to be deposited in the Revenue Account of English River First Nation.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the English River First Nation this 6th day of August, 1998.

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

 Chief Archie Campbell	 Councillor Patrick Campbell
 Councillor Gloria Apeis	 Councillor Alfred Dawatsare
 Councillor Roderick Apeis	 Councillor Auguste George
 Councillor Mervin McIntyre	

being the majority of those members of the Council of the English River First Nation 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: 7

I, Archie Campbell, Chief of the English River First Nation do hereby certify that an original of the foregoing by-law 1998.1 was mailed to the Minister of Indian Affairs and Northern Development at the District/Regional/Hull office (as the case may be) pursuant to subsection 81, 82(1), 85.1 of the Indian Act, this 10th day of August, 1998.

(Witness)

(Chief/Councillor)