

**WAUZHUSHK ONIGUM NATION DISORDERLY CONDUCT AND NUISANCES
BYLAW**

(BYLAW NO. 1, 2006)

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A bylaw to provide for the prevention of disorderly conduct and nuisances within the Wauzhushk Onigum Nation Reserve

WHEREAS section 81 of the *Indian Act* provides that the Council of a Band may make bylaws for any or all of the following purposes:

- the observance of law and order;
- the prevention of disorderly conduct and nuisances;
- with respect to any matter arising out of or ancillary to the exercise of the aforementioned powers;
- the imposition on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty days, or both, for violation of a bylaw made under section 81.

AND WHEREAS it is considered to be expedient and necessary for the benefit, comfort and safety of the Wauzhushk Onigum Nation to provide for the prevention of disorderly conduct and nuisances on the Wauzhushk Onigum Nation Reserve.

NOW THEREFORE the Council of the Wauzhushk Onigum Nation at a duly convened meeting enacts as a bylaw the following:

**PART I
SHORT TITLE**

- 1 This bylaw may be cited for all purposes as the *Wauzhushk Onigum Nation Disorderly Conduct and Nuisances Bylaw*.

**PART II
INTERPRETATION**

Definitions

- 2 The following terms whenever used in this bylaw, or in any resolution of Council passed relating to this bylaw, will have the meaning respectively ascribed to them in this section unless the context otherwise requires:

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“**Act**” means the *Indian Act*, R.S.C. 1985, Chapter I-5 (together with all regulations made pursuant to same), and any amendments thereto;

“**Band**” means the Wauzhushk Onigum Nation;

“**Band Member**” means a member of the Wauzhushk Onigum;

“**Bylaw Enforcement Officer**” means a person so appointed under section 7 of this bylaw;

“**Council**” means the Council of the Wauzhushk Onigum Nation within the meaning of section 2(1) of the *Indian Act*, or a successor to that Council;

“**Disorderly Conduct**” means any act or behaviour, including:

- a) fighting;
- b) making or causing unreasonable noise;
- c) using abusive language;
- d) using offensive or indecent gestures or displays;
- e) being drunk;
- f) loitering;
- g) exposing, firing or discharging any gun, pistol or other firearm, or using or threatening to use any other article as a weapon, except in defence of life or property; or
- h) 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;

“**Enactment**” includes an Act of Canada or the Province of Ontario, a regulation made under such an Act, a bylaw or code of the Wauzhushk Onigum Nation or the Wauzhushk Onigum Nation Council, and any portion of any of the foregoing;

“**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; or
- f) noise;

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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, 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, or any other person appointed by the Council for the purpose of maintaining law and order;

"Reserve" means Kenora Reserve No. 38B;

"Trespass" means the entry onto, or the presence on, the reserve by a person without lawful jurisdiction..

Interpretation

3 In this bylaw

- (1) words in the singular include the plural, and words in the plural include the singular,
- (2) words importing female persons include male persons and corporations and words importing male persons include female persons and corporations,
- (3) where a word or expression is defined, other parts of speech and grammatical forms of the same word or expression have corresponding meanings,
- (4) the expression "will" is to be construed as imperative, and the expression "may" as permissive;
- (5) unless otherwise clear from the context,
 - (a) "including" means "including, but not limited to", and
 - (b) "includes" means "includes, but is not limited to",
- (6) headings and subheadings are inserted for convenience of reference only, do not form a part of this bylaw and in no way define, limit, alter or enlarge the scope or meaning of any provision of this bylaw, and
- (7) a reference to an enactment includes every amendment to it, every regulation made under it and any law enacted in substitution for it or in replacement of it.

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- 4 This bylaw and each of its provisions shall be considered as always speaking and where a matter or thing is expressed in the present tense, it shall be applied to the circumstances as they arise, so that effect may be given to this bylaw according to its true spirit, intent and meaning.
- 5 The Schedules and Forms attached to this bylaw constitute part of it.
- 6 This bylaw is passed with the intention that if any part of this bylaw is declared or held invalid for any reason, the invalidity of that part shall not affect the validity of the remainder which shall continue in full force and effect and be construed as if this bylaw had been executed without the invalid part.

**PART III
BYLAW ENFORCEMENT OFFICER**

Appointment

- 7 The Council may from time to time appoint a person to be the Bylaw Enforcement Officer, and may at any time terminate any such appointment.
- 8 The Bylaw Enforcement Officer will have the powers and carry out the duties prescribed for such officer in this bylaw.

Obstruction of Bylaw Enforcement Officer

- 9 No person will interfere with, obstruct or impede the Bylaw Enforcement Officer while he is acting in the exercise of the powers or the carrying out of the duties prescribed for the Bylaw Enforcement Officer in this bylaw.

**PART IV
DISORDERLY CONDUCT & NUISANCE**

Disorderly Conduct

- 10 Every person who commits an act of disorderly conduct on the Reserve is guilty of an offence.
- 11 The Bylaw Enforcement Officer, an Officer, or any person appointed by the Council may order any person who is engaging in disorderly conduct on the Reserve to immediately cease such conduct.

Nuisance

- 12 Every person who creates or causes a nuisance on the Reserve is guilty of an offence.

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- 13 The Bylaw Enforcement Officer, an Officer, or any person appointed by the Council 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.
- 14 In determining whether a period fixed by an officer under section 13 was reasonable under the circumstances, a court, or other competent body, shall take into account
- (1) The nature and extent of the nuisance;
 - (2) The methods available to abate the nuisance;
 - (3) The approximate time required to abate the nuisance; and
 - (4) The effect of the order on any business or means of livelihood of the person who is the subject of an order.

**PART V
ENFORCEMENT & PENALTY**

Enforcement

- 15 Where a person who, pursuant to section 11, has been ordered to cease engaging in disorderly conduct, or to refrain from causing a nuisance or to abate a nuisance within a specific period, fails or refuses to comply with the order, the Bylaw Enforcement Officer, an Officer or any person appointed by the Council may take such reasonable measures as are necessary to stop the disorderly conduct, or to prevent or to abate the nuisance.
- 16 A person who fails or refuses to comply with an order made under section 11 or section 13, or who resists or interferes with the Bylaw Enforcement Officer, an Officer or a person appointed by the Council acting under section 11 or section 13 commits an offence.

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Penalty

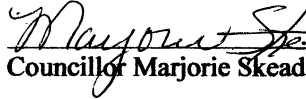
17 A person who violates any provision of this by-law commits an offence and is liable on summary conviction to a fine not exceeding \$1,000.00 or to imprisonment for a term not exceeding thirty days, or to both.

THIS BY-LAW IS HEREBY made at a duly convened meeting of the band council of the Wauzhushk Onigum Nation this 25th day of July, 2006.

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


Chief Ken Skead


Councillor Walter Skead


Councillor Marjorie Skead


Councillor John Morrison

The quorum of the Council is 3 members.

Number of the council members present at the meeting: 4.

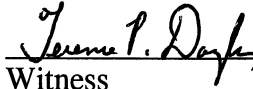
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I, Ken Skead, Chief of the Wauzhushk Onigum Nation, do hereby certify that a true copy of the foregoing bylaw was forwarded to the Minister of Indian Affairs and Northern Development pursuant to sub-section 82(1) of the Indian Act this 25th day of July, 2006.



Chief Ken Skead



Witness