

**TLOWITSIS TRIBE
BYLAW NUMBER 2004-001**

A Bylaw for the Observance of Law and Order,
the Prevention of Disorderly Conduct and Nuisances
within the boundaries of the Indian Reserves of the Tlowitsis Tribe

PREAMBLE

WHEREAS it is deemed to be in the best interests, health, safety and welfare of the Tlowitsis Tribe:

- A. to preserve the amenities on its Indian Reserve lands,
- B. to prevent disorderly conduct and nuisances within its Indian Reserve lands and any and all matters ancillary thereto as set out in this Bylaw, and
- C. to impose a penalty for any breach, infraction or violation of matters for prohibited purposes in this Bylaw.

AND WHEREAS it is deemed to be in the best interests, comfort, health, safety and welfare of the Tlowitsis Tribe to establish a bylaw to provide for the punishment of persons engaging in disorderly or unlawful conduct and/or committing a nuisance on the reserves of the Tlowitsis Tribe;

AND WHEREAS the *Indian Act*, R.S.C. 1985, Chapter I-5, sections 81(1)(a), (b), (c), (d), (e), (f), (g), (h), (j), (l), (m), (n), (o), (p), (q) and (r) provide that the Council of an Indian Band may make such bylaws.

NOW THEREFORE the Council of the Tlowitsis Tribe at a duly convened meeting enacts as a bylaw the following:

1.0 SHORT TITLE

- 1.1 This Bylaw may be cited for all purposes as the "Tlowitsis Law and Order Bylaw No. 2004-001."

2.0 INTERPRETATION

- 2.1 All definitions in this Bylaw shall bear the same meaning as those set out in the *Indian Act*, R.S.C. 1985, Chapter I-5, unless otherwise expressly provided herein.

3.0 DEFINITION

3.1 The following terms, whenever used in this Bylaw or in any resolution of the Council dealing with this Bylaw, shall have the meanings respectively ascribed to them in this section unless the context otherwise requires:

"Authorized Persons" means and includes:
(i) a Band Bylaw Enforcement Officer,
(ii) any person expressly appointed by the Council to exercise authority in relation to this Bylaw (such as the Band Manager or Band Administrator, or the Zoning Administrator as defined in Zoning Bylaw #2004-003), or
(iii) a Peace Officer as defined herein.

"Band" means the Tlowitsis Tribe, being a band as defined by section 2(1) of the Indian Act.

"Band Bylaw Enforcement Officer" means that person appointed by the Council:
(i) to administer and enforce the civil provisions of the Bylaws of the Band as enacted by Council from time to time, and
(ii) to advise and report to Council on matters relating to the administration and enforcement of the civil provisions of the Bylaws.

"Band List" means a list of members of the Tlowitsis Tribe, a "band", pursuant to section 9(1) of the Indian Act.

"Band Member" means a person whose name appears on the list of members of the Tlowitsis Tribe, a "band", or a person who is entitled to have her/his name appear on that list pursuant to section 2(1) of the Indian Act.

"Boulevard" means that part of a highway on or within Tlowitsis Reserve Lands that is:
(i) not a roadway,
(ii) part of the sidewalk not especially adapted to the use of or ordinarily used by pedestrians, or
(iii) that portion of the right-of-way between the property or Lot line and the curb lines or lateral lines of a roadway.

"Breaches" means any act or omission contrary to, infraction or violation of, the provisions of this Bylaw.

"Breakwater" means any floating or fixed structure used or intended to be used to reduce or dampen waves or swells created by wind, tides, marine traffic or other causes.

"Building" means any structure used or designed to be used for shelter, accommodation or enclosure of persons, animals, or chattels.

"Building Accessory" means
(i) a building, the use or intended use of which is ancillary to

- that of the principal building on the same lot, or
- (ii) a building which is ancillary to the principal use being made of the lot upon which such building is located.

"Civil Breaches"

means any act or omission contrary to, infraction or violation of, the civil provisions of this Bylaw in respect of:

- (i) the protection of health of residents or occupiers on the reserve and the prevention of the spreading of contagious and infectious disease pursuant to section 81(a) of the *Indian Act*;
- (ii) the dividing of the reserve or portion thereof into zones and the prohibition of the construction or maintenance of any class of buildings or the carrying on of any class of business, trade or calling in any zone pursuant to section 81(g) of the *Indian Act*;
- (iii) the regulation of the construction, repair and use of buildings whether owned by the band or by individual members of the band pursuant to section 81(h) of the *Indian Act*;
- (iv) the establishment of pounds, the appointment of pound keepers, the regulation of their duties and the provision for fees and charges for their services pursuant to section 81(e) of the *Indian Act*;
- (v) the construction and maintenance of watercourses, roads, bridges, ditches, fences and other local works pursuant to section 81(f) of the *Indian Act*;
- (vi) the destruction and control of noxious weeds pursuant to section 81(j) of the *Indian Act*;
- (vii) the construction and regulation of the use of public wells, cisterns, reservoirs and other water supplies pursuant to section 81(l) of the *Indian Act*;
- (viii) the regulation of public games, sports, races, athletic contests and other amusements pursuant to section 81(m) of the *Indian Act*; or
- (ix) any matter arising out of or ancillary to the exercise of powers under sections 81 (a), (e), (f), (g), (h), (j), (l) and (m) of the *Indian Act*.

"Civil Provisions"

means and includes civil matters arising in relation to sections 81 (a), (e), (f), (g), (h), (j), (l), (m) and (r) of the *Indian Act*.

"Commercial Purposes"

means any activity or conduct connected with commerce or trade, made, done or operating primarily for profit.

"Complaints"

means a complaint made in writing to the Council which is based on reasonable grounds, and is not frivolous or vexatious, contrary to the rules of fairness and natural justice, and/or an abuse of process.

"Council"

means the Council of the Band, being chosen according to the custom as defined by section 2(1) of the *Indian Act*.

"Disorderly Conduct"

means an act or acts occurring in a public place or in any place to which the public otherwise has access on Tlowitsis Reserve Lands which causes a disruption of public order, scandalizes the community or causes public inconvenience, annoyance or alarm so as to disturb, trouble or harm other persons who are in such place, including the following:

- (i) Acting in annoying, alarming, disruptive or disturbing manner while in a state of intoxication,
- (ii) Exposure or indecent exhibition,
- (iii) Fighting, yelling or screaming, shouting, or using profane, obscene or insulting language,
- (iv) Obstructing, impeding, annoying, interfering with or meddling with other persons,
- (v) Obstructing, interrupting or otherwise interfering with the lawful use, enjoyment or operation of real or personal property of the Band,
- (vi) Obstructing, interrupting or otherwise interfering with the orderly conduct of public administrative, educational, recreational, religious or ceremonial activities or functions of the Band,
- (vii) Destroying, defacing or damaging real or personal property of the Band, including rendering such property dangerous, useless, inoperative or ineffective,
- (viii) Loitering or lingering idly without purpose,
- (ix) Making unreasonable noise or causing a public nuisance, or
- (x) Any other type of conduct which disturbs the quiet, peace, rest, enjoyment, comfort or convenience of other persons in a public place or in any place to which the public otherwise has access on Tlowitsis Reserve Lands.

"Graffiti"

means drawing, printing or writing scratched, sprayed, painted or scribbled on a wall or other surface, but does not include a sign for which a permit has been issued by the Council.

"Highway"

means any thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, tunnel, causeway, trestleway or other place, whether publicly or privately owned, used for the passage or parking of vehicles, and includes any sidewalk, boulevard or ditch adjacent or parallel thereto on or within Tlowitsis Reserve Lands.

"Housing"

means:

- (i) Band owned housing, including rental housing units and social housing units, on or within Tlowitsis Reserve Lands; and/or
- (ii) Band member housing, including member owned housing or housing subject to a CMHC mortgage for which the Band is a guarantor on or within Tlowitsis Reserve Lands.

"Indian Act"

means the *Indian Act*, R.S.C. 1985, Chapter I-5, consolidations and amendments thereto.

- "Lot"** means an area of land designated as a separate and distinct parcel on a legally recorded plan or description filed in the Ottawa Indian Lands Registry.
- "Lot Line"** means the boundaries of a lot or parcel of land as prescribed by resolution of the Council or as defined in the Tlowitsis Tribe Zoning Bylaw No. 2004-3.
- "Minister"** means the Minister of Indian Affairs and Northern Development, Government of Canada.
- "Minor"** means a person under the age of majority (19) in the Province of British Columbia.
- "Natural Boundary"** means the visible high-water mark of any lake, river, stream or other body of water where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark upon the soil of the bed of the lake, river, stream, or other body of water, a character distinct from that of the banks thereof, in respect to vegetation, as well as in respect to the nature of the soil itself.
- "Noise"** means the causing, emitting or permitting to emit noise on or within Tlowitsis Reserve Lands, including the following:
- (i) The playing of loud speakers between 11:00 p.m. and 7:00 a.m.,
 - (ii) Singing, playing of music and conducting of entertainment activities between 11:00 p.m. and 7:00 a.m.,
 - (iii) The operation of household tools (saws, drills, etc.) between 11:00 p.m. and 7:00 a.m.,
 - (iv) Shouting, yelling, screaming or fighting between 11:00 p.m. and 7:00 a.m.,
 - (v) Discharging firearms and fireworks,
 - (vi) Persistent barking by, or calling of, any domestic pet for a period of longer than 15 minutes,
 - (vii) The loading and unloading, delivery or pickup of materials, including refuse between 11:00 p.m. and 7:00 a.m.,
 - (viii) The operation of any device or vehicle without an effective muffling device, the racing of a motor vehicle, the operation of a motor vehicle causing the squealing of tires, the operation of a motor vehicle horn or other warning device save as required by law,
 - (ix) The construction of buildings or engaging in on-site building or construction activities between 5:00 p.m. and 7:00 a.m., or
 - (x) Any unreasonable noise or sound that annoys, disrupts or disturbs the quiet, peace, rest, enjoyment, comfort or convenience of others.
- "Non-Member"** means a person who is not a Band Member.

- "Noxious Matter or Substance"** means and includes that matter or substance which is physically harmful, toxic or destructive to living beings or is otherwise generally distasteful, offensive or unwholesome.
- "Noxious Use"** means any use which is offensive or dangerous by reason of the emission of odour, smoke, dust, noise, gas, fumes, vibration or refuse matter.
- "Noxious Weeds"** means those weeds listed in the regulations to the *Weed Control Act*, R.S.B.C. 1979, Chapter 432, but expressly does not extend the general application of that legislation beyond the definition section of this Bylaw.
- "Nuisance"** means and includes an act or acts listed hereafter on or within Tlowitsis Reserve Lands:
- (i) an activity or physical condition which causes harm or annoyance, or the harm resulting from that activity or condition,
 - (ii) a condition that is or that might become injurious or dangers to the public health, or that might hinder in any manner the prevention or suppression of disease,
 - (iii) any act or thing which is injurious to the health, or indecent, or offensive to the senses, or an obstruction to the free use of property so as to interfere with comfortable enjoyment of life or property, or
 - (iv) an act, activity which causes unsightly matters or substances to be situate on or within Tlowitsis Reserve Lands, in particular: waste or rubbish or an act or activity which is untidy, repulsive to the sight or ugly,
 - (v) an act, activity which causes noxious matter or substance or noxious weeds to be situate on or within Tlowitsis Reserve Lands, and
 - (vi) includes and shall be deemed to include any condition, existing in any locality, which is or may become existing in any locality, which is or may become injurious or dangerous to health, or prevent or hinder in any manner the suppression of disease and, without restricting the generality of the foregoing, for greater particularity the following shall be deemed nuisances:
 - (a) any premises improperly constructed or in a state of disrepair,
 - (b) any house or part of a house so over-crowded as to be injurious or dangerous to the health of the tenants, and
 - (c) any accumulation or deposit of refuse, wherever situate.
- "Occupancy"** means the use or intended use or part thereof for the shelter or support persons, animals or property.
- "Occupier"** means a person occupying premises owned either by the Band or a Band Member whether by lease, permit or other lawful

disposition by resolution of the Council in accordance with the *Indian Act* or Bylaws of the Band.

"Owner"

means:

- (i) the Band for whom the Tlowitsis Reserve Lands are set apart for the use and benefit in common of its membership,
- (ii) the Band as the owner of private housing, commercial premises or commercial enterprises on or within Tlowitsis Reserve Lands, or
- (iii) a Band Member who holds a Certificate of Possession as defined by section 20(2) of the *Indian Act*, R.S.C. 1985, Chapter I-5, to a certain Lot or Parcel on or within Tlowitsis Reserve Lands.

"Parcel"

See "Lot".

"Peace Officer"

means:

- (i) a band constable who is a peace officer pursuant to an agreement between the Council and a provincial or federal policing authority as the case may be;
- (ii) a police officer employed or authorized by a local or municipal policing authority in accordance with the *Police Act*, R.S.B.C. 1996, chapter 367 acting pursuant to an agreement with, or the express written authority of, the Council;
- (iii) an officer employed or authorized by the Royal Canadian Mounted Police (RCMP);
- (iv) a peace officer as defined by the Criminal Code of Canada, R.S.C. 1985, chapter C-34; or
- (v) any other person charged with the duty to preserve and maintain the public peace in accordance with the laws of Canada and the Province of British Columbia.

"Person"

means any corporation, partnership or party, and the heirs, executors, administrators or other legal representatives of such person to whom the context can apply according to the law and includes:

- (i) the owner, the owner's agent or the purchaser of a Band member's interest in an Agreement for Sale of any real or personal property, buildings or building accessories, or
- (ii) the occupier of property or premises on or within Tlowitsis Reserve Lands.

"Premises"

means a site on or within Tlowitsis Reserve Lands which is separate and distinct from all others as identified by its unique use and/or occupancy, and may include:

- (i) a lot or parcel of land with or without buildings or structures,
- (ii) a building or structure located on a Lot or parcel of land, or
- (iii) 2 or more buildings or structures located on the same Lot or parcel of land.

- “Property” means real property, being a lot or parcel of land, including any and all Buildings, Building Accessory or Premises situate on or within Tlowitsis Reserve Lands.
- “Quasi-criminal Breaches” means any act or omission contrary to, infraction or violation of, the quasi-criminal provisions of this Bylaw which are of a quasi-criminal nature in respect of:
- (i) the observance and regulation of traffic pursuant to section 81(b) of the *Indian Act*;
 - (ii) the observance and regulation of law and order pursuant to section 81(c) of the *Indian Act*;
 - (iii) the prevention of disorderly conduct and nuisances pursuant to section 81(d) of the *Indian Act*;
 - (iv) the prevention of trespass by cattle or other domestic animals pursuant to section 81(e) of the *Indian Act*;
 - (v) the prohibition of public games, sports, races, athletic contests and other amusements pursuant to section 81(m) of the *Indian Act*;
 - (vi) the observance and regulation of conduct and activities of hawkers, peddlers or others who enter the reserve to buy, sell or otherwise deal in wares or merchandise pursuant to section 81(n) of the *Indian Act*;
 - (vii) the preservation, protection and management of fur-bearing animals, fish and other game on reserve pursuant to section 81(o) of the *Indian Act*;
 - (viii) the removal and punishment of persons trespassing on the reserve or frequenting the reserve for prohibited purposes pursuant to section 81(p) of the *Indian Act*; and
 - (x) any matter arising out of or ancillary to the exercise of powers under sections 81(b),(c),(d), (m), (n), (o) and (p) of the *Indian Act*.
- “Quasi-criminal Provisions” means and includes quasi-criminal matters arising in relation to sections 81(b), (c), (d), (m), (n), (o), (p) and (r) of the *Indian Act*.
- “Reserve” means a “reserve” as defined by section 2(1) of the *Indian Act*.
- “Resident” means a person living or residing in premises owned by the Band or a Band Member in accordance with any of the Bylaws of the Band and/or the provisions of the *Indian Act*.
- “Roadworthy” means a motor vehicle that it is capable of normal physical operation.
- “Rubbish” means all discarded, broken or useless items and includes but is not restricted to:
- (i) old and discarded papers and paper products,
 - (ii) wood products no longer in use or discarded,
 - (iii) abandoned motor vehicles or motor vehicles that are no longer roadworthy including tires and other parts thereof,
 - (iv) abandoned household appliances and furniture, or
 - (v) grass, leaves or other refuse.

"Sidewalk" means the area improved for use of pedestrians between the curb lines or lateral lines of a highway and the adjacent property or Lot lines on or within Tlowitsis Reserve Lands.

"Structure" means anything constructed or erected, the use of which requires location on or in the ground or attached to something having location on or in the ground, or in the case of floating structures, requires anchoring to the ocean floor or attachment to a structure so anchored, and shall include all types of boat, ships and similarly named vessels.

"Tlowitsis Reserve Lands" means those "reserves" set apart for the exclusive use and benefit of the Band, as listed in Schedule "A" which is attached hereto.

"Unightly" means any matter or substance which is untidy, repulsive to the sight or ugly, including but not restricted to:

- (i) the storage of building materials on a site where construction is not taking place,
- (ii) the storage or accumulation of motor vehicles that are not roadworthy or of parts thereof,
- (iii) the storage, cleaning, repairing or servicing of vehicles or equipment except where the same is carried out entirely within a building, or
- (iv) the storage of refuse, rubbish, trash or garbage, including but not restricted to discarded, ruined or worthless material or substance which collects or accumulates within a building, in close proximity to or on the property on which the building is situate.

"Use" means the purpose of which any lot, site, building, or structure is designed, arranged or intended.

"Vessel" means all types of boats, ships, and similarly named objects and structures used or intended to be used for the shelter of vessels, but specifically excludes houseboats, barges, aircraft and aircraft shelters.

"Waste" means that matter or substance which is in a ruined or devastated condition, discarded as worthless, defective or of no use, refuse material, trash, garbage or by-products thereof.

"Wharf" means any floating or fixed structure used or intended to be used for the moorage of vessels or float planes.

"Zone" means any area in which specific uses or combinations of uses are permitted as defined in the Tlowitsis Zoning Bylaw No. 2004-003.

"Zoning Areas" means the area application of a zone on or within Tlowitsis Reserve Lands.

- “Zoning Administrator” means the person appointed or designated by the Council:
- (i) to ensure the Zoning Bylaws of the Band are being obeyed and complied with;
 - (ii) to investigate, monitor and report any and all breaches, infractions or violations of such Zoning Bylaws; and
 - (iii) to enforce any and all provisions of such Zoning Bylaws; and
 - (iv) to advise Council on matters relating to any of the above described activities.
- “Zoning Map” means a map showing zones as shown on Schedule “A” of the Tlowitsis Zoning Bylaw No. 2004-003.

4.0 BASIC PROVISIONS

4.1 *Application of the Bylaw*

The provisions of this Bylaw shall apply to all premises, and the whole of the area or property within, on or under the lands, waters and boundaries of Tlowitsis Reserve Lands as described in Schedule “A” hereto.

4.2 The Council may, by resolution, appoint or designate:

- (i) A person as the Band Bylaw Enforcement Officer or other Authorized Person (such as a Band Manager, Band Administrator or Zoning Administrator) as defined herein to administer and enforce the civil provisions of this Bylaw; and/or
- (ii) A band constable, who is a Peace Officer as defined herein, to administer and enforce the provisions of this Bylaw.

5.0 DISORDERLY CONDUCT AND NUSIANCE

5.1 No person shall engage in disorderly conduct or commit a nuisance as defined herein.

6.0 NOISE

6.1 Between 11:00 in the evening and 7:00 the following morning, no person shall make, cause or permit any noise or sounds which annoys, disrupts or disturbs the quiet, peace, rest, enjoyment, comfort or convenience of others in the vicinity, with the following exceptions:

- (i) repairs or maintenance being carried out by employees or contractors of the Council, the District of Campbell River, the Village of Sayward, the Ministry of Highways or other public utility which is duly authorized by the Council to complete such repairs or maintenance,
- (ii) any duly authorized person operating an emergency vehicle,
- (iii) any person functioning within the limits set out in a permit issued by the Council, said permit to be in a form approved by the Council from time to time,

(iv) snow clearing, provided that it is done as soon as is practicable.

6.2 It shall be a good and sufficient defence to any prosecution commenced for breaches of section 6.1 for an owner or occupier of any commercial establishment, including shopping malls, with areas provided for the parking of the general public with a total capacity in excess of fifty parking spaces to establish that:

(i) the noise or sounds were made in the course of snow clearing or dust cleaning operations in the parking areas,

(ii) the snow clearing or dust cleaning operations were commenced as soon as practicable after the close of business for the day,

(iii) the snow clearing or dust cleaning operations were conducted in such manner as to minimize the disturbance of the quiet, peace, rest, enjoyment, 'comfort or convenience of others in the vicinity.

7.0 ANIMALS

7.1 No person shall keep or harbour any animal or bird which annoys, disrupts or disturbs the peace, quiet, rest, enjoyment, comfort or convenience of others in the vicinity by its repeated making of noise, dirt, damage or other disturbance.

8.0 RUBBISH AND LITTER CONTROL

8.1 No person, owner or occupier of premises shall cause or permit stagnant water or noxious, offensive, unwholesome, unsightly or waste matter or substance to collect anywhere upon such premises.

8.2 No person, owner or occupier of premises shall deposit bottles, broken glass, paper, cardboard, empty cartons or other rubbish, trash or garbage in any open place upon such premises.

8.3 No person shall place graffiti on walls, fences or elsewhere on or adjacent to a public place.

9.0 UNTIDY PREMISES

9.1 No person, owner or occupier of premises shall allow such premises to become or to remain untidy or unsightly by the collection or accumulation thereon of any filth, noxious or unsightly matter or substance, rubbish or waste or graffiti of any kind.

9.2 It shall be a good and sufficient defence to any prosecution commenced for breaches of section 9.1 for an owner or occupier of any commercial establishment to establish that the storage of materials or the collection, accumulation and storage of unroadworthy motor vehicles or parts thereof is an essential part of a legally licensed business.

10.0 OFFENSIVE GROWTH

10.1 Upon receipt of notice given pursuant to sections 20.1 and 20.2 every owner or occupier of property shall immediately clear such property of trees, brush, noxious weeds or other

offensive growths or obtain written consent to clear such growths by a set date from the Band Bylaw Enforcement Officer or other Authorized Person.

11.0 SIDEWALK CLEANLINESS

11.1 Every owner or occupier of property shall keep any sidewalk adjoining such property in a proper state of cleanliness, and shall not place rubbish from the sidewalk onto any highway.

11.2 Every owner or occupier of property shall remove snow and ice from any sidewalk bordering such property on the day following a snowfall or obtain written consent to clear such sidewalk by a set date from the Band Bylaw Enforcement Officer or other Authorized Person.

12.0 ROOF SNOW REMOVAL

12.1 Every owner or occupier of premises shall immediately remove snow, ice or other debris from any roof or other part of any structure thereon if the snow constitutes a hazard to persons or premises or obtain written consent to remove such hazards by a set date from the Band Bylaw Enforcement Officer or other Authorized Person.

13.0 PRIVATE HIGHWAYS

13.1 Every owner or occupier of property upon which a private highway is located shall maintain such highway in a clean, fit and safe state and affix suitable signs indicating that such highway is private.

14.0 FENCES

14.1 No owner or occupier of property shall allow any fence located on such property to fall into a state of disrepair.

14.2 Every owner or occupier of property upon which any fence has fallen into a state of disrepair shall immediately repair same or obtain written consent to complete such repairs by a set date from the Band Bylaw Enforcement Officer or other Authorized Person.

14.3 Every owner or occupier of property where the keeping of livestock is permitted shall immediately erect fences along the boundaries of such property to prevent livestock from straying or obtain written consent to erect such fences by a set date from the Band Bylaw Enforcement Officer or other Authorized Person.

15.0 BOULEVARDS

15.1 No person shall wilfully damage any part of any boulevard, including but not restricted to:

- (i) trees, shrubs, lawn, plants, bushes or hedges adjacent to any highway,
- (ii) anything erected or maintained adjacent to a highway for the purpose of lighting the highway,
- (iii) any fence erected or maintained adjacent to any highway.

16.0 VISION CLEARANCE

16.1 No tree, shrub, plant or structure, which obstructs vision, is permitted within a 12-foot radius of the intersection of any highways within Tlowitsis Reserve Lands.

17.0 STREET SIGNS

17.1 No person shall remove, deface or damage any street sign, public information sign or other marker which has been authorized by the Council to be so displayed.

18.0 BUILDING NUMBERING

18.1 Every owner or occupier of any building shall display the number assigned by the Council to such building in a conspicuous place on the property upon which the building is located, so that the same is readable from the highway.

19.0 DEMOLITION SITES

19.1 Where the demolition of any building or structure has taken place:

- (i) all debris and materials, whether to be discarded or retained, shall immediately be removed, and
- (ii) any basement or other excavation shall immediately be filled in or covered over to Lot grade level,

unless the Band Bylaw Enforcement Officer or other Authorized Person has provided written consent to perform such work by a set date.

20.0 NOTICE

20.1 All notices referred to herein or required to be given pursuant to this Bylaw shall be made in writing and shall be served either personally or sent by double registered mail, as follows:

TO: Mailing Address:
Bylaw Enforcement
TLOWITSIS TRIBE
Suite 106 1434 Island Highway
Campbell River, British Columbia
V9W 3C9

Office Address:
Bylaw Enforcement
TLOWITSIS TRIBE
141 Beech Street
Campbell River, British Columbia

AND TO: (THE OFFENDER)

20.2 Notice shall be deemed to have been given on the date of delivery if personally served or on the third day after mailing if sent by double registered mail.

21.0 ENFORCEMENT, FAILURE TO COMPLY AND PENALTIES

Generally

21.1 Absent evidence to the contrary and subject to the laws of Canada and British Columbia:

- (i) A person who acts in contravention of any provision of this Bylaw or interferes with or obstructs an Authorized Person in the administration and enforcement of this Bylaw commits an offence.
- (ii) Where an act or omission in contravention of this Bylaw continues for more than one (1) day, such act or omission shall be deemed to be a separate offence committed on each day during which it continues, and may be punished as such.
- (iii) A person who commits an offence as provided herein is liable on summary conviction to a fine not exceeding \$1,000.00 or to imprisonment not exceeding thirty (30) days, or to both pursuant to section 81(r) of the *Indian Act*.

Quasi-Criminal Breaches

21.2 If any alleged breach or infraction of this Bylaw is of a quasi-criminal nature and is brought to the attention or notice of a Peace Officer or upon which an information may be laid, the Peace Officer is hereby authorized, subject to the laws of Canada and British Columbia, to investigate such allegation and to administer and enforce such provisions of this Bylaw.

Civil Breaches

21.3 If an alleged breach or infraction of this Bylaw is of a civil nature and is brought to the attention or notice of the Band Bylaw Enforcement Officer or other Authorized Person, the Band Bylaw Enforcement Officer or other Authorized Person shall provide written notice to the affected person of such allegation (the "Affected Person") within three (3) working days of receipt thereof, describing in such written notice the alleged breach or infraction to be cured or remedied.

21.4 The Affected Party shall have five (5) days following delivery of the written notice described in section 21.3 to provide evidence to the contrary or to take steps to cure or remedy the alleged breach or infraction.

21.5 If, after expiry of the five (5) day period described in section 21.4, the Affected Person has not provided evidence to the contrary or taken steps to cure or remedy the alleged

breach or infraction, the Band Bylaw Enforcement Officer or other Authorized Person shall make a written request to the Affected Party to enter upon and inspect the subject premises in respect of the alleged breach or infraction.

- 21.6 Three (3) days after delivery of the written request described in section 21.5, the Affected Party may provide express written authority for the Band Bylaw Enforcement Officer or other Authorized Person to enter on and inspect the subject premises in respect of the alleged breach or infraction.
- 21.7 If, after the expiry of the thee (3) day period described in section 21.6, the Affected Person has not provided evidence to the contrary or taken steps to cure or remedy the alleged breach or infraction and has failed to respond, refused or rejected the request to enter and inspect the subject premises in respect of the alleged breach or infraction, the Council may seek legal recourse in a court of competent jurisdiction to grant such right of entry and inspection.
- 21.8 If after a right of entry and inspection has been granted by a court of competent jurisdiction, the Band Bylaw Enforcement Officer or other Authorized Person enters on and inspects the subject premises and determines that a breach or infraction of this Bylaw may have occurred, the Band Bylaw Enforcement Officer or other Authorized Person shall provide the Affected Party with seven (7) days written notice of the alleged breach or infraction to be cured or remedied.
- 21.9 If, after the expiry of the seven (7) day notice period described in section 21.8, the Affected Party fails to provide evidence to the contrary or to cure or remedy the alleged breach or infraction, either party may seek alternate dispute resolution or mediation of the matter and, in such event, each party shall bear their own costs in connection with such proceeding and any decision arising therefrom shall be binding upon all parties.
- 21.10 If, after the expiry of the seven (7) day notice period described in section 21.8, the Affected Party fails to provide evidence to the contrary or to cure or remedy the alleged breach or infraction or to pursue alternate dispute resolution or mediation pursuant to section 21.9, the Council may seek legal recourse in a court of competent jurisdiction pursuant to sections 81(2) and (3) of the *Indian Act*.
- 21.11 For purposes of civil proceedings under this Bylaw, absent evidence to the contrary and subject to the laws of Canada and British Columbia:
- (i) The owner or occupier of a premise may be deemed to be the person responsible for any civil breach or infraction of this Bylaw on such premises; and
 - (ii) Joint owners or occupiers of any premises may be deemed to be jointly and severally liable for any civil breach or infraction of this Bylaw.

22.0 AMENDMENT / REPEAL

- 22.1 An application to amend or repeal this Bylaw shall be made in writing and in the same manner as the enactment of this Bylaw, including all special actions, approvals or prerequisites necessary for the original Bylaw.

23.0 MISCELLANEOUS

- 23.1 If any section, subsection, sentence, clause or phrase of this Bylaw is, for any reason, held to be invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Bylaw.
- 23.2 Wherever the singular is used in this Bylaw, the same shall be construed as meaning the plural or vice versa where the context so requires.
- 23.3 The headings of the sections and subsections of this Bylaw are inserted for convenience of reference only and shall not affect the construction or interpretation of this Bylaw in any way.
- 23.4 The Schedule attached to this Bylaw shall be construed as forming a fundamental part of this Bylaw.
- 23.5 This Bylaw shall be construed in accordance with the laws of Canada and British Columbia where the context so requires.
- 23.6 No section, subsection, sentence, clause or phrase of this Bylaw shall be construed as restricting or limiting the application of the *Criminal Code of Canada*.

24.0 DATE OF FORCE OF BYLAW

- 24.1 This Bylaw shall come into force and effect forty (40) days after the original of such Bylaw is forwarded to the Minister of Indian and Northern Affairs Canada unless it is disallowed by the Minister within the said forty (40) day period, but the Minister may declare the Bylaw in force at any time before the expiration of the forty (40) day period pursuant to section 82(2) of the *Indian Act*.

Be it known that this Bylaw entitled, "Tlowitsis Tribe Law and Order Bylaw No. 2004-001" is hereby enacted by the Tlowitsis Tribe Council at a duly convened meeting of the said Council held on the 17th day of January, 2005. The Bylaw is consented to by the following members of the Council:



JOHN M. SMITH, CHIEF



THOMAS SMITH, COUNCILLOR



GEORGE TAYLOR, COUNCILLOR

being the majority of those members of the Tlowitsis Tribe Council present at the aforesaid meeting of the Council. A quorum of the Tlowitsis Tribe Council is set at two (2) members.

I, John M. Smith, Chief of the Tlowitsis Tribe, do hereby certify that an original of the foregoing Bylaw was forwarded to the Minister of Indian and Northern Affairs pursuant to subsection 82(1) of the *Indian Act*, this 17th day of January, 2005.



JOHN M. SMITH, CHIEF



KERRI FARRINGTON, WITNESS

SCHEDULE "A"

TLOWITSIS TRIBE RESERVE LANDS

No.	Name	Location	Hectares
7103	KARLUKWEES NO. 1	COAST DISTRICT, RANGE 1, ON SOUTH SHORE OF TURNOUR ISLAND ON BEWARE PASSAGE RESERVE ALSO INCLUDES 3 SMALL ISLANDS	10.8
07104	AGLAKUMNA-LA NO. 2	COAST DISTRICT, RANGE 1, ON AGLAKUMNALA ISLAND, BEWARE PASSAGE, AT EAST END OF HARBLEDOWN ISLAND	0.3
07105	COFFIN ISLAND NO. 3	COAST DISTRICT RANGE 1, LOT 1510, ON COFFIN ISLAND, AT EAST END OF BEWARE PASSAGE, EAST END OF HARBLEDOWN ISLAND	6.1
07106	SMALL ISLAND NO. 4	COAST DISTRICT, RANGE 1, LOT 1523, ON SMALL ISLAND IN BEWARE PASSAGE, BETWEEN CRACROFT AND TURNOVER ISLANDS	0.2
07107	AGLAKUMNA NO. 4A	COAST DISTRICT, RANGE 1, ON SOUTH SHORE OF HARBLEDOWN ISLAND, NEAR WEST ENTRANCE TO BARONET PASSAGE	4.1
07108	ETSEKIN NO. 1	COAST DISTRICT RANGE.1, ON EAST SHORE OF HAVANNAH CHANNEL, EAST OF THE NORTH END OF HULL ISLAND INCLUDES 3 SMALL ADJACENT ISLANDS	13.2
07109	KEECEKILTUM NO. 2	COAST DISTRICT, RANGE 1, ON EAST SHORE OF PORT HARVEY CRACROFT ISLAND	11.7
07110	HAYLAHTE NO. 3	VANCOUVER ISLAND, RUPERT DISTRICT, AT MOUTH OF ADAM RIVER, ON JOHNSTONE STRAIT	19
07111	PORT NEVILLE NO. 4	COAST DISTRICT, RANGE 1, AT HEAD OF PORT NEVILLE, ON NORTH SHORE	14.9
07112	PAWALA NO. 5	COAST DISTRICT, RANGE 1, LOT 1526, AT THE HEAD OF CALL INLET	1.0
07113	HANATSA NO. 6	COAST DISTRICT, RANGE 1, LOT 1525, ON SOUTH SHORE OF PORT NEVILLE	95.1