ADVIN CHARLE

TOOTINAOWAZIIBEENG FIRST NATION

BY-LAW NO. 292-1

A BY-LAW FOR THE PRESERVATION, PROTECTION AND MANAGEMENT OF WILDLIFE

WHEREAS THE Council of Tootinaowaziibeeng First Nation desires to make a by-law governing the preservation, protection and management of wildlife on reserve lands:

AND WHEREAS the Council has the power to make such a by-law under paragraphs 81(1)(o), (q) and (r) of the *Indian Act RSC 1985 c.1-5*;

AND WHEREAS such a by-law is considered expedient and necessary to provide for the preservation, protection and management of wildlife on reserve lands:

NOW THEREFORE the Council of the Tootinaowaziibeeng First Nation makes the following by-law:

Short title:

1. This by-law may be cited as The Tootinaowaziibeeng First Nation Wildlife By-Law.

Interpretation:

2. In this by-law,

Agriculture Canada means the Government of Canada department called the Department of Agriculture;

band member means a member of the Indian band called Tootinaowaziibeeng First Nation;

Council means the band council, as defined in the Indian Act, of the Tootinaowaziibeeng First Nation;

First Nation means the Tootinaowaziibeeng First Nation;

habitat means the soil, water, food and cover components of the natural environment that are necessary to sustain wildlife;

hunting means chasing, driving, flushing, attracting, pursuing, worrying, following after or on the trail of, searching for, trapping, attempting to trap, shooting at, stalking or lying in wait for wildlife whether or not the wildlife is subsequently captured, killed, taken or wounded, but does not including stalking, attracting, searching for or lying in wait for wildlife by an unarmed person solely for the purpose of watching or taking pictures of the wildlife;

wildlife tag means a unique identification tag issued under this by-law;

license means a valid and subsisting license issued under this by-law;

manifest means a wildlife animal manifest as prescribed in Schedule "E" to this by-law;

person includes a first nation, municipal corporation, partnership, society, organization, club, and unincorporated association;

to process includes to slaughter an animal or to make or obtain a product from an animal;

reportable disease means a reportable disease as prescribed for the purposes of s.2 of the Health of Animals Act SC 1990 c.21;

reserve means the lands defined as a reserve within the meaning of the Indian Act and set apart for the use and benefit of the First Nation, and including the reserves indicated on the map(s) attached as Schedule "H" to this by-law,

resolution means a recognized declaration of intent duly authorized by Council at a duly authorized meeting of Council and recorded and incorporated in the official minutes;

trade means offer for sale, expose for sale, advertise for sale, sell, buy, barter, exchange, deal or solicit;

trapping means taking, capturing or killing or attempting to take, capture or kill wildlife by any means or contrivance designed to enclose, capture, hold, ensnare or otherwise restrain an animal, whether or not that means or contrivance kills the animal or not.

uniquely identified means identified by means of

- (a) a wildlife farm wildlife tag,
- (b) a federal health of animals tag issued by Agriculture Canada under the Health of Animals Act, and
- (c) where applicable, a United States Department of Agriculture tag issued under the Identification of Animals for Inter-State or International Movement Regulations (United States);

veterinary inspector means

- (a) a veterinary inspector as defined in the Health of Animals Regulations.
- (b) a veterinary inspector appointed under the Animal Diseases Act (Manitoba) RSM 1987 c.A-85, and
- (c) a person qualified to practice veterinary medicine under the laws of the place he or she practices and authorized by Council to conduct examination of wildlife animals under this

by-law,

wildlife means a vertebrate of any species or type of elk, moose deer, and or any other vertebrate animal which is wild by nature and being designated so by the Council, but does not include fish;

wildlife farm means an area where wildlife is kept, raised, bred or propagated in captivity, for any purpose;

wildlife farm animal means a wildlife animal which was born or is or has been kept or raised on a wildlife farm;

wildlife officer means a person appointed as a wildlife officer by Council under section 4.

Application of by-law

- 3. (1) This by-law applies within the reserve of Tootinaowaziibeeng First Nation.
 - (2) The Schedules are part of this by-law.
 - (3) Where a form is prescribed in this by-law, the form used may vary from the prescribed form as long as it contains all of the relevant information referred to in the prescribed form.
 - (4) This by-law shall be interpreted in such a way as not to conflict with the Health of Animals Act and Regulations.
 - (5) This by-law shall be interpreted in such a way as to supersede provincial jurisdiction over the preservation, protection and management of wildlife within reserve lands.

Wildlife officers

- 4. (1) Council may by resolution appoint one or more wildlife officers to perform the functions of administration and enforcement called for in this by-law.
 - (2) Council may in the resolution provide for reasonable remuneration to be paid to a wildlife officer so appointed.

Agreements for joint action

- 5. Council may on behalf of the First Nation enter into an agreement with the government of Canada, the government of a province or territory of Canada, or the government of a foreign country or a state thereof, or an agency of any of the foregoing, or with a municipality or local government district, or any person for
 - (a) the joint management of wildlife, or mutual assistance in the enforcement of laws relative to wildlife;
 - (b) the development and implementation of joint informational,

educational or training programs

(c) the conduct of joint biological or ecological investigations;

(d) reciprocal arrangements for fees to be charged for licenses, permits and tags issued under this by-law and their counterparts issued in other jurisdictions

(e) the joint management of wildlife habitat;

(f) the development and implementation of joint programs for the control of damage caused by wildlife;

(g) the development and implementation of joint programs for the control of wildlife animals:

or for all or any of those matters, and the agreement may include provisions for contributions by the First Nation toward the cost of implementing its provisions.

General prohibition on hunting and trapping

- 6. (1) No person shall engage in hunting or trapping within the reserve except as permitted in this by-law
 - (2) Despite anything in this by-law, where necessary for the prevention of damage to property or injury to persons, a person may hunt, trap or kill wildlife if the incident is reported to and the animal or carcass is surrendered immediately to a wildlife officer.
- 7. (1) For the purpose of wildlife management or research or the protection of property, Council may by resolution and subject to such terms and conditions as it may prescribe, direct or authorize a wildlife officer or a designated person to kill, capture or take any wildlife.
 - (2) Where a wildlife officer or designated person kills, captures or takes wildlife under a direction or authorization given under subsection (1), the property, rights, title and interest in and to the wildlife vest in the wildlife farm.

Hunting and trapping by band members

- 8. (1) Subject to this by-law, a band member may engage in hunting and trapping within the reserve at any time.
 - (2) No person may hunt or trap within a wildlife farm.

Trapping permits

- 9. (1) A band member may apply to Council for a permit to trap wildlife on the reserve.
 - (2) The application for a trapping permit shall be in the form set out in Schedule "A".
 - (3) In determining whether or not to issue a trapping permit, Council shall take into consideration
 - (a) the number of trapping permits already issued for the species of

wildlife for which the permit is sought:

(b) whether or not there is sufficient wildlife of the species on reserve lands at the time to meet the needs of band members and trapping permit holders without detrimentally affecting the species; and

(c) whether or not the applicant has previously held a trapping permit and, if so, has complied with the provisions of the permit.

- (4) Council may in its discretion issue a trapping permit to the applicant, with or without conditions, upon payment by the applicant of the fee prescribed under subsection (6).
- (5) A trapping permit is valid for a period of 1 year and is non-transferable.
- (6) Council shall by resolution prescribe the fees to be paid by successful applicants for trapping animals.
- (7) A trapping permit shall be in the form of Schedule "B".
- (8) A person trapping under the authority of a trapping permit issued under this section shall carry the permit and shall produce it for inspection when asked by a wildlife officer.
- 10. Council may, after reasonable notice and a hearing, cancel a trapping permit where it is satisfied that
 - (a) the holder of the permit has contravened a condition of the permit or a provision of this by-law, or
 - (b) the continuation of trapping under the permit would be detrimental to the preservation or protection of wildlife on the reserve.
- 11. (1) Council may by resolution impose a temporary ban or restriction on the trapping of any species of wildlife on reserve lands.
 - (2) No ban or restriction imposed under this section shall remain in force for a period of more than 14 days unless a further ban or restriction is imposed.
- 12. A trapping permit is not, and does not operate as, a demise, lease or transfer of any title to or interest in reserve lands.
- 13. A person trapping under the authority of a trapping permit issued under this section is not subject to the Wildlife Act (Manitoba) RSM 1987 c.130 or other provincial legislation on the same subject matter.

Trapping equipment

14. Council may by resolution prescribe rules governing the equipment used by trappers, and if so no person may use equipment in contravention of such rules.

Licenses

- 15. (1) No person shall establish or operate a wildlife farm, unless the person holds a valid and subsisting wildlife farm license issued under this by-law.
 - (2) No person shall process wildlife unless the person
 - (a) holds a valid and subsisting wildlife farm license under this by-law, or
 - (b) holds a valid and subsisting wildlife processing license under this by-law.
 - (3) No person shall trade in wildlife or wildlife animal products unless the person
 - (a) holds a valid and subsisting wildlife farm license under this bylaw; or
 - (b) holds a valid and subsisting wildlife trading license under this by-law.
- 16. A person wishing to obtain a license shall
 - (a) submit an application to Council on an application form as set out in Schedule "C";
 - (b) provide Council with any other information it considers necessary; and;
 - (c) pay a fee of \$100.00
- 17. If Council is satisfied that the application is in accordance with this by-law Council may issue a license in the form of Schedule "D", with or without conditions.
- 18. (1) Unless renewed in accordance with subsection (2), a license expires on December 31 of the year of its issuance or renewal, as the case may be.
 - (2) Council shall renew a license if the license-holder
 - (a) is in compliance with this by-law and any conditions to which the license is subject; and
 - (b) pays a fee of \$100.00.
- 19. (1) Subject to subsection (2), Council may by resolution suspend for any period that it considers appropriate or cancel a license if the license-holder fails to comply with this by-law or any condition to which the license is subject.
 - (2) Council may not suspend or cancel a license under subsection (1) without first giving the license-holder reasonable notice and an opportunity to be heard.
 - (3) Despite subsections (1) and (2), where it is in the opinion of Council in

the public interest to do so, Council may by resolution immediately suspend or cancel a license, and on the suspension or cancellation, giving the license- holder

(a) written notice of the suspension or cancellation, and

- (b) an opportunity to be heard within 15 days of the suspension or cancellation
- (4) Suspension or cancellation under this section is in addition to any other penalty that may be imposed under this by-law or any other law.
- 20. No person who holds wildlife animals shall allow them to

(a) roam free.

- (b) escape from captivity, or
- (c) be released to the wild.

Bringing wildlife onto the reserve

- 21. (1) No person shall bring a wildlife animal onto the reserve unless a permit to do so has been obtained from
 - (i) the jurisdiction where it originated, or
 - (ii) Council¹
 - (2) A person who brings a wildlife animal onto the reserve shall
 - (a) hold the animal in quarantine for a period of not less than 14 days to ensure that no reportable disease is present; and
 - (b) during the period have the animal examined by a veterinary inspector.
 - (3) Where the wildlife animal has been brought from another jurisdiction within Canada, the veterinary inspector conducting the examination under subsection (2) need not examine the animal for
 - (a) bluetongue, or
 - (b) anaplasmosis.
 - (4) A person who brings a wildlife animal onto the reserve shall

(a) immediately report the fact to a wildlife officer;

(b) give to the wildlife officer copies of the applicable permit and of the veterinary inspector's report made as a result of the examination under subsection (2).

Diseased wildlife

- 22. (1) A person holding wildlife animals shall immediately report to a wildlife officer and to a veterinary inspector the existence of any wildlife animal that
 - (a) the operator knows or suspects is infected with a reportable disease:
 - (b) the operator knows or suspects has been in contact with an animal infected with a reportable disease; or
 - (c) dies within 30 days of its being brought onto the reserve.

¹See sections 39 and 40.

- (2) A person holding wildlife animals shall immediately report the death of an animal to a wildlife officer, and where the person or the wildlife officer suspects that the animal died of a reportable disease, the person shall
 - (a) have the animal examined by a veterinary inspector, and
 - (b) report the inspector's findings to the wildlife officer.

23. Council may by resolution

- (a) order that a wildlife farm where a named disease is found to have infected an animal be quarantined until it is satisfied that the disease is under control:
- (b) order that a wildlife animal it believes to be infected be destroyed.
- (c) authorize a veterinary inspector to conduct examinations of wildlife animals.
- 24. The requirements of sections 21, 22 and 23 are in addition to those of the Health of Animals Act and Regulations.

Wildlife farms

- 25. On a wildlife farm, animal enclosures shall be provided
 - (a) containing natural bluffs or shelters sufficient to protect the animals from the wind:
 - (b) with a perimeter fence at least 8 feet high and securely locked so as to prevent public access to the enclosure and the escape of the animals.
- 26. The stocking density on a wildlife farm shall not exceed 10 adult animals per acre.
- 27. Wildlife animals shall be provided with feed and water adequate to meet normal seasonal maintenance and production requirements.
- 28. Dehorning, antler removal, semen collection and other wildlife handling procedures shall be conducted in a humane manner.
- 29. The operator of a wildlife farm is responsible for ensuring that sections 25 to 28 are complied with.

Identification of wildlife animals

- 30. (1) A wildlife farm animal may not be brought onto the reserve unless it has previously been uniquely identified.
 - (2) A wildlife farm animal may not be held or traded on the reserve unless it has been uniquely identified.
 - (3) A wildlife animal born on a wildlife farm shall be uniquely identified by November 30 in the year of birth.
 - (4) The operator of a wildlife farm is responsible for ensuring that this section is complied with, and for ensuring that the wildlife farm animals

on the farm continue to carry the unique identification tags.

- 31. A person responsible for the unique identification of a wildlife farm animal shall apply to a wildlife officer for a wildlife farm wildlife tag.
- 32. If satisfied that the application is proper, the wildlife officer shall issue a wildlife farm wildlife tag to the applicant, and make a record of the issuance of the tag.

Trading in wildlife and wildlife animal products

- 33 (1) A seller of a wildlife farm animal shall provide a manifest in the form of Schedule "E" to the purchaser.
 - (2) The seller shall provide a copy of each manifest to a wildlife officer.
 - (3) The seller shall retain a copy of the manifest provided to the purchaser.
- 34. (1) A seller of wildlife animal products shall provide the purchaser with a bill of sale indicating
 - (a) the seller's name and address and if different, the seller's business address:
 - (b) a description of the wildlife animal products sold;
 - (c) the total weight of the products sold; and
 - (d) unique identification numbers pertaining to the products sold.
- 35. No person may purchase a wildlife farm animal or wildlife animal products from a seller who does not hold a valid and subsisting license under this by-law.

Records

- 36. (1) A wildlife farm operator shall maintain written records for each animal in its possession containing the following information:
 - (a) dates of birth and death,
 - (b) dates and particulars of purchase and sale,
 - (c) identifying visual characteristics,
 - (d) unique identification tag numbers, and
 - (e) dates and particulars of changes in unique identification.
 - (2) A person who purchases a wildlife farm animal for processing shall maintain written records containing the following information:
 - (a) unique identification tag numbers;
 - (b) the date of purchase; and
 - (c) the license number of the seller.
 - (3) A person who sells a wildlife farm animal or wildlife animal products shall maintain written records containing the following information:
 - (a) the information required to be included in a manifest or bill of sale:
 - (b) the purchaser's name and address
 - (c) the license number of the purchaser, if any.

(4) A person who is required to maintain records under this section shall ensure that the records are available for inspection by a wildlife officer at all reasonable times.

Inspection

- (1) A wildlife farm operator shall make all wildlife animals held on the farm. available for inspection at all reasonable times by

 - (a) a wildlife officer,(b) a veterinary inspector authorized by Council, or
 - (c) an Agriculture Canada Inspector
 - (2) A person who is in control of facilities where wildlife animals are processed or where wildlife farm animals or products are sold shall make the facilities available for inspection at all reasonable times by
 - (a) a wildlife officer.
 - (b) a veterinary inspector authorized by Council, or
 - (c) an Agriculture Canada Inspector
 - (3) A wildlife farm operator or a person in control of facilities where wildlife animals are processed or where wildlife farm animals or products are sold shall ensure that all wildlife farm animals held or handled in the farm or facilities are inspected by
 - (a) a wildlife officer,
 - (b) a veterinary inspector authorized by Council, or
 - (c) an Agriculture Canada Inspector

Transportation

- 38. (1) No person shall ship by common carrier or mail, or deliver to another person for shipping by common carrier or mail, any package or container containing a wildlife animal, part of a wildlife animal, or a wildlife animal product unless there is plainly marked on the outside of the package or container a complete description of the contents.
 - (2) Subject to subsection (3), no person shall accept delivery of a wildlife animal, part of a wildlife animal, or a wildlife animal product unless there is accompanying or attached to it valid and subsisting documentation indicating that the sender was licensed or permitted to possess it.
 - (3) Subsection (2) does not apply to a person licensed under this by-law who has been authorized by a transport or possession permit to accept delivery of a wildlife animal, part of a wildlife animal, or a wildlife animal product.

Import, export and possession permits

- 39. (1) No person shall
 - (a) import into the reserve a wildlife animal without an import permit; or
 - (b) export from the reserve a wildlife animal, part of a wildlife animal, or a wildlife animal product without an export permit

- (2) No person who is not licensed under this by-law may possess a wildlife animal on the reserve without a possession permit.
- 40. (1) A person wishing to obtain a permit shall submit an application to a wildlife officer on an application form as set out in Schedule "F".
 - (2) If the wildlife officer is satisfied that the application is in accordance with this by-law and other applicable laws he or she may issue a permit in the form of Schedule "G".

Prohibition of species of wildlife

- 41. (1) Council may by resolution declare the possession of any species or type of wildlife to be prohibited on the reserve.
 - (2) Except as may be provided in the resolution, no person shall possess or release into the wild an animal of a species or type the possession of which has been prohibited under subsection (1).

Enforcement

42. Everyone commits an offense who

(a) fails to observe or contravenes any provision of this by-law or any ban, restriction or rule imposed under it; or

- (b) resists or willfully obstructs a wildlife officer or a veterinary inspector in the performance of any duty or in the exercise of any power under this by-law.
- 43. Where an act or omission in contravention of this by-law or any ban, restriction or rule imposed under it continues for more than one day, the act or omission shall be deemed to be a separate offense committed on each day it continues, and may be punished as such.
- 44. A peace officer may arrest without warrant a person the officer finds apparently committing an offense under this by-law and bring the person before a court of competent jurisdiction to be dealt with according to law.

Penalty

45. A person who commits an offense under section 42 is liable on summary conviction to a fine not exceeding \$1,000.00 or to imprisonment not exceeding 30 days, or to both.

Severability

46. 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.

THIS BY-LAW IS HEREBY MADE at a duly convened meeting of the Council of the Tootinaowaziibeeng First Nation this 31 day of JANOARY, 2000 Voting in favour of the by-law are the following members of Council:

Chief/Acting Chief Councillor Councillor Councillor Councillor	Councillor
being a majority of those members of the ONAtion present at the meeting of Council. A quorum of the members is 3 member meeting.	rs. Members were present at the Chief/Councillor of Tootinaowaziibeeng certify that a true copy of this by-law airs and Northern Development at the
Witness	Chief/Acting Chief/Councillor Classon I rank of land (councillor) Councillor) Councillor) Councillor)

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AP	PLICATIO	ON FOR T	ΓRAPPIN	G PERMI	Т
Last Name:					
First Name:					
Initial:					
Mailing Address:					
Area in which majorit					
Do you have a Manito	ba Trapper Educ	cation Course Cer	tificate or a simi	ar certificate fro	m another
Province or State? OR do you have a Tra Date of application: _	pping License or	Permit in Manit	oba or in another	Province or Stat	e?
<u></u>					
CERTIFIED CORRE	CT				
CERTIFIED CORRE	Sig	gnature of Applic	ant		
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SCHEDULE "B" (SECTION 9(7))

FIRST NATION

TRAPPING PERMIT

First Name:		
Mailing Address:		
is hereby permitted under the By-law to trap wild fur bearing a	animals on reserve lands.	First Nation Wildlife
Conditions/restrictions:		
Expiry date:		
	Chief	
NOTICE: This permit mus	at be carried on the person v	while trapping or selling
fur, and must be produced for	inspection when asked by a	Wildlife Officer. This

permit is not transferable.

SCHEDULE "C" (SECTION 16)

FIRST NATION

APPLICATION FOR WILFLIFE FARM LICENSE

Name of Applicant:	
Contact Person:	
Mailing Address:	
Telephone Number:	
Fax Number:	
Location of farm:	
Attach proof of posses License applied for (sp	

- Wildlife production farm
- Wildlife processing
- Wildlife trading

Describe perimeter fence:

- Wire (height to top, material, density):
- Posts (length, thickness at top, depth in ground):
- Additional measures to assist containment (electrification, fence alarm, buffer fence):
- Gates on perimeter (width, height, construction, locking):
- Barbed wire location on perimeter fence:

Show or describe propose	d corner brace construction:
Describe land to be included meadow/muskeg give app	led in game farm (I.e. grassland pasture, open/dense forest, and proximate percentages):
Does natural bush exist in	land included in proposed wildlife farm?
Provide sketch layout of p handling system, quaranti	proposed wildlife farm including perimeter fencing, gates, ne pen and waterers.
	 Number of suitable habitat acres in initial wildlife farm plan: Number of acres if applicable is for expansion
Type of squeeze chute:	
Type of handling modules	::
Provide scale drawing din	nensions of the proposed handling facility including:
	 Alleyway leading to handling pen Gates Handling pens or modules Squeeze chutes Loading facilities Water supply Quarantine facility
I agree to comply with the	Tootinaowaziibeeng First Nation Wildlife By-Law.
Signature	Date
Fee: \$ 100.00	

SCHEDULE "D" (SECTION 17)

FIRST NATION

WILDLIFE FARM LICENSE

Name of Applicant: _			-
Mailing Address:			-
_			-
· -		·	-
	r Tootinaowaziibeeng Firs m {or wildlife processing		
Conditions/restrictions:			
Expiry date:			
		Chief	
		Date	
NOTICE: This lies	ense is not transferable.		

	SCHEDUI (SECTIO		
	FIRST NA		
	WILDLIFE ANIM		
Date:			
Paid to owner:			
Owner:			
Address:			

Phone Number:			
	ber:		
Address:			
Phone number:			
Consigned or transpor	ted to:		
Address:			
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SCHEDULE "F" (SECTION 40 (1))

FIRST NATION

APPLICATION FOR IMPORT/EXPORT PERMIT

Name of applicant:	
Address:	
Phone number:	
Consignor/consignee:	
Address:	
Phone number:	
Herd status:	
Description of animals	
Species and class:	
Ear tag number:	
Sex:	
Weight:	
Description:	
Negative test:	
BR	

Will animals move directly	from consignor to consignee location?	
	n given is true. I agree to comply with the vement Regulations and any other applical	
Signature	Date	
Certification by veterinary is	nspector:	
moving directly fron	nowledge and belief all of the animals descent the herd of negative status of origin to the animals qualify for transportation to the contract of the contract	e premise of the
Signature	Date	
Fee: \$		
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SCHEDULE "G" (SECTION 40 (2))

FIRST NATION

IMPORT/EXPORT PERMIT

Issued under the authority of the Tootinaowaziibeeng First Nation Wildlife By-Law and subject to the conditions set forth.

- · · J · · · · · · · · · · · · · · · · · · ·			
Name of permitee:			_
Address:	·		_
Phone Number:			_
			_
Is authorized under	this permit to		·
Import from	·		_ to Tootinaowaziibeeng
First Nation OR			
	Tootinaowaziibeeng First l	Nation to	
In accordance with t	he attached Application.		
This Permit is void i	f		
a.)	any of the animals descri consignor to the consign		loved directly from the
b.)	Any of the animals describes health status.	ribed have conta	acted in transit animals of a
Conditions/restriction	ons:		
Expiry date:			
		Wildlife (Officer
		w nume (Jineen
NOTICE		Date	
NOTICE:			

This permit is not transferable